

CHAPTER 2

Building Code

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SEC. 10-2-1 BUILDING CODE ESTABLISHED.

- (a) **Title.** This Chapter shall be known as the “Building Code of the Town of Packwaukee” and will be referred to in this Chapter as “this Code,” “this Chapter” or “this Ordinance.”
- (b) **Purpose.** This Chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.
- (c) **Scope.** New buildings hereafter erected in, or any building hereafter moved within or into the Town, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and nay installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of all users thereof or any other persons is a “new building” to the extent of such change. Any existing building shall be considered a “new building” for the purposes of this Chapter whenever it is used for dwelling, commercial or industrial purposes, unless it was being used for such purpose at the time this Chapter was enacted. The provisions of this Chapter supplement the laws of the State of Wisconsin pertaining to construction and use.

SEC. 10-2-2 BUILDING PERMITS AND INSPECTION.**(a) Permit Required.**

- (1) General Permit Requirement. No building of any kind shall be moved within or into the Town and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used, a roof line altered within the Town, or a mobile home moved into the Town, except as herein provided, until a permit therefore shall first have been obtained by the owner, or his authorized agent, from the Town Clerk. When applicable, no building permit shall be issued until a county sanitary permit has first been issued, pursuant to Sec. 66.036, Wis. Stats.
- (2) Alterations and Repairs. The following provisions shall apply to buildings altered or repaired:
 - a. Alterations. When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, rooms, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.
 - b. Repairs. Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any existing stairways, or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.
 - c. Alterations When Not Permitted. When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent (50%) of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.
 - d. Alterations and Repairs Required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.

- e. Extent of Deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Town Clerk and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the Town Clerk may require.
- (c) **Dedicated Street and Approved Subdivision Required.** No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes or abuts an easement of record. No building permits shall be issued until the subdivision and required improvements are accepted by the Town Board.
- (d) **Utilities Required.**
 - (1) Residential Buildings. No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets necessary to service the property for which the permit is required and a receipt for payment of electrical hookup is presented to a State Building Inspector or Town Clerk.
 - (2) Non-Residential Building. No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested.
 - (3) Occupancy. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property and a certificate of occupancy shall not be issued until such utilities are available to service the property.
- (e) **Plans.** With such application, there shall be submitted a complete set of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining roads, highways, streets, alleys, lot lines and buildings. Plans for buildings involving the State Building Code shall bear the stamp of approval of the State Department of Industry, Labor and Human Relations. One (1) plan shall be submitted which shall remain on file in the office of the Town Clerk. All plans and specifications shall be signed by the designer. Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Chapter ILHR 20.09(4), Wis. Adm. Code.
- (f) **Minor Repairs; Waiver of Plans.** If the Town Clerk finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving. No building permit is required if the fair market value of repair or construction is, in the opinion of the Town Clerk, One Thousand Dollars (\$1,000.00) or less.
- (g) **Approval of Plans.**
 - (1) If the Town Clerk determines that the building will comply in every respect with all Ordinances and orders of the Town and all applicable laws and orders of the State of Wisconsin, he shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building. After being approved, the plans and

specifications shall not be altered in any respect which involves any of the above-mentioned Ordinances, laws or orders, or which involves the safety of the building or the occupants, except with the written consent of the Town Clerk.

- (2) In case adequate plans are presented for part of the building only, the Town Clerk, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.
- (h) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six (6) months or if construction has not been completed within one (1) year from the date of issuance thereof.
- (i) **Revocation of Permits.**
 - (1) The Town Board or Town Clerk may revoke any building, plumbing or electrical permit, certificate of occupancy, or approval issued under the regulations of this Chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
 - a. Whenever the Town Board shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning has been issued to him
 - b. Whenever the continuance of any construction becomes dangerous to life or property.
 - c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
 - d. Whenever, in the opinion of the Town Board, there is inadequate supervision provided on the job site.
 - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, date specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
 - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Town Board for the use of all new materials, equipment, methods or construction devices or appliances.
 - (2) The notice revoking a building, plumbing or electrical certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his agent, if any, and on the person having charge of construction.
 - (3) A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Town Board.
 - (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefore, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Town Board may order as a condition precedent to the reassurance of the

building permit may be performed, or such work as may be required for the preservation of life and safety.

SEC. 10-2-3 STAE UNIFORM DWELLING CODE ADOPTED.

