

Chapter 86

BUILDING CONSTRUCTION AND FIRE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Summit at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings — See Ch. 89.

Fees — See Ch. 125.

Property maintenance — See Ch. 184.

Zoning — See Ch. 235.

§ 86-1. Adoption of Wisconsin Uniform Dwelling Code.

The Uniform Dwelling Code (UDC), Chs. Comm 20 to 25, Wis. Adm. Code, and all amendments thereto are adopted and incorporated in this chapter by reference and shall apply to all buildings within the scope of this chapter. A copy of the code is on file with the Town of Summit and with the Certified Building Inspector.

§ 86-2. Adoption of state codes; interpretation.

- A. The following chapters of the Wisconsin Administrative Code and all amendments thereto in effect on the date of the adoption of this chapter are hereby adopted and made part of this chapter by reference and are applicable to all those classes of buildings to which said codes apply:
- (1) Chs. Comm 82 to 84, Plumbing Code;
 - (2) Ch. Comm 40, Gas Systems;
 - (3) Ch. Comm 16, Electrical Code;
 - (4) Ch. Comm 14, Fire Prevention; and
 - (5) Ch. Comm 10, Flammable and Combustible Liquids;
- B. In addition, the Wisconsin IBC Commercial Building Code is hereby adopted and made part of this chapter by reference and is applicable to all those classes of buildings to which said code applies.
- C. Any act required to be performed or prohibited by any current or future provision incorporated herein by reference is required or prohibited by this chapter. Any future additions, amendments, revisions or modifications to the regulations incorporated herein are intended to be made a part of this chapter in order to secure uniform statewide regulation in the state.
- D. In the event that there is a conflict between codes and/or interpretations, the most restrictive code and/or interpretation shall be enforced.

- E. Copies of said codes are available online and in the office of the Certified Building Inspector.

§ 86-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING — Includes but is not limited to any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, materials or any type of vehicles, tractors or semitrailers.

COMM — Abbreviation for Department of Commerce, State of Wisconsin.

DWELLING — Includes but is not limited to a building or sections of a building or other residential structure devoted to the shelter of one family or a detached building containing two separate dwelling (or living) units, designated for occupancy by not more than two families.

STRUCTURE — Includes but is not limited to any mechanical erection or construction, such as a building, towers, masts, poles, decks, booms, signs, decoration, carports, machinery and equipment.

SWIMMING POOL — Includes but is not limited to all swimming pools (both above ground and in-ground) that require ground to be broken and/or excavation for their installation or any pool over 24 inches in height and/or that exceed 1,000 gallons' capacity.

UDC — Abbreviation for Uniform Dwelling Code.

§ 86-4. Building permit for public buildings and places of employment.

No person shall build or cause to be built any new public building or place of employment or any alteration or addition to an existing public building or place of employment without first obtaining a building permit therefor from the Certified Building Inspector. This permit will be issued after receipt of state-approved plans (if applicable), proof of obtaining all necessary sanitary permits (if applicable), and compliance with all proper zoning and setbacks as specified in Chapter 235, Zoning, of the Code of the Town of Summit and all applicable state, county, and extraterritorial regulations.

§ 86-5. Effect on existing dwellings.

Chapters Comm 20 to 25, Wis. Adm. Code, shall apply to additions or alterations to existing dwellings within the Town of Summit.

§ 86-6. Certified Building Inspector.

There is hereby created the position of Certified Building Inspector, who shall administer and enforce this chapter and shall be certified by the Division of Safety and Buildings, as specified by § 101.66(2), Wis. Stats., in the category of UDC Construction Inspector and in the certification categories of UDC HVAC, UDC Electrical and UDC Plumbing.

- A. Appointment. The Certified Building Inspector shall be appointed and confirmed by the Town Board and shall serve until removed by the Town Board.
- B. General powers and duties. The Certified Building Inspector shall administer and enforce all provisions of this chapter and the UDC. The Certified Building Inspector may at all reasonable times enter upon any public or private premises for inspection purposes. No person shall interfere with the Certified Building Inspector while in the performance of the duties described herein.
- C. Records. The Certified Building Inspector shall keep a record of all permit applications issued, to be housed in the Town offices. The permits shall be marked in order and shall coordinate with the seal numbers purchased from the state. The records shall also detail number, description, size, cost, materials used and the aggregate cost of all UDC construction. A record shall be kept of all condemned structures and their removal.
- D. The Certified Building Inspector shall have the power and the duty to see that the construction, reconstruction, alteration, repair, removal and safety of buildings and moving regulations regarding buildings in the Town of Summit conform to the laws of the State of Wisconsin, the orders, rules and regulations of the Department of Commerce of the State of Wisconsin, and the ordinances, rules and regulations of the Town of Summit and to make all inspections as required.

