

ORDINANCE NO. 11-1-2010-1

AN ORDINANCE OF THE TOWN OF VIENNA FOR ADOPTION OF BUILDING CODE

Pursuant to law and Chapter 101, Wis. Stats., the Town Board of the Town of Vienna, Dane County, Wisconsin, does hereby ordain as follows:

SECTION 1. INTRODUCTION

- A. Title. This Chapter shall be known as the “Building Code of the Town of Vienna” and will be referred to in this Chapter as “this Chapter,” this “Code,” or “this Ordinance.”
- B. Purpose.
- 1) 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.
 - 2) The provisions of this Chapter shall be deemed to supplement the following:
 - a. Wisconsin Uniform Dwelling Code;
 - b. All laws and regulations of the State of Wisconsin relating to buildings; and
 - c. Town of Vienna ordinances.
- C. Scope. No building or structure shall hereafter be constructed, altered, occupied, repaired, removed, or demolished, nor shall the equipment of a building, structure, or premises be constructed, installed, altered, re-paired, or removed, except in conformity with this Chapter. A building which is moved or relocated shall be considered as having the same status as it had before it was moved, but any on-site changes or additions such as foundation work, etc. shall be constructed in compliance with all applicable requirements. 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 person 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 family dwelling, commercial or industrial purposes, unless it was being used for such purpose at the time this Chapter was enacted.

SECTION 2. STATE CODES ADOPTED

A. Uniform Dwelling Code.

- 1) **New Construction.** The regulations with respect to one (1) and two (2) family dwellings in Chapters COMM 20 through 25 Wisconsin Uniform Dwelling Code and Chapter COMM 28 Smoke Detectors of the Wisconsin Administrative Code are hereby adopted and by reference are 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. A copy of these administrative code provisions and any future amendments shall be kept on file with the Building Inspector.
- 2) **Existing Buildings.** The COMM 20 through 25 Wisconsin Uniform Dwelling Code and COMM 28 Smoke Detector Code shall also apply to buildings and conditions where:
 - a. An existing building is to be occupied as a one (1) or two (2) family dwelling and said building was not previously occupied for such purpose.
 - b. Additions and alterations, regardless of cost, made to an existing building shall comply with the requirements of this Chapter for new buildings, when deemed necessary in the opinion of the Building Inspector. Any addition or alteration to one (1) and two (2) family dwellings built prior to 1980, regardless of cost, shall be made in conformity with the Wisconsin Uniform Dwelling Code and applicable sections of this Chapter.

B. Commercial Building Code.

Chapters COMM 60 through COMM 65 and COMM 75 through COMM 79 Wis. Adm. Code (Wisconsin State Building Code) are hereby adopted and made a part of this Chapter. 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 and modifications to said Chapters 60 through 65 and 75 through 79 incorporated herein are intended to be made a part of this Code.

C. State Plumbing Code.

- 1) The provisions and regulations of Ch. 145, Wis. Stats., and Wis. Adm. Code Chapters COMM 81 through 87 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.
- 2) No plumbing or drainage of any kind shall be installed or altered, except that leakage, stoppage, or repairs may be made, without first securing a permit from the Building Inspector.

- 3) Upon completion of the plumbing work on any premises, the person doing the work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall inspect the work. If, in his/her discretion, he/she determines that the work conforms to the State Plumbing Code, he/she shall complete an inspection report, which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location with the Building Inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected and approved by the Building Inspector.

D. State Electrical Code.

- 1) Wis. Adm. Code COMM 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 dwellings.
- 2) Subject to the exceptions set forth in this Chapter, the Electrical Code, Comm. 16 of the Wisconsin Administrative Code is hereby adopted by reference and made a part of this Chapter.
- 3) No electric wiring or other equipment shall be installed or altered without first securing a permit from the Building Inspector, except the repairs or replacements of broken or defective sockets, switches, or base receptacles may be made without a permit. The application for such permit shall be on a form furnished by the Building Inspector and shall clearly state the work planned, alterations to be made, and equipment and materials to be used; all later deviations from such plan must be submitted to and approved by the Building Inspector.
- 4) After roughing in the wiring of any building and before any such work is covered up, or upon the completion of any outside construction work, it shall be the duty of the person doing such work to notify the Building Inspector who shall inspect the same. Upon completion of such wiring, the inspector shall be notified and shall inspect the finished work. If, in his/her discretion, he/she determines that the work conforms to the State Electrical Code, he/she shall complete an inspection report, which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location with the Building Inspector. No person shall use or permit to be used any electrical equipment until the electrical service and wiring have been inspected and approved by the Building Inspector.

