

## Chapter 86

### BUILDING CONSTRUCTION

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[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 15, Ch. 1 of the 1992 Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Driveways -- See Ch. 114.  
Erosion control -- See Ch. 122.  
Noise -- See Ch. 186, §186-2G.  
Streets and sidewalks -- See Ch. 232.  
Utilities -- See Ch. 249.  
Vehicles and traffic -- See Ch. 260.  
Floodplain zoning -- See Ch. 270.  
Shoreland-wetland zoning -- See Ch. 271.  
Subdivision of land -- See Ch. 272.  
Zoning -- See Ch. 273.

#### §86-1. Building Code established.

A. Title. This chapter shall be known as the "Building Code of the Village of Albany" and will be referred to in this chapter as "this code" or "this chapter."

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 village 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 any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the 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 and Chapter 273, Zoning, and amendments thereto to the date this chapter was adopted and in no way supersede or nullify such laws and Chapter 273, Zoning.

## **§86-2. Building permits and inspection.**

### **A. Permit required.**

(1) General permit requirement. No building of any kind shall be moved within or into the village, 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 within the village, except as herein provided, until a permit therefore shall first have been obtained by the owner, or his authorized agent, from the Building Inspector or his designee.<sup>1</sup>

(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-conditioning 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 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.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(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 Building Inspector or his designee 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 Building Inspector may require at a cost to be set by resolution by the Village Board.<sup>2</sup>

C. Site plan approval.

(1) Site plan approval. All applications for building permits for any construction, reconstruction, expansion or conversion, except for one- and two-family residences in residentially zoned districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this chapter.

(2) Administration. The Building Inspector shall make a preliminary review of the application and plans and refer them along with a report of his findings to the Plan Commission. The Plan Commission shall review the application and may refer the application and plans to one or more expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Village Board shall authorize the Building Inspector to issue or refuse a building permit.

(3) Requirements. In acting on any site plan, the Plan Commission shall consider the following:

(a) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.

(b) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; and the location, adequacy and improvement of areas for parking and for loading and unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

(c) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

(d) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section.

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<sup>2</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) Effect on municipal services. Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Building Inspector or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall not issue the final approval until the village has entered into an agreement with the application regarding the development of such facilities.

(5) Appeals. Denials of building permits contingent upon site plan approval may be appealed to the Zoning Board of Appeals by filing a notice of appeal with the Village Clerk-Treasurer within 10 days of denial.

D. 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. No building permits shall be issued until the subdivision and required improvements are accepted by the Village Board, upon the recommendation of the Plan Commission.

E. 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 the Building Inspector.

(2) Nonresidential 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.

F. Plans. With such application, there shall be submitted two complete sets of plans and specifications, including a plot plan showing the location and dimensions of all buildings and improvements on the lot, both existing and proposed, dimensions of the lot, dimensions showing all setbacks of all buildings on the lot, proposed grade of proposed structure (to village datum), grade of lot and of the street abutting the lot, grade and setback of adjacent buildings (if adjacent lot is vacant, submit elevation of nearest buildings on the same side of the street), type of monuments at each corner of the lot, watercourses or existing drainage ditches, easements or other restrictions affecting such property, seal and signature of surveyor or a certificate signed by the applicant and a construction erosion control plan setting forth proposed information and procedures needed for control of soil erosion, surface water runoff and sediment disposition at the building site. Plans, specifications and plot plans shall be drawn to a minimum scale of 1/4 inch to one foot (fireplace details to 3/4 inch to one foot). One set of plans shall be returned after approval as provided in this chapter. The second set shall be filed in the office of the Building Inspector. 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 plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new one- and two-family dwellings shall comply with the provisions of Chapter ILHR 20.09(4), Wis. Adm. Code.<sup>3</sup>

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<sup>3</sup>Editor's Note: Former Subsection G, Waiver of plans; minor repairs, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

G. Approval of plans.

(1) If the Building Inspector determines that the building will comply in every respect with all ordinances and orders of the village 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 Building Inspector.

