


Ordinance No. 271-6

An Ordinance to create § 271-6 of the Code of Ordinances for the Village of Spencer regarding property maintenance.

WHEREAS, the Village Board of the Village of Spencer has determined that the public interest requires the adoption of an ordinance addressing the maintenance to buildings and property in the Village and clarifying the obligations of property owners regarding the maintenance of property and buildings in the Village;

NOW, THEREFORE, the Village Board of the Village of Spencer, Marathon County, Wisconsin is hereby ordained as follows:

1. That Section 271-6 entitled "Property Maintenance" of the Code of Ordinances of the Village of Spencer is hereby created in accordance with the attached document.
2. That all ordinances in conflict with any provision of this ordinance are hereby repealed.
3. That this Ordinance shall be in effect from and after publication as provided by State Statute.



Pauline Frome, Village President

ATTEST:



Paul Hensch, Village Clerk/Treasurer

Passed and adopted this 11th day of December, 2017
Roll Call Vote: "Ayes" 7 "Noes" 0 "Abs." 0
Published 12-20-17

§ 271-6 – Property Maintenance

- A. **Interpretation and Applicability.** Every building, structure and premises shall conform to the requirements of this Ordinance, irrespective of the class to which such building, structure and premises may otherwise belong, and irrespective of when such building may have been constructed, altered or repaired.

This Ordinance shall be known as the “Property Maintenance Ordinance” and establishes minimum standards for maintenance of buildings, structures and premises and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures except such as are in conflict with the provisions of this Ordinance. Any inconsistency or conflict between the provisions of this Ordinance and any other existing ordinance shall not repeal such provision or ordinance, but the provisions of this Ordinance shall be cumulative thereto.

- B. **Findings and Declaration of Policy.** It is hereby found and declared that there exist, in the Village, structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or, further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate the expenditure of large amounts of public funds to correct and eliminate such conditions, and that the desirability and amenities of residential and nonresidential uses and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.

- C. **Purpose.** The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.

- D. **Definitions.** The following words and terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:
- (1) Accessory Structure. A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.
 - (2) Basement. That portion of the building, the floor line of which is below the surface of the ground immediately adjoining it and its ceiling not more than four feet above lot grade.
 - (3) Building. A combination of materials to form a construction adopted to permanent or temporary use for residence, business or storage.
 - (4) Deterioration. The condition or appearance of a building or structure or part thereof, characterized by breaks, holes, rot, crumbling, cracking, peeling, rusting, inadequate paint or other evidence of decay or neglect.
 - (5) Dwelling. Any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.
 - (6) Extermination. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the Health Commissioner or County Health Department.
 - (7) Fence. An independent structure forming a barrier at grade or between lots, between a lot and a street or an alley, or between portions of a lot or lots and includes a wall or lattice-work screen but excludes a hedge or natural growth, or a barrier of less than eighteen inches in height which is used to protect plant growth.
 - (8) Garbage. Garbage is all waste, animal, fish, fowl or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption.

- (9) Infestation. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
- (10) Nuisance. (1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the Statutes of the State of Wisconsin, or the ordinances of the Village of Spencer. (2) Any attractive nuisance which may prove detrimental to the health or safety of children in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation such as poison ivy and oak sumac, which may prove a hazard for inquisitive minors.
- (11) Occupant. Any person occupying or having use of a building, structure, premise or any part thereof.
- (12) Operator. Operator shall mean any person who has charge, care or control of a building, structure or premise or a part thereof.
- (13) Owner. Any person who alone, jointly, or severally with others, shall hold title to a building, structure or premise, or who shall be in actual possession of, or have charge, care or control of a building, structure or premise as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder.
- (14) Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Ordinance prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.
- (15) Refuse. All solid waste (except body waste) including but not limited to: rubbish, ashes, street cleanings, abandoned, non-licensed or inoperable motor vehicles and solid market and industrial wastes.
- (16) Repair. To restore to a state of operation, serviceability, or appearance in conformity with this Ordinance.

- (17) Replace. To remove an existing item or portion of a building or structure and to construct or install a new item of similar or improved quality as the existing item when it was new. Replacement will ordinarily take place when the item is incapable of repair.
- (18) Rubbish. Rubbish is the miscellaneous waste material, combustible and noncombustible, resulting from housekeeping and ordinary mercantile enterprises, and includes but is not limited to boxes, cartons, excelsior, paper, ashes, cinders, tin cans, bottles and broken glass, rubber, grass clippings, brush, leaves and garden plants.
- (19) Structure. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a building, fence, freestanding wall, sign or other advertising medium, whether detached or projecting.
- (20) Substandard. All buildings which do not conform to the minimum standards established by this chapter and by any other provisions of this code of ordinances or by State of Wisconsin Administrative Code.
- (21) Weathering. Deterioration, decay or damage by exposure to the elements.
- (22) Yard. An open space at grade on the same lot as a building or structure located between such building or structure and the adjoining lot line, and/or street line.
- (23) Meaning of Certain Words. Whenever the words "building", "structure" or "premise" are used in this Ordinance, they shall be construed as though they were followed by the words "or any part thereof".