SECTION 3. ADMINISTRATION AND ENFORCEMENT

- A. The Building Inspector and any authorized subordinate are hereby authorized and directed to administer and enforce all of the provisions of the Wisconsin Uniform Dwelling Code and this Chapter. The Building Inspector shall be certified for inspection purposes in each of the categories specified under Sec. COMM 20.10 and COMM 61.41 of the Wis. Adm. Code.
- B. The Building Inspector may appoint, as necessary, subordinates as authorized by the Town Board.

- C. With regard to inspections, it is understood that the Building Inspector must exercise discretion when determining whether the requirements of this Chapter have been satisfied.
- D. The Building Inspector or an authorized subordinate 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 HVAC work. No person shall interfere with or refuse to permit access to any such premises to the Building Inspector or the authorized subordinate while in performance of his/her duties.
- E. The Building Inspector shall perform all administrative tasks required under the Wisconsin Uniform Dwelling Code and the Commercial Building Code.
- F. All records pertaining to the Town building inspection program, including but not limited to those identified in 1) to 4) below, shall be maintained in the town office. All such records shall be made available for public inspection during normal business hours.
 - 1) A record of all applications for a building permit, including the date the application was made and the date the permit was issued by the Town Building Inspector.
 - 2) A record of all fees collected; showing the total amount received, the name of the person the fee was received from and their relationship to the applicant if not the same person, the date received, who received the fee, and the date the fee was turned over to the Town treasurer.
 - 3) A copy of the completed standard building permit numbered in the order of issuance, including a record of the number, description and size of all buildings erected indicating the kind of materials used and the aggregate cost of each building.
 - 4) A record of all inspections made indicating that the site passed or failed the inspection, and any subsequent action to be taken to resolve a non-compliance condition.
- G. 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 advise owners and other interested persons, the following disclaimer shall be applicable to all inspections under this Chapter: “The 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 is expressed or implied.”

SECTION 4. PERMIT PROCEDURE

- A. Permit Required. No building of any kind shall be moved within or into the Town, no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, and no existing building shall be enlarged, altered, moved, demolished or

razed within the Town, except as herein provided, until a permit therefor shall have been obtained by the owner, or his/her authorized agent, from the Building Inspector.

- 1) 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, room, 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, use and type of construction.
- 2) Repairs. Repairs for purposes of maintenance, or replacement 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.

B. Application. Application for a building permit shall be made in writing upon a form furnished by the Building Inspector or authorized subordinate and shall state the name, address, and e-mail 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.

C. Plans. At the time of such application and no later than ten (10) days prior to construction activity, there shall be submitted a complete set of plans and specifications of such building and such building site which shall include the following:

- 1) A site map(s), drawn to scale or adequately dimensioned, and clearly demonstrating the exact location of the following:
 - a. All Structures existing or to be constructed. Front, side, and rear yards shall be clearly indicated.
 - b. All areas of excavation relating to the building structure, including, but not limited to, basement, foundation, well and sewer facilities.
- 2) A signed representation by the owner that the parcel for which the application is made is in compliance with all Town Ordinances, including but not limited to the Zoning and Land Division Ordinances as well as restrictions on nuisance violations.
- 3) Materials and equipment specifications describing the quality, kind, and grade of material and equipment as is deemed necessary by the Building Inspector. At a minimum, it shall include information as to the materials used to construct; any real property improvement; the electrical, plumbing, and heating systems; and information relating to materials and equipment used to affect the energy efficiency of the structure. Such plans and specifications shall be submitted in duplicate; one (1) set shall be returned after approval as hereinafter provided; the

other set shall remain on file with the Building Inspector. The person by whom they are drawn shall sign all plans and specifications. Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Chapter COMM 20.09 (4), Wis. Adm. Code.