(2) In case adequate plans are presented for part of the building only, the Building Inspector, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.

H. Inspection of work.

(1) The builder shall notify the Building Inspector when ready for inspections, and the Building Inspector shall inspect within two business days after notification all buildings at the following states of construction:

(a) Footings and foundation. Prior to pouring of the foundation, the builder shall supply an adequate site plan;

(b) General framing, rough electrical, plumbing and heating;

(c) Insulation; and

(d) Completion of the structure.

(2) If he finds that the work conforms to the provisions of this chapter, he shall issue a certification of occupancy, which shall contain the date and the result of such inspection, a duplicate of which shall be filed in the office of the Building Inspector.

I. Permit lapses. A building permit shall lapse and be void unless building operations are commenced within six months or if construction has not been completed within one year from the date of issuance thereof.

J. Revocation of permits.

(1) The Building Inspector 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 Building Inspector 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 or construction 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 Building Inspector, 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, data 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 Building Inspector 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 approval shall be in writing and may be served upon the 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 Building Inspector.

(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 regulations of this chapter. However, such work as the Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.

K. Report of violations. Village officers shall report at once to the Building Inspector any building which is being carried on without a permit as required by this chapter.

L. Display of permit. Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

### **§86-3. State Uniform Dwelling Code adopted.**

A. State Code adopted. The Administrative Code provisions describing and defining regulations with respect to one- and two-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 part of this chapter to secure uniform statewide regulation of one- and two-family dwellings in this village. A copy of these Administrative Code provisions and any future amendments shall be kept on file in the Village Clerk-Treasurer's Office.

B. Existing buildings. The Wisconsin Uniform Dwelling Code shall also apply to buildings and conditions where:

(1) An existing building is to be occupied as a one- or two-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 50% of the equalized value of the structure, said value to be determined by the Village Assessor.

(3) Additions and alterations, regardless of cost, made to an existing building, when deemed necessary in the opinion of the Building Inspector, shall comply with the requirements of this chapter for new buildings. The provisions of §86-2 shall also apply.

(4) Roof coverings. Whenever more than 25% of the roof covering of a building is replaced in any twelve-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. As used in this section, the following terms shall have the meanings indicated:

ADDITION -- New construction performed on a dwelling which increases the outside dimensions of the dwelling.

ALTERATION -- A substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

DEPARTMENT -- The Department of Industry, Labor and Human Relations.

DWELLING:

(1) Any building, the initial construction of which is commenced on or after the effective date of this chapter, which contains one or two dwelling units; or

(2) An existing structure, or that part of an existing structure, which is used or intended to be used as a one- or two-family dwelling.

MINOR REPAIR -- Repair performed for maintenance or replacement purposes on any existing one- or two-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.

ONE- OR TWO-FAMILY DWELLING -- A building structure which contains one or two separate households intended to be used as a home, residence or sleeping place by an individual or by two or more individuals maintaining a common household to the exclusion of all others.

PERSON -- An individual, partnership, firm or corporation.

UNIFORM DWELLING CODE -- Those Administrative Code provisions, and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

- (1) Wis. Adm. Code Chapter ILHR 20, Administrative and Enforcement.
- (2) Wis. Adm. Code Chapter ILHR 21, Construction Standards.
- (3) Wis. Adm. Code Chapter ILHR 22, Energy Conservation Standards.
- (4) Wis. Adm. Code Chapter ILHR 23, Heating, Ventilating and Air Conditioning.
- (5) Wis. Adm. Code Chapter ILHR 24, Electrical Standards.
- (6) Wis. Adm. Code Chapter ILHR 25, Plumbing and Potable Water Standards.

D. Method of enforcement.

(1) Certified inspector to enforce. The Building Inspector and his delegated representatives are hereby authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code. The Building Inspector shall be certified for inspection purposes by the Department in each of the categories specified under Sec. ILHR 26.06, Wis. Adm. Code.

