

## CHAPTER 4 BUILDING REGULATIONS

### 4.01 SCOPE

- (1) **Title.** These regulations shall be known as the Town Building Code. They shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment as herein defined and shall apply to existing or proposed buildings and structures; except as such matters are otherwise provided for, or other ordinances or statutes.
- (2) **Code Remedial.** The Town Building Code shall be construed to secure its expressed intent and insure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate egress facilities, sanitary equipment, light and ventilation and fire safety; and in general, to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures, or premises.

### 4.02 MATTERS COVERED

The provisions of the Town Building Code shall apply to all buildings and structures and their appurtenant constructions, including vaults, area and street projections, and accessory additions; and shall apply with equal force to municipal, county, state and private buildings; except where such buildings are otherwise specifically provided for by statute.

- (1) **Exemptions.** No building or structure shall be constructed, extended, repaired, removed or altered in violation of these provisions, except for ordinary repairs as defined in Section 4.03 hereof and except further that the raising or lowering or moving of a building or structure as a unit necessitated by a change in legal, trade or widening of a street shall be permitted, provided the building is not otherwise altered or its use or occupancy changed.
- (2) **Matters not provided for.** Any requirement essential for structural, fire or sanitary safety of an existing or proposed building or structure or essential for the safety of the occupants thereof and which is not specifically covered by the Building Code shall be determined by the Building Official or designees.
- (3) **Continuation of Unlawful Use.** The continuation of occupancy or use of a building or structure, or of a part thereof which occupancy or use is commenced after July 15, 2003, contrary to the provisions of the Town Building Code, shall be deemed a violation and subject to the penalties as prescribed in Section 4.26.

### 4.03 ORDINARY REPAIRS

Ordinary repairs to buildings may be made without application or notice to the Building Official or designees but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements; nor shall ordinary relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

#### **4.04 INSTALLATION OF SERVICE EQUIPMENT**

When the installation, extension, alteration or major repair of an elevator, moving stairway, mechanical equipment, refrigerating, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring heating system or any other equipment is specifically controlled by the provisions of the Town Building Code or the approved rules, it shall be unlawful to use such equipment until a certificate of approval has been issued therefore by the Building Official or designees.

#### **4.05 MAINTENANCE**

All buildings and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by the Town Building Code in a building, or which were required by a previous Code in a building when erected, altered or repaired, shall be maintained in good working order.

- (1) **Owner Responsibility.** The owner or his designated agent shall be responsible for the safe and sanitary maintenance of the building or structure and its exit facilities at all times.

#### **4.06 PERMITS REQUIRED**

- (1) **General Permit Requirement.** No building, plumbing, electrical, heating, ventilating or air-conditioning work shall be performed in the Town of Fremont unless a permit therefore is obtained as required by the provisions of this chapter.
- (2) **Payment of Fees.** All fees shall be paid to the Building Inspector of the Town of Fremont before the Inspector shall issue to the owner or his agent any permit herein required
- (3) **Permit Lapses.** Any permit issued hereunder shall lapse and be void unless the work for which the permit was obtained shall be commenced within six (6) months of the date of issuance.
- (4) **Revocation.** If the Building Inspector shall find at any time that the above mentioned ordinances, laws, orders, plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written notice is posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, excepting such work as the Building Inspector may order to be done as a

condition precedent to the reissuance of the permit, or as the Building Inspector may require for the preservation of human life and safety or property.

- (5) **Records.** The Building Inspector shall keep a record of all permits, fees and inspections and shall make an annual report thereon to the Town Board.
- (6) **Plans.** With such application there shall be submitted two (2) complete sets of plans and specifications, including a plat plan showing the location of the proposed building with respect to adjoining streets, alleys, lot lines and buildings. Plans for buildings required to comply with the State Building Code shall bear a stamp of approval from the State of Wisconsin. Such plans and specifications shall be submitted in duplicate; one set shall be returned after approval as hereinafter provided; the other set shall remain on file in the office of the Clerk. All plans and specifications shall be signed by the designer.
- (7) **Waiver of Plans.** If the Building Inspector finds that the character of the work is sufficiently described in the application, the Building Inspector may waive the filing of plans for alterations, repairs or moving provided the cost of such work does not exceed \$2,000.00.
- (8) **Approval of Plans.** If the Building Inspector determines that the proposed building will comply in every respect with all ordinances of the Town and the Waupaca County Shoreland Zoning Ordinance and all applicable laws and orders of the State of Wisconsin, the Building Inspector shall officially approve and stamp one set of the plans and return it to the owner, and shall issue a building permit therefore 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 and orders, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector.
- (9) **Minor Repairs.** The Building Inspector may authorize minor repairs or alterations valued at less than \$50.00 which do not change the occupancy, area, structural strength, fire protection, exits, light or ventilation of the building without issuing a building permit.
- (10) **Inspection of Work.** The builder shall notify the Building Inspector when ready, and the Building Inspector shall inspect all building upon completion of the foundation forms, or before the foundation is laid, and again when ready for lath and plaster, or before paneling is applied. After completion the Building Inspector shall make a final inspection of all new buildings and alterations.