E. Responsibilities of Owners, Operator and Occupant Independent of Each Other.

- (1) Owners and operators shall have all the duties and responsibilities as prescribed in this Ordinance and the regulations promulgated pursuant thereto, and no owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefore in violation thereof.

- (2) Occupants shall have all the duties and responsibilities as prescribed in this Ordinance. No person shall attempt to contract away his responsibilities under this Ordinance.

F. Duties and Responsibilities of Owners and Operators.

- (1) Maintenance and Appearance of Exterior of Premises.
 - (a) The exterior of the premises and all structures thereon shall be kept free of all nuisances, unsanitary conditions, and any hazards to the safety of occupants, pedestrians and to the persons utilizing the premises. Any of the foregoing shall be promptly removed and abated by the owner or operator.
 - (b) The exterior of the premises and surrounding yard shall be kept free of hazards which include, but are not limited to: brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris.
 - (c) Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of fallings, and the same shall be kept structurally sound, in good repair and free of defects.
 - (d) The exterior appearance of all buildings shall reflect a level of maintenance in keeping with the standards of the neighborhood. A violation shall occur if the exterior appearance becomes a blighting factor for adjoining property owners or an element leading to the progressive deterioration and downgrading of the neighborhood.
 - (e) The premises shall be kept landscaped and lawns, hedges and bushes shall be kept trimmed and from becoming overgrown, and unsightly where exposed to the public view. Premises shall include the areas between the sidewalk and the curb of the street.
 - (f) In addition to (e) above, grass upon any private premises within the Village limits shall be in compliance with Section 271-5 of the Code of Ordinances.

- (g) Yards shall be kept substantially clear of debris and shall be provided with adequate lawn, ground cover or vegetation. Hedges or bushes shall be cut or trimmed as often as necessary to maintain a neat and attractive appearance. All areas not covered by any of the foregoing shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public entrance shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians.
- (h) Every yard, court, driveway or other portion of the lot shall be graded or drained so as to prevent the accumulation of stagnant water on any such surface. Driveways shall be maintained in good condition and repair.
- (i) Every building, structure and all exterior appurtenances on the premises shall be adequately protected against rats, mice, termites, and other vermin infestation, and shall not permit the entrance of such rats, mice, termites, and other vermin. Occupants and operators shall be responsible for the extermination of rodents and vermin from that part of the premises under their exclusive control except where more than one unit is infested at the same time and in this instance, the owner shall also be responsible for extermination of the infestation.
- (j) Every building shall have adequate refuse, garbage or rubbish storage facilities. No occupant shall accumulate rubbish, boxes, lumber, metal refuse or other materials which may provide a harborage for rodents or vermin.
- (k) The exterior of every structure or accessory structure, residential and non-residential, including fences, shall be maintained in good repair and all surfaces thereof shall be kept painted where necessary for purposes of preservation and appearance. The same shall be maintained free of broken loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.
- (l) Every dwelling and accessory structure, exterior walls, siding and roofs shall be kept structurally sound and in a state of good repair

to avoid safety, health or fire hazards and shall be so maintained as to be weather and water-tight. (The above applies to residential and non-residential properties.)

(m) This Ordinance applies whether or not the premises are temporarily or continuously occupied or unoccupied, inhabited or uninhabited, commercial or non-commercial, and whether or not there is a structure, building or other improvement upon the premises.

(2) An owner or occupier of land in the Village may apply for approval of a management plan for a natural lawn in accordance with Section 271-4 of the Code of Ordinances

(G) Inspection by Building Inspector/Police Chief or Designee. The Building Inspector/Police Chief or his/her designated representative is authorized and upon receipt of complaint shall make exterior inspections to determine whether the buildings, structures and premises located within this Village conform to the requirements of this Ordinance. For the purpose of making exterior inspections, the Building Inspector/Police Chief or designee is authorized to enter, examine and survey at all reasonable times the exterior portions of all buildings, structures or premises. Every owner or occupant shall give the Building Inspector/Police Chief or designee free access to any said premises. The Building Inspector/Police Chief or his/her delegated representative, having probable cause to believe a violation of this Ordinance exists, shall have authority to enter any of such premises after written notice has been given to the owner, occupant or his agent. If, after such notice is given, access is denied to the Building Inspector/Police Chief or designee, he or she may apply to the Municipal Court for a special inspection warrant.

(H) Administrative Provisions.