(2) Subordinates. The Building Inspector may appoint, as necessary, subordinates as authorized by the Village Board.

(3) Duties. The Building Inspector shall administer and enforce all provisions of this chapter and the Uniform Dwelling Code.

(4) Inspection powers. The Building Inspector 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 Building Inspector or his agent while in performance of his duties.

(5) Records. The Building Inspector shall perform all administrative tasks required by the Department under the Uniform Dwelling Code. In addition, the Inspector shall keep a record of all applications for building permits in a book for such purpose and shall regularly number each permit in the order of its issue. Also, a record showing the number, description and size of all buildings erected, indicating the kind of materials used and the cost of each building and aggregate cost of all one- and two-family dwellings, shall be kept.

#### **§86-4. 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 Building Inspector.

B. State Plumbing Code adopted. The provisions and regulations of W.S.A. ch. 145 and Wis. Adm. Code Chs. H 81, H 821 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 village. 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- and two-family dwellings and additions or modifications to existing one- and two-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 section and shall apply to all buildings, except those covered in Subsection C(1) above.

D. Conflicts. If, in the opinion of the Building Inspector and the Village Board, the provisions of the State Building Code adopted by Subsection A shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Inspector and/or the village shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this section.

**§86-5. Electrical permits.**

A. Permit. No electrical wiring or other equipment shall be installed without first securing a permit therefore from the Building Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit.

B. Application. The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made and equipment and materials to be used, and all later deviations from such plan must be submitted to and approved by the Building Inspector.

C. Inspection of work. After roughing the wiring of any building and before any duct work is covered up, or upon completion of any outside wiring construction work, it shall be the duty of the person doing the work to notify the Building Inspector, who shall inspect the same within 48 hours during the normal workweek. An inspection shall also be made when the service entrance is installed. Upon completion of such wiring, the Inspector shall be notified and shall inspect the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a certificate of compliance, which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. It shall be unlawful to use any such electrical equipment until such certificate has been issued.

**§86-6. Plumbing permits.**

A. Permit. No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made, without first securing a permit therefor from the Building Inspector.

B. Application. The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made and equipment

and the materials to be used. All later deviations from such plan must be submitted to and approved by the Building Inspector.

C. Licensed plumber required. All plumbing work shall be done only by a plumber licensed by the State of Wisconsin, except that a property owner may make repairs or installations in a single-family building owned and occupied by him as his home, provided that a permit is issued and the work is done in compliance with the provisions of this chapter.

D. Inspection of work. Upon completion of the plumbing work on any premises, the person doing such work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall, within 48 hours during the normal workweek, inspect the work. Laterals shall be inspected as far as practicable within two hours after notice is given. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance, which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in any plumbing or drainage until it has been inspected and approved.

#### **§86-7. 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.

#### **§86-8. Unsafe buildings.<sup>4</sup>**

Whenever the Building Inspector, Fire Inspector and the Village Board find any building or part thereof within the village 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. Such order and proceedings shall be as provided in W.S.A. s. 66.05.

#### **§86-9. Disclaimer on inspections.**

The purpose of the inspections under this chapter is to improve the quality of housing in the village. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed as, a guaranty. In order to so advise owners and other interested persons, the following disclaimer shall be applicable to all inspections under this chapter: "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

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<sup>4</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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 is expressed or implied."

#### **§86-10. Utility and storage buildings.**

A. Definition. A "utility and/or storage building" is accessory or subordinate to the principal or main building on a parcel or lot, which is used, designated or intended for the protection, shelter and enclosure of property.

B. Construction specifications. No person shall erect, construct, place, locate, add to, enlarge, improve, structurally alter or convert a nonmovable utility or storage building upon a lot or parcel within the Village of Albany without having fully complied with the following specifications:

(1) A building permit is required regardless of cost.

(2) The building or structure must be anchored in any one of the following ways:

(a) A three-inch cement slab shall be poured with anchor bolts to hold the building in place.

(b) Cement footings, eight inches by 16 inches, shall be poured with anchor bolts to hold the building in place.