#### **4.07 STATE BUILDING CODE ADOPTED**

The Wisconsin Administrative Codes, their referenced codes and standards, and subsequent revisions are hereby adopted: One & Two Family Dwellings, Commercial Building Code, Existing Buildings Code, Plumbing Code, Electrical Code, Energy Conservation Code and Historic Building Code as adopted and amended by the State of Wisconsin.

#### **4.08 PERMIT FEES**

- (1) The fees for building permits shall be as indicated on the Appendix A Fee Schedule as adopted by the Town Board
- (2) Escrow Fees shall be as indicated on the Appendix A Fee Schedule as adopted by the Town Board.
  - (a) Escrow fees shall be deposited with the Town when a building permit is issued. Any interest earned on escrow funds shall remain with the Town.
  - (b) Escrow fees shall be returned to the payee upon completion of the building for which the building permit was issued if the following conditions are met: the building department is properly notified for all required building inspections, and the applicant has received an occupancy permit prior to occupancy of the building.

The failure to meet any of the above conditions shall cause forfeiture of the escrow fee. Fees for re-inspection required due to work not being complete after inspections are requested shall also be deducted from the escrow.

#### **4.09 PLANS TO BE SUBMITTED TO STATE OF WISCONSIN**

The Town of Fremont does not provide plan review for commercial buildings and therefore all plans meeting the threshold for commercial building review shall be submitted to the appropriate State of Wisconsin Department before a building permit shall be issued.

#### **4.10 DEDICATED STREET REQUIRED**

No building permit shall be issued unless the property on which the house is proposed to be built abuts a street that has been dedicated for street purposes. In addition the street shall be brought to grade and improved as specified by the Town Board.

#### **4.11 UTILITIES REQUIRED**

No building permit shall be issued for the construction of any building until sewer (or county approved septic system) or holding tank, water (or approved well), grading and graveling are installed in the street necessary to service the property for which the permit is requested.

#### **4.12 UNSAFE BUILDINGS**

Whenever the Building Inspector finds any building or part thereof within the Town to be in his judgment so old, dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, the Building Inspector 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 Section 66.05(5) of the Wis. State Stats.

#### 4.13 CHANGES IN EXISTING USE

- (1) **Continuation of Existing Use.** The legal use and occupancy of any structure existing on July 15, 2003, or for which it had been heretofore approved, may be continued without change, except as may be specifically covered in the Town Building Code or as may be deemed necessary by the Building Official or designees for the general safety and welfare of the occupants and the public.
- (2) **Change in Use.** It shall be unlawful to make any changes in the use or occupancy of any structure which would subject it to any special provision of the Town Building Code without approval of the Building Official or designees and his certification that such structure meets the provisions of law governing building construction for the proposed new use and occupancy.

#### 4.14 EXISTING BUILDINGS AND ALTERATIONS

- (1) **Alterations Exceeding Fifty Percent.** If alterations or repairs are made, costing in excess of 50 percent of the assessed value of the building as determined by the Town Assessor shall conform to current building codes.
- (2) **Damages Exceeding Fifty Percent.** If the building is damaged by fire or any other cause to an extent in excess of 50 percent of the assessed value of the building as determined by the Town Assessor shall before the damage was incurred, then the entire building shall be made to conform to the current building code.
- (3) **Alterations Under Fifty Percent.** If the cost of alterations or repairs described herein is between 25 percent and 50 percent of the physical value of the building, the Building Official or designees shall determine to what degree the portions so altered or repaired shall be made to conform to the requirements for new buildings.
- (4) **Alterations Under Twenty Five Percent.** If the cost of alterations or repairs described herein is 25 percent or less of the physical value of the building, the Building Official or designees shall permit restoration of the building to its condition previous to damage or deterioration with the same kind of materials as those of which the building was constructed; provided that such construction does not endanger the general safety and public welfare.
- (5) **Increase in Size.** If the building is increased in floor area or number of stories, the entire building shall be made to conform with the requirements of the Town Building Code in respect to means of egress, fire safety, light and ventilation.
- (6) **Part Change in Use.** If a portion of the building is changed in occupancy or to a new use group and that portion is separated from the remainder of the building with the required vertical and horizontal fire divisions complying with the fire grading, then the construction involved in the change shall be made to conform

to the requirements for the new use and occupancy and the existing portion shall be made to comply with the exit requirement.