D. Waiver of Plans; Minor Repairs.

- 1) If the Building Inspector finds that the character of the work is sufficiently described in the application, he/she may waive the filing of plans for alterations, repairs or moving.
- 2) The Building Inspector may authorize minor repairs or maintenance work on any structure or to heating, ventilating or air conditioning systems installed which do not change the occupancy area, exterior aesthetic appearance, structural strength, fire protection, exits, light or ventilation of the building or structure without issuance of a building permit.

E. Approval of Plans.

- 1) If the Building Inspector, in his/her sole discretion, 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/she shall issue a building permit which shall state the use of 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/her discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.
- 3) If the Building Inspector is provided with information demonstrating that the parcel for which a building permit has been applied is not in conformance with any Town Ordinance or other State, County or local regulation, he/she may deny the application.

F. Inspections. Inspections required under the provisions of this Chapter shall be made by the inspector or a duly authorized subordinate during normal workdays. The Building Inspector, upon forty-eight (48) hours' notice from the permit holder or his/her agent, excluding Saturdays, Sundays and Holidays, shall make the requested inspections and shall either approve that portion of the construction completed or shall notify the permit holder or his/her agent wherein the same fails to comply with the Chapter. As work progresses under a permit, the holder thereof shall cause the Building Inspector to be notified at the construction stages as identified in COMM 20.10.

G. Discontinued Uses.

- 1) Whenever the Building Inspector determines any building or portion thereof is being used or occupied contrary to the provisions of this Chapter, he/she shall order such use or occupancy discontinued and the building or portion thereof

vacated, by notice served on the building owner and any person using or causing such use or occupancy to be continued. Such person shall vacate such buildings or portion thereof with-in ten (10) days after receipt of the notice or make the building or portion thereof comply with the requirements of this Chapter.

- 2) It shall be unlawful to change the use of any building, structure, premises, or part thereof without first obtaining from the Building Inspector an approval of such change in the occupancy or use.

H. Permit Lapses. A building permit shall lapse and be void unless building operations are commenced within one (1) year from the date of issuance.

I. Revocation of Permits.

- 1) The Building Inspector may revoke any building, HVAC, plumbing or electrical permit 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 has been issued to him/her.
 - 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 de-vices or appliances.
- 2) The notice revoking a building, plumbing, HVAC or electrical permit, certificate of occupancy or approval shall be in writing and shall be served upon the applicant of the permit, owner of the premises or his/her agent, if any, and on the person in 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 be-fore any construction or operation is again resumed, a new

permit, as required by this Section, shall be pro-cured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the requirements of this Chapter. However, such work as the Building Inspector may order as a condition precedent to the re-issuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.

- J. Display of Permit. Building permits shall be displayed in a conspicuous place on the premise where the authorized building or work is in progress at all times during construction or work thereon.

SECTION 5. OCCUPANCY CERTIFICATES

- A. No building, or addition thereto, constructed after the effective date of this Chapter, and no addition to a previously existing building shall be occupied, until a certificate of occupancy has been issued by the Building Inspector and all fees paid. No change in a use, other than that of a permitted use to another similar permitted use, shall be made until a certificate of occupancy has been issued by the Building Inspector. Every certificate of occupancy shall state that the use or occupancy complies with the provisions of this Chapter.
- B. Application for Occupancy Certificate. Every application for an occupancy certificate for a new use of a building where no building permit is required shall be made directly to the Building Inspector.
- C. Issuance of Occupancy Certificate. No occupancy certificate for a building, or portion thereof, constructed after the effective date of this Chapter, shall be issued until construction has been completed, all fees paid, and the premises inspected and certified by the Building Inspector to be in conformity with the plans and specifications upon which the zoning permit was based. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed six (6) months from its date of issuance during the completion of any addition or during partial occupancy of the premises. The occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than fourteen (14) days after the Building Inspector is notified in writing that the building or premises is ready for occupancy. Upon written request from the owner and payment of appropriate fee, the Building Inspector shall issue an occupancy certificate for any building or premises existing at the time of adoption of this Chapter certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the applicable visions of this Chapter.