(c) Corner posts shall be imbedded in cement eight inches by eight inches by 16 inches and fastened to corners of buildings to hold the building in place.

(3) The framing for support and strength of the utility building shall be sufficient to render the building suitable for use for storage purposes in the discretion of the Building Inspector.

#### **§86-11. Regulation and permit for razing buildings.**

A. No building within the Village of Albany shall be razed without a permit from the Building Inspector. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one 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 months from the date thereof or completed within 30 days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required 30 days must have special approval from the Building Inspector.

B. All debris must be hauled away at the end of each day for the work that was done on that day. No combustible material shall be used for backfill, but shall be hauled away. Burning on the site will only be allowed with permission from the Fire Chief, or his designee. 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.<sup>5</sup>

#### **§86-12. Basement; excavations.**

A. Basement subflooring. First-floor subflooring shall be completed within 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 feet high 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 months shall be deemed abandoned and a nuisance, and the Building Inspector 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 consecutive publications at least 10 days before the time for compliance stated in the order commences to run. Such time shall be not less than 14 nor more than 20 days after service. If the owner of the land fails to comply with the order within the time required, the Building Inspector 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 Village Board from the date of the report by the Building Inspector on the cost thereof, pursuant to the provisions of W.S.A. s. 66.60.

#### **§86-13. Discharge of clear waters.**

A. Discharge. No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.

B. Nuisance. The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the village and to the protection of the property.

C. Groundwater. Where deemed necessary by the Building Inspector, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation

<sup>5</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

drains and ground infiltration, and where the building is not serviced by a storm sewer, shall either discharge into an underground conduit leading to a drainage ditch, gutter or dry well or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

D. Stormwater. All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging stormwaters shall be discharged either to a storm sewer, a dry well, an underground conduit leading to a drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

E. Storm sewer lateral. Where municipal storm sewers are provided and it is deemed necessary by the property owner and/or the village to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.

F. Conducting tests. If the Building Inspector or his designated agent suspects an illegal clear-water discharge as defined by this chapter or by any other applicable provision of the Wisconsin Administrative Code as it may, from time to time, be amended, he may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear-water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear-water discharge actually exists.

#### **§86-14. Duplex service connections.<sup>6</sup>**

Each unit of a duplex shall have separate water service.

#### **§86-15. Regulations for moving buildings.**

A. General requirements.

(1) No person shall move any building or structure upon any of the public ways of the village without first obtaining a permit therefor from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.

(2) A report shall be made by village employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the village, shall be paid to the Village Clerk-Treasurer prior to issuance of the moving permit.

(3) Issuance of a moving permit shall further be conditioned on approval of the moving route by the Village Board.

B. Continuous movement. The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as

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<sup>6</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

C. Street repair. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report that fact to the Building Inspector, inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of said permittee to do so within 10 days thereafter to the satisfaction of the Village Board, the village shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of the same.

D. Conformance with code. No permit shall be issued to move a building within or into the village and to establish it upon a location within said village until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that, when the same are completed, the building as such will so comply with said Building Code. In the event that a building is to be moved from the village to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

E. Bond.

(1) Before a permit is issued to move any building over any public way in the village, the party applying therefor shall give a bond to the Village of Albany in a sum to be fixed by the Building Inspector and which shall not be less than \$1,000, said bond to be executed by a corporate surety or two personal sureties to be approved by the Village Board or designated agent, conditioned upon, among other things, the indemnification to the village for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and together with the costs and expenses incurred by the village in connection therewith arising out of the removal of the building for which the permit is issued.

(2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation such as to make intrusion upon the premises and the falling into such excavation of children under 12 years of age unlikely, the bond required by Subsection E(1) shall be further conditioned upon the permittee erecting adequate barriers and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

F. Insurance. The Building Inspector shall require, in addition to said bond above indicated, public liability insurance covering injury to one person in the sum of not less than \$100,000 and for one accident in a sum not less than \$200,000, together with property damage insurance in a sum not less than \$50,000, or such other coverage as deemed necessary.