- (a) **State Code Adopted.** The administrative code provisions describing and defining regulations with respect to one (1) and two (2) family dwellings in Chapters ILHR 20 through 25 of the Wisconsin Administrative Code are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made a part of this Chapter to secure uniform statewide regulation on one (1) and two (2) family dwellings in this Town. A copy of these administrative code provisions and any future amendments shall be kept on file in the Town Clerk's Office.
- (b) **Existing Buildings.** The "Wisconsin Uniform Dwelling Code" shall also apply to building and conditions where:
- (1) An existing building to be occupied as a one (1) or two (2) family dwelling, which building was not previously so occupied.
 - (2) An existing structure that is altered or repaired, when the cost of such alteration or repair during the life of the structure exceeds fifty percent (50%) of the equalized value of the structure, said value to be determined by the Town Assessor.
 - (3) Additions and alterations, regardless of cost, made to an existing building when deemed necessary in the opinion of the Town Clerk shall comply with the requirements of this Chapter for new buildings. The provisions of Section 10-2-2 shall also apply.
 - (4) Roof Coverings – Whenever more than twenty-five percent (25%) of the roof covering of a building is replaced in any twelve (12) month period, all roof covering shall be in conformity with applicable Sections of this Chapter.
 - (5) Additions and alterations – Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable Sections of this Chapter.
- (c) **Definitions.**
- (1) Addition. "Addition" means new construction performed on a dwelling which increases the outside dimensions of the dwelling.
 - (2) Alteration. "Alteration" means a substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.
 - (3) Department. "Department" means the Department of Industry, Labor and Human Relations.
 - (4) Dwelling. "Dwelling" means:
 - a. Any building, the initial construction of which is commenced on or after the effective date of this Chapter which contains one (1) or two (2) dwelling units; or
 - b. An existing structure, or that part of an existing structure, which is used or intended to be used as a one (1) or two (2) family dwelling.

- (5) Minor Repair. “Minor repair” means repair performed for maintenance or replacement purposes on any existing one (1) or two (2) family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed minor repair.
- (6) One (1) or Two (2) Family Dwelling. “A one (1) or two (2) family dwelling” means a building structure which contains one (1) or separate households intended to be used as a home, residence or sleeping place by an individual or by two (2) or more individuals maintaining a common household to the exclusion of all others.
- (7) Person. “Person” means an individual, partnership, firm or corporation.
- (8) Uniform Dwelling Code. “Uniform Dwelling Code” means those Administrative Code Provisions and any future amendments, revisions or modifications thereto, contained in the following Chapters of the Wisconsin Administrative Code:

Wis. Adm. Code Chapter ILHR 20 -- Administrative and Enforcement

Wis. Adm. Code Chapter ILHR 21 -- Construction Standards

Wis. Adm. Code Chapter ILHR 22 -- Energy Conservation Standards

Wis. Adm. Code Chapter ILHR 23 -- Heating, Ventilating and Air
Conditioning

Wis. Adm. Code Chapter ILHR 24 -- Electrical Standards

Wis. Adm. Code Chapter ILHR 25 -- Plumbing and Portable Water Standards

(d) Method Enforcement.

- (1) Certified Inspector Not Provided. The Town of Packwaukee, as a township under two thousand five hundred (2,500) in population shall not contract with or provide a building inspector certified by the Department of Industry, Labor and Human Relations in each category specified under Sec. 26.06, Wis. Adm. Code, and by the Department of Health and Social Services in the category of plumbing for the purpose of enforcing the provisions of the one (1) and two (2) family uniform dwelling Code adopted in this Chapter. However, private individuals may, at their own expense, contract with a certified building inspector through DILHR for inspection services.
- (2) Inspection Powers. The Town Board or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the Town Board or its agent while in performance of his/her duties.

SEC. 10-2-4 CONSTRUCTION STANDARDS; CODES ADOPTED.

- (a) **Portions of State Building Code Adopted.** Chapters ILHR 50 through ILHR 64, Wis. Adm. Code (Wisconsin State Building Code) are hereby adopted and made a

- part of this Chapter with respect to those classes of buildings to which this Building Code specifically applies. Any future amendments, revisions and modifications of said Chs. 50 to 64 incorporated herein are intended to be made a part of this Code. A copy of said Chs. 50 to 64 and amendments thereto shall be kept on file in the office of the Town Clerk.
- (b) **State Plumbing Code Adopted.** The provisions and regulations of Ch. 145, Wis. Stats., and Wis. Adm. Code Chs. H 81, H 82, H 83 and ILHR 25 are hereby made a part of this Chapter by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired in the Town. Any further amendments, revisions and modifications of said Wisconsin Statutes and Administrative Code herein are intended to be made part of this Chapter.
 - (c) **State Electrical Code Adopted.**
 - (1) Wis. Adm. Code ILHR 24 is hereby adopted by reference and made a part of this Chapter and shall apply to the construction and inspection of new one (1) and two (2) family dwellings and additions or modifications to existing one (1) and two (2) family dwelling and additions or modifications to existing one (1) and two (2) family dwellings.
 - (2) Subject to the exceptions set forth in this Chapter, the Electrical Code, Volume 1, and Rules of Electrical Code, Volume 2, of the Wisconsin Administrative Code are hereby adopted by reference and made a part of this Ordinance and shall apply to all buildings, except those covered in Subsection (1) above.
 - (d) **Conflicts.** If, in the opinion of the Town Board, the provisions of the State Building Code adopted by Subsection (a) of this section shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Town board shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this Section.