§ 86-7. Building permit required.

No person shall excavate, build or cause to be built any new one- or two-family dwelling, or any addition or alteration to an existing one- or two-family dwelling, or any swimming pool, accessory or other separate auxiliary building or commercial or industrial structure of any type whatsoever without first obtaining a Town building permit. No person shall build or cause to be built any public buildings or place of employment without first obtaining a Town building permit. The building permit application shall be furnished by the Town. A copy of such permit shall be filed with the Certified Building Inspector and the Waukesha County Zoning Administrator.

§ 86-8. Application for building permit.

- A. Application for a building permit shall be made in writing upon a form furnished by the Certified Building Inspector. The appropriate building requirements of the Town and, where applicable, of the county or state for the contemplated improvement shall be provided to the permit applicant by the Certified Building Inspector at or before the submission of an application for a building permit.
- B. Plans and drawings. The building permit applicant shall submit with the application two complete sets of plans and specifications, including any removal, placement or moving of earth, shrubs or trees. Also to be included in the plans is a plan of all final ground site work. A site plan shall be presented that has been stamped and signed by a licensed land surveyor verifying that all building setbacks shown on the plan have been staked by the land surveyor, unless waived by the Certified Building Inspector, and that all parts of the proposed site plan are in compliance with the

Town of Summit setback requirements or, if not, the reasons for the nonconformity and a variance application if needed. Two sets of all plans shall be submitted to the Certified Building Inspector for examination and approval.

- C. County permits. The applicant must obtain any permits required by Waukesha County and include copies of such permits with the building permit application.
- D. Driveway permits. The building permit applicant shall submit a driveway permit with the application, which shall be applied for and obtained from the Town at or prior to making application for a building permit.
- E. Approval of plans and issuance of building permit. If the Certified Building Inspector determines that the proposed building, addition or alteration will comply in every respect with all the ordinances of the Town and all applicable laws and regulations of the State of Wisconsin and is not in violation of the Waukesha County Subdivision Ordinance or extraterritorial zoning requirements, where applicable, he/she shall conditionally approve the plans and issue a building permit, and such building permit shall also constitute a land use permit. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned ordinances, laws or regulations or which involves the safety of the building or occupants. One copy of the approved plans shall be returned to the applicant. One copy shall be retained by the Certified Building Inspector.
- F. State Uniform Dwelling Code seal. For one- or two-family dwellings, at such time a building permit is issued, it shall have affixed to it a State of Wisconsin Uniform Dwelling Code seal.

§ 86-9. Issuance of building permit; occupancy permit.

A properly issued building permit shall be posted in a conspicuous place at every building site where required, including sites of additions or alterations, and be visible from the public access.

- A. Permit lapse. A building permit shall expire two years after issuance.
- B. Occupancy permit.
 - (1) The Certified Building Inspector shall issue occupancy permits when all inspections shall have been satisfactorily completed, all required fees shall have been paid and all required terms of this chapter shall have been met.
 - (2) No single- or multiple-family dwelling may be occupied by any person or party until an occupancy permit has been issued.

§ 86-10. Disapproval of plans and denial of permit.

If the Certified Building Inspector determines that the building permit application or plans do not conform to the provisions of the applicable codes or ordinances or other requirements, approval shall be denied.

- A. Denial of application. A copy of the denied application, accompanied by a written statement specifying the reasons for the denial, shall be sent to the applicant and to the owner as specified on the application.
- B. Appeals. The applicant may appeal a denial of an application to the Town Board.
- C. Time of permit issuance. Action to approve or deny a building permit application shall be completed within 10 business days of receipt of all the forms, fees, plans and documents required to process the application. Action on these permits will be at the next scheduled meeting.

§ 86-11. Permit fees; building permit not required for minor repairs.

The building permit fees shall be set by the Town Board and may be changed from time to time. A copy of the current fee schedule is on file with the Town Clerk/Treasurer.

- A. Fees. All required Town fees shall have been previously paid or shall be submitted to the Certified Building Inspector when the building permit application is filed or before the permit is issued. This may include a building permit, driveway permit, impact fees or other fees as applicable to the building permit applicant.
- B. Minor repairs.
 - (1) Minor repairs or alterations costing less than \$2,000 in a twelve-month period and that do not change occupancy area, structural strength, fire protection, exits, natural light or ventilation do not require a building permit. The Certified Building Inspector will determine what constitutes such a repair or alteration.
 - (2) Replacement or repair of roofing may be done without a permit.