## **§86-16. Fire District regulations.**

A. Fire District. All that part of the village included within the following described territory shall be known as the "Fire District": all of Block Number 13, all of Lots 1, 2, 3, 4 and 6 in Block Number 19 and all of the unnumbered blocks next west of Blocks 13 and 19 east of the Sugar River and north of the south line of Lot No. 6, Block No. 19 of the Original Plat, Village of Albany.

B. Definitions. The terms "fire-resistive construction," "mill construction," "ordinary construction" "frame constructions" and "fire-retardant roof covering" shall have the meanings as defined in the Wisconsin State Building Code.

C. Regulations within Fire District.

(1) Requirements. Every building hereafter erected, enlarged or moved within or into the Fire District shall be of fire-resistive, mill or ordinary construction, except as otherwise provided by this section. Enclosing walls, division walls and party walls shall be four-hour fire-resistive walls of a construction as provided in the Wisconsin State Building Code, which is hereby made a part of this chapter, with respect to all buildings and structures within the Fire District. No building of frame construction shall hereafter be built within or moved into the Fire District.

(2) Exceptions. No building of frame construction shall be constructed within the Fire District, except the following, and no such building or structure shall be located within five feet of any lot line or structure:

(a) Buildings occupied as a private garage, not more than one story in height or more than 750 square feet in area, located on the same lot with a dwelling, provided that any such building shall be placed at least three feet from the lot lines of adjoining property.

(b) Buildings of frame construction, except when used for a high-hazard occupancy, not exceeding 2,500 square feet in area when used for a business occupancy or 1,000 square feet in area when used for other occupancies, more than one story in height, and having a horizontal separation of not less than 10 feet on all sides. Walls having a horizontal separation of less than 10 feet shall have a fire-resistance rating of not less than one hour.

(c) Greenhouses not more than 15 feet in height.

(d) Sheds open on the long side, not more than 15 feet in height nor more than 500 square feet in area, located at least five feet from buildings and from adjoining lot lines.

(e) Builder's shanties for use only in connection with a duly authorized building operation.

D. Razing old or damaged buildings. Any existing frame building within the fire limits which may hereafter be damaged by fire or which has deteriorated to an amount greater than 1/2 of its assessed value, exclusive of the foundation, shall not be repaired or rebuilt, but shall be ordered removed under the provisions of W.S.A. s. 66.05 by the Building Inspector.

E. Fire-retardant roofing.

(1) New buildings. Every roof hereafter constructed within the Fire District, including buildings listed in Subsection C, shall be covered by a roofing having a fire-resistive rating equivalent to Class "B" or better of the Underwriters' Laboratories, Inc., classification.

(2) Replacement of existing roofing. No roofing on an existing roof shall be renewed or repaired to a greater extent than 1/10 of the roof surface, except in conformity with the requirements of Subsection E(1) above.

#### **§86-17. Fees.**

A. Building permit fees. The fees for building, plumbing and electrical permits shall be as determined by resolution of the Village Board.

B. Double fees. Commencement of work without first obtaining required permits shall result in the imposition of double fees pursuant to §86-18B(4).

#### **§86-18. Violations and penalties.**

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 Building Inspector shall promptly report all such violations to the Village Board and Village 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 of buildings in violation of this chapter or to cause such building, structure or use to be removed, and may also be subject to a penalty as provided in Chapter 1, General Provisions, §1-19. 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 Building Inspector or other village officials 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. Procedure.

(1) If an inspection reveals a noncompliance with this chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 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 30 days, a stop-work order may be served on the owner or his or 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 Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.

(3) Each day each violation continues after the thirty-day written notice period has run shall constitute a separate offense. Nothing in this chapter shall preclude the village 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.

C. Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.

D. Except as may otherwise be provided by statute or ordinance, no officer, agent or employee of the Village of Albany 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 village 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 village until the final determination of the proceedings therein.