SECTION 6. MINIMUM CONSTRUCTION STANDARDS

- A. New Methods and Materials.
 - 1) All materials, methods of construction and devices designed for use in buildings or structures covered by this Chapter and not specifically mentioned in or permitted by this Section shall not be so used until approved in writing by the State Department of Commerce for use in buildings or structures covered by the Wisconsin Uniform Dwelling and Wisconsin State Building Codes, except

sanitary appliances, which shall be approved in accordance with the State Plumbing Code.

- 2) 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 Commerce. 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 Commerce.
- B. Square Footage. The minimum square feet of living area on the main floor shall meet the requirements of any applicable zoning and/or land use plans.
- C. Waste Disposal Requirements. Each building or structure utilized for the purpose of human habitation in the Town of Vienna shall have provision for the sanitary disposal of waste pursuant to the minimum requirements of State and County regulations.
- D. Unsafe Buildings. Whenever the Building Inspector finds any building or part thereof within the Town to be, in his judgment, too 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, he shall order the owner to raze and remove such building or part thereof. Such order and proceedings shall be as provided to Sec. 66.0413, Wis. Stats.
- E. Required Alterations. 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. Such a building or structure shall be considered a public safety hazard and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the requirements of this Section are satisfied.

SECTION 7. PENALTIES AND VIOLATIONS

- A. Stop-Work Order.
- 1) If an inspection reveals noncompliance with this Chapter or the Wisconsin Uniform Dwelling Code, the Building Inspector shall notify in writing the applicant and the owner 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 Chapter COMM 20.21, 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 agent 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.
- B. Double Fees. If any construction or work governed by the provisions of this Chapter Section or the Uniform Dwelling Code is commenced prior to the issuance of a permit, double fees shall be charged.

C. Enforcement 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 refer all such violations for enforcement as follows:

- 1) Forfeiture. If, in the sole discretion of the Building Inspector, the violation does not constitute an immediate safety hazard, the matter shall be referred to the Town Clerk with a summary of the violation and a request that a notice of violation be issued by the Town. The penalty for such violations shall be established according to a written schedule approved by the Town Board by resolution.
- 2) If, in the sole discretion of the Building Inspector, the violation constitutes a safety hazard, or if the violation was not remedied as a result of a citation issued pursuant to paragraph (a) herein, the Building Inspector shall refer the violation to the Town Board for consideration. Upon Town Board authorization, the town attorney 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 to be subject to a penalty. 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 constitute a defense. Compliance with the provisions of this Chapter may also be enforced by an injunction against the owner or agent of any real estate within the jurisdiction of this Chapter.

D. Liability. Except as may otherwise be provided by the statute or Chapter, no officer, employee, or agent of the Town of Vienna charged with the enforcement of this Chapter shall render himself/herself 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/her duties under this Chapter. Any suit brought against any officer, or employee of the Town, as a result of any act required or permitted in the discharge of his/her duties under this Chapter, shall be defended by the legal representative of the Town until the final determination of the proceedings therein.

E. Appeal. Any person feeling aggrieved by an order or a determination of the Building Inspector, or his/her designee, 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.

F. Review By Court of Record. Any person or persons aggrieved by any decision by the Town Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the written decision is made by the Town Board.

SECTION 8. FEE SCHEDULE

All fees shall be set by the Town Board by resolution.

SECTION 9. 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.

SECTION 10. EFFECTIVE DATE

This ordinance shall be effective after a public hearing, adoption by the Town Board of the Town of Vienna, and publication.

The foregoing ordinance was duly adopted at a regular meeting of the Town Board of the Town of Vienna on _____, 2010.

Daniel Muxfeld, Chairperson

Ron Rupp, Supervisor I

Kevin Bartels, Supervisor II

Gary Endres, Supervisor III

Jonathan Marquardt, Supervisor IV

I hereby certify that the foregoing Ordinance for Adoption of Building Code in the Town of Vienna, County of Dane, State of Wisconsin was published as a Class 1 notice under ch. 985, Wis. Stats., on the _____ day of _____, 2010.

Dated: _____, 2010.

Robert Pulvermacher, Clerk