§ 86-12. Compliance with building permit.

All construction must comply with the building permit and the plans submitted with the building permit application. Any construction which is not authorized on the building permit, blueprint, or site plan or is not listed on the building permit application is a violation of the permit and subject to the violations and penalties in § 86-20.

§ 86-13. Unsafe buildings.

If a building is so old, uninhabitable or dilapidated and so out of repair as to be dangerous, unsafe or unsanitary or so that it would be unreasonable to repair, the Certified Building Inspector shall order the owner to raze or remove the building at the owner's expense. Such order will be issued pursuant to § 66.0413, Wis. Stats.

§ 86-14. Swimming pools.

- A. Permit required. A permit shall be required for any swimming pool with a capacity of 1,000 or more gallons.
- B. Application. An application for a building permit shall show:

- (1) Type and size of pool.
- (2) Site plan to include:
 - (a) Location of pool.
 - (b) Location of house, garage, fencing, well, drain field, and septic tank on the lot.
 - (c) Location of filter unit, pump and wiring (involving location).
 - (d) Location of backflush and drainage outlets.
 - (e) Grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool.
 - (f) Location of existing overhead or underground wiring, utility easements, trees and similar features.

C. Residential districts.

- (1) Pools shall not be located within any required front yard.
- (2) Pools shall not be located beneath overhead utility lines or over underground utility lines of any type.
- (3) Pools shall not be located in or on any easement of any private or public utility, walkway, drainage area or other easement.
- (4) For in-ground pools, due precautions shall be taken during the construction period to:
 - (a) Avoid damage, hazards or inconvenience to adjacent or nearby property.
 - (b) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringement onto adjacent property.
- (5) To the extent feasible, backflush water or water from pool drainage shall be discharged on the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land without written permission of owner thereof.
- (6) The filter unit, pump, heating unit and any other noisemaking mechanical equipment shall be located at least 30 feet from any adjacent or nearby residential structure or shall be enclosed in a sound-restrictive enclosure, not closer than 25 feet to any lot line.
- (7) Lighting for the pool shall be directed into or onto the pool and not onto adjacent property.
- (8) Any pool that is a minimum of 48 inches in height or a maximum of 72 inches in height shall have installed a childproof, nonclimbable safety fence of at least four feet in height from grade, which fence, or other reasonably equivalent structural measures, shall completely enclose the pool to prevent

animals or small children from accidentally falling into it.

- (9) Required safety fencing shall be installed immediately upon completion of the pool and before beginning to fill with water.
- (10) Water in the pool shall be maintained in a suitable manner to avoid health hazards.
- (11) All wiring, lighting, installation of heating unit, grading, installation of pipes, and all other installations and construction shall be subject to inspection by the Certified Building Inspector.
- (12) There shall be no nuisance, such as undue noise, lighting onto adjacent property, health and safety hazards, damage to nearby vegetation, etc.
- (13) Drainage of pools into public streets, public roads, or other public drainageways shall require permission of the Town Chairperson.

§ 86-15. Revocation of permit.

- A. If the Certified Building Inspector finds at any time that the provisions of this chapter are not being complied with and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he/she shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work.
- B. When any permit is revoked, no further work shall be done until the permit is reissued, except such work as the Certified Building Inspector may order as a condition precedent to the reissuance of the permit or as he/she may require for the preservation of human life and safety.

§ 86-16. Inspections.

All inspections for the purpose of administering and enforcing the UDC and this chapter shall be performed by a certified inspector who shall conduct inspections according to the respective codes being applied and enforced.

- A. Notification. The builder shall notify the Certified Building Inspector of all inspections required by the UDC, § Comm 20.10, 48 hours in advance.
- B. Witness to inspection. It is required and recommended that a representative of the developer, contractor, builder or owner be present at each required inspection. It shall be the responsibility of the developer, contractor, builder, or owner to coordinate inspection times and dates with the Certified Building Inspector.
- C. Reinspections. Any reinspections necessary due to incomplete work or noncomplying conditions shall require an additional fee per inspection as set forth in the current fee schedule on file with the Town Clerk/Treasurer, to be paid in full prior to the issuance of the occupancy permit.

§ 86-17. Variances.

- A. Application. Property owners or their representatives may apply for an individual variance from the UDC or this chapter on an application filed with the Certified Building Inspector and on forms provided by the Certified Building Inspector.
- B. Required information and fee. The following items shall be submitted when requesting a variance:
 - (1) A clear and concise written statement of the specific provisions of the code or this chapter for which a variance is requested, together with a statement of the procedures and materials to be used if the variance is granted.
 - (2) A fee for processing the application, the amount of which is set forth in the current fee schedule on file with the Town Clerk/Treasurer and as may be modified from time to time by Town Board action.
- C. The Certified Building Inspector shall forward the application together with his/her written recommendation and the reasons therefor to the Town Board.