(1) The Building Inspector/Police Chief or designated representative is hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to violation of this Ordinance shall be under his/her direction and supervision. He/she may appoint or designate such other public officials or employees of the Village to perform duties as may be necessary to the enforcement.

(2) The Building Inspector/Police Chief or designee shall be supplied with official identification and upon request shall exhibit such identification

when entering any premises subject to this Ordinance. The Building Inspector/Police Chief or designee shall conduct themselves as to avoid intentional embarrassment or inconvenience to occupants.

- (I) **Notice.** Whenever the Building Inspector/Police Chief or designated representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, notice of such alleged violation shall be given to the person or persons responsible therefore, which shall:
- (1) Be in writing;
 - (2) Indicate the nature of the violation(s);
 - (3) Indicate the time for the correction of the violation in accordance with (e) hereof;
 - (4) Be served upon the owner or his agent, or the occupant or operator, as the case may require. Such notice shall be deemed to be properly served upon such owner or his agent, or occupant, or operator, if a copy thereof is:
 - (a) Served upon him personally, or
 - (b) Sent by regular mail to the owner at its last known address, or
 - (c) Posted in a conspicuous place in or about the building or structure affected by notice, or
 - (d) Served upon a member of the family of the owner, operator or occupant 14 years of age or older.
 - (5) State a reasonable amount of time, not to exceed 30 days, to correct or abate the violation.

(J) **Placard on Building.**

- (1) The Building Inspector/Police Chief/designated representative shall cause to be placed upon a building, structure or premises a placard, which will state the determinations of the Building Inspector/Police

Chief/designated representative as to the building, structure or premises being unfit for use or occupancy whenever all of the following occur:

- (a) any building, structure or premises that does not substantially comply with the requirements of this Chapter; and
 - (b) the Building Inspector/Police Chief/designated representative has given notice of the violation involved as provided for in Section (7) herein; and
 - (c) if the owner, occupant or operator has failed to correct the violations set forth in said notice; and
 - (d) the Building Inspector/Police Chief/designated representative has further determined that the building, structure or premises are so damaged, decayed, dilapidated, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public, and is, therefore, unfit for use or occupancy.
- (2) The form of the placard placed under the provisions of this section of the Ordinance shall be determined by the Building Inspector/Police Chief/designated representative, but shall also substantially state the specific violations of this Ordinance.
- (3) No person shall deface or remove the placard from any building, structure or premises which has been placed by the Building Inspector/Police Chief or designated representative until removal of such placard is authorized by the Building Inspector/Police Chief or designated representative.
- (4) Any building, structure or premises which has been determined by the Building Inspector/Police Chief or designated representative as being so damaged, decayed, dilapidated, unsafe or vermin-infested that it creates a serious hazard to the health and safety of the occupants or of the public, and is, therefore, unfit for use or occupancy, and which said building, structure or premises has been placarded by the Building Inspector, shall be vacated within such timeline determined by the Chief or Designee.
- (5) No building, structure or premises which has been determined by the Building Inspector/Police Chief or designated representative as unfit for

use or occupancy and placarded as provided herein shall again be used or occupied until written approval is secured from, and such placard is removed by, the Building Inspector/Police Chief or designated representative.

The Building Inspector/Police Chief or designated representative shall grant such approval and remove such placard in the event that the violations have been corrected and the Building Inspector/Police Chief or designated representative determines that the building, structure or premises are now fit for use or occupancy.

(K) Noncompliance – Remedy of Defects.

- (1) The owner, occupant or operator of any building, structure or premises shall have the time as specified in the notice under Section (7) to remedy the violations specified in such notice.
- (2) In the event the Building Inspector/Police Chief or designated representative shall determine, in his/her discretion, that the owner, occupant or operator is, within said time, making a good faith effort to correct the violations, he/she may extend the time for compliance.
- (3) If the owner, occupant or operator of any building, structure or premises shall fail or refuse, after notice and order of the Building Inspector/Police Chief or designated representative, to remedy the violations specified in such notice, then the Building Inspector/Police Chief or designated representative may cause such work to be done and certify the cost thereof to the Village Clerk, who shall extend such cost against the property upon the next tax roll of the Village.

- (L) Transfer of Ownership of Non-Complying Building.** It shall be unlawful for the owner of any building, structure or premises who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish to the Building Inspector/Police Chief or designated representative a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(M) **Penalties.**

- (1) A violation of any section or subsection of this Ordinance shall be punishable by a fine or forfeiture not to exceed \$200.00 for each violation committed hereunder, or upon failure to pay, by imprisonment in the county jail for not more than 60 days.
- (2) Each day a violation exists after the notice of violation has been received and which becomes an order of the Building Inspector/Police Chief or designated representative shall constitute a separate violation of this Ordinance.
- (3) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Ordinance or otherwise.