SEC. 10-2-5 NEW METHODS AND MATERIALS.

- (a) All materials, methods of construction and devices designed for use in buildings or structures covered by this Section and not specifically mentioned in or permitted by this Section shall not be so used until approved in writing by the State Department of Industry, Labor and Human Relations for use in buildings or structures covered by the Wisconsin State Building Code, except sanitary appliances, which shall be approved in accordance with the State Plumbing Code.
- (b) Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Industry, Labor and Human Relations. The data, test and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Industry, Labor and Human Relations.

SEC. 10-2-6 UNSAFE BUILDINGS.

Whenever the Town Board finds any building or part thereof within the Town to be, in their judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, they shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option as such order and proceedings shall be as provided in Sec. 66.05, Wis. Stats.

SEC. 10-2-7 DISCLAIMER ON INSPECTIONS.

The purpose of the inspections under this Chapter is to improve the quality of housing in the Town. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein expressed implied."

SEC. 10-2-8 GARAGES.

Private garages shall be built in accordance with the general construction standards established in the Wisconsin Uniform Dwelling Code.

SEC. 10-2-9 REGULATION AND PERMIT FOR RAZING BUILDINGS.

- (a) No building within the Town of Packwaukee shall be razed without a permit from the Town Clerk. A snow fence or other approved barricade shall be provided as soon as any portion of a building in a residential area is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one (1) foot above the adjacent grade, the property raked clean, and all debris hauled away. Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within fifteen (15) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required fifteen (15) days must have special approval from the Town Board.
- (b) No combustible material shall be used for backfill. There shall not be any burning of materials on the site of a razed building in a residential area. Burning of razed materials in nonresidential areas is permitted with the permission of the Town Board on the condition that the applicant assumes all liability responsibility. If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the

permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

SEC. 10-2-10 BASEMENTS; EXCAVATIONS.

- (a) **Basement Subflooring.** First floor subflooring shall be completed with sixty (60) days after the basement is excavated.
- (b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet height between such opening or excavation and the public right-of-way.
- (c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Town Board shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Town Board shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Town Board pursuant to the provisions of Sec. 66.60, Wis. Stats.

SEC. 10-2-11 FEES

The fees for building permits shall be as determined by resolution of the Town Board.

SEC. 10-2-12 WOOD BURNING APPLIANCES.

No stove, fireplace or any other type of woodburning appliance shall use the same flue as one serving a stove or appliance using fossil fuel, i.e., oil, natural gas, LP gas, etc. Each such stove or appliance shall have separate flue, but may utilize the same chimney.

SEC. 10-2-13 SEVERABILITY.

If any section, clause, provision or portion of this Chapter, or of the Wisconsin Administrative Code adopted by reference, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SEC. 10-2-14 PENALTIES AND VIOLATIONS.

- (a) Any building or structure hereafter erected, enlarged, altered or repaired or any use hereafter established in violation of the provisions of this Chapter shall be deemed an unlawful building, structure or use. The Town Clerk shall promptly report all such violations to the Town Board and Town Attorney who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in general penalty provisions of the Code of Ordinances. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Town Clerk or Town Board constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.
- (b)
 - (1) If an inspection reveals a noncompliance with this Chapter or the Uniform Dwelling Code, the Town Clerk shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted pursuant to sec. ILHR 20.10(1)(c), Wis. Adm. Code.
 - (2) If, after written notification, the violation is not corrected within thirty (30) days, a stop-work order may be served on the owner or his/her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the Town Clerk after satisfactory evidence has been supplied that the cited violation has been corrected.
 - (3) Each day each violation continues after the thirty (30) day written notice period has run shall constitute a separate offense. Nothing in this Chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.
 - (4) If any construction or work governed by the provisions of this Chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.
 - (5) Back property taxes of up to three (3) years shall also be paid on buildings constructed or moved without a permit.

- (c) Any person feeling aggrieved by an order or a determination of the Town Clerk may appeal from such order or determination to the Town Board. Those procedures customarily used to effectuate an appeal to the Town Board shall apply.
- (d) Except as may otherwise be provided by the Statute or Ordinance, no officer, agent or employee of the Town of Packwaukee charged with the enforcement of this Chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the Town as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the legal representative of the Town until the final determination of the proceedings therein.