§ 86-18. Appeals.

No appeal to the provisions of this chapter shall be granted by the Town Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates such in the minutes of the proceedings:

- A. Preservation of intent. No appeal shall be granted that is not consistent with the purpose and intent of this chapter.
- B. Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions present constituting hardship so that the granting of the appeal will not be so general or recurrent in nature as to suggest that this chapter should be changed.
- C. Hardship. No appeal shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of an appeal.
- D. Absence of detriment. No appeal shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public safety and interest.
- E. Decision. The Town Board shall transmit its meeting minutes and decisions in writing to the Town Clerk/Treasurer within seven days of the hearing.
- F. Review by the court of record. Any person or persons aggrieved by any decision of the Town Board may file in Waukesha County Circuit Court a petition, duly verified, setting forth an allegation that such decision is illegal and specifying the grounds of the illegality. Such petition shall be commenced within 30 days after filing of the decision with the Town Clerk/Treasurer.

§ 86-19. Violations and penalties.

When the Certified Building Inspector cites violations of this chapter or the UDC, the violations shall be promptly corrected. All written violations shall be corrected within 30 days unless an extension of time is granted pursuant to § Comm 20.21 of the UDC.

- A. Stop-work order: If written violations are not corrected within 30 days, the Certified Building Inspector shall issue a stop-work order to the owner. The stop-work order shall be posted at the construction site. Upon issuance of a stop-work order, all construction on the site shall cease except for the construction necessary to correct the violation. The stop-work order shall be posted on the building permit and on the building.
- B. Penalties.
 - (1) Any person, firm, corporation, including a property owner, contractor, or construction worker, in violation of this chapter or the UDC shall, upon conviction, be subject to penalties as set forth in Chapter 1, General Provisions, Article I, Penalties, of the Code of the Town of Summit. Each day that such violation continues will constitute a separate offense. In any action taken pursuant to this chapter, the fact that any permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Town officials constitute a defense.
 - (2) The building permit fee for a building permit for work begun without a permit shall be double the regular permit fee.
 - (3) The act of applying for a building permit constitutes consent to the issuance of any injunction needed to enforce a stop-work order.
- C. The enforcement of this chapter and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and/or injunctive action.

§ 86-20. Enforcement.

- A. Enforcement procedure. The statutory provisions of §§ 66.0109, 66.0113, 66.0114 and Ch. 799, Wis. Stats., are adopted and by reference made a part of this chapter as if fully set herein. Any act required to be performed or prohibited by any code incorporated herein by reference is required or prohibited by this chapter. Any future additions, amendments, revisions or modifications of the statutes or codes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation and enforcement. Further, the Town of Summit specifically elects to use the citation method of enforcement.
- B. Enforcement officials. This chapter shall be enforced by the Town of Summit Police Department, the Town Board of the Town of Summit or any other designee of the Town Board of the Town of Summit.
- C. Deposits.
 - (1) Schedule of deposits. The schedule of cash deposits shall be as follows: \$50 plus current assessment fees and current court costs if applicable for violation

of this chapter.

- (2) Deposit for repeat offenses. Any person found guilty of violating this chapter or any part thereof who was previously convicted of violating this chapter within the last year shall forfeit twice the deposit delineated above plus court costs and assessments.
- (3) Nonscheduled deposit. If a deposit schedule has not been established for a specific violation, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted hereunder.
- (4) Depository. Deposits should be made in cash, money order, or certified check to the Clerk of Municipal Court, who shall issue a receipt therefor as required by Wisconsin statute. If the deposit is mailed, the signed statement required by Wisconsin statute shall be mailed with the deposit.

D. Nonexclusivity.

- (1) Other ordinances. Adoption of this chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
- (2) Other remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized officer from proceedings under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

§ 86-21. Nonliability of Town.

This chapter shall not be construed as creating or assuming any liability on the part of the Town or its officials for damages to anyone injured or any property damaged or destroyed by any defect in any building, equipment or swimming pool, or in any plumbing, electric wiring or equipment, or any flammable materials, equipment or devices.

§ 86-22. Repealer.

Any existing ordinances pertaining to the construction of new dwellings or alterations of existing dwellings that conflict with the Uniform Dwelling Code are hereby repealed. All the ordinances or parts of ordinances in conflict with any of the provisions of this chapter are hereby repealed.