- (7) **Physical Value.** In applying the provisions of this section, the physical value of the building shall be determined by the Town Assessor based on current replacement costs.

#### 4.15 BUILDING AND HOUSING INSPECTION

- (1) **Building Official.** The position of Building Official is hereby created and shall be the executive official in charge of building and housing inspection. The Building Inspector shall be considered a Building Official.
- (2) **Relief from Personal Responsibility.** The Building Official or designees, charged with the enforcement of the Town Building Code, while acting for the Town, shall not thereby render themselves liable personally, and are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their official duties. Any suit instituted against any officer or employee because of an act performed by them in the lawful discharge of their duties and under the provisions of the Town Building Code shall be defended by the Town Attorney until the final termination of the proceedings. In no case shall the Building Official or designees be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of the Town Building Code; and any officer of building and housing inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of their official duties in connection therewith.
- (3) **Official Records.** An official record shall be kept of all business and activities of building and housing inspection and related activities, and all such records shall be open to public inspection at all appropriate times.

#### 4.16 DUTIES AND POWERS OF BUILDING OFFICIAL

The Building Official or designees shall enforce all the provisions of the Town Building Code and shall act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment, and the location, use, occupancy, and maintenance of all buildings and structures, except as may, otherwise be provided for by statutory requirements or as herein provided.

- (1) **Applications and Permits.** The Building Official or designees shall receive all applications and be responsible for all permits issued for the erection and alteration of buildings and structures and the examination of premises for which such permits have been issued and the enforcement of compliance with the Town Building Code provisions.
- (2) **Building Notices and Orders.** The Building Official or designees shall issue all necessary notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, to require adequate exit facilities

in existing buildings and structures, and to insure compliance with all the code requirements for the safety, health, and general welfare of the public.

- (3) **Inspections.** The Building Official or designees shall make all the required inspections, or may accept reports of inspection of authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual; or may engage such expert opinion as may be deemed necessary to report upon unusual technical issues that may arise, subject to the approval of the appointing authority.
- (4) **Research and Investigations.** The Building Official or designees shall make or cause to be made investigations of new developments in the building industry. Subject to local climatic or other conditions, shall accredit tests meeting the functional requirements of the Town Building Code conducted by accredited authoritative agencies; or may accept duly authenticated reports from the Building Officials Conference of America, or from recognized authoritative sources of all new materials and methods of construction proposed for use which are not specifically provided for in the Town Building Code. The costs of all tests or other investigations required under these provisions shall be paid by the applicant.
- (5) **Records.** The Building Official or designees shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. File copies of all papers in connection with building operations shall be retained in the official records so long as the building or structure to which they relate remains in existence; and such records shall be furnished to other departments.
- (6) **Reports.** The Building Official or designees shall submit periodic reports as required by the Town Board, and an annual report summarizing the preceding year to the municipal governing body.

#### 4.17 RULES AND REGULATIONS

- (1) **Rule Making Authority.** The Building Official or designees shall have power as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of the Town Building Code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions; but no such rules shall have the effect of waiving working stresses or fire-resistive requirements specifically provided in the Town Building Code or of violating accepted engineering practice involving public safety.
- (2) **Promulgation of Rules.** No rule or regulation shall become effective until after the intention to adopt such rules shall have been published in accordance with local ordinances.
- (3) **Amendment of Rules.** All rules adopted by the procedure herein established shall have the same effect as provisions of the Town Building Code; but such

rules may be amended or repealed at any time by the same procedure herein prescribed for their adoption.

#### 4.18 MODIFICATIONS

- (1) **Variations.** When there are practical difficulties involved in carrying out structural or mechanical provisions of the Town Building Code or of an approved rule, the Building Official or designees may vary or modify such provision upon application of the owner or his representative, provided that the spirit and intent of the law shall be observed and public welfare and safety be assured.
- (2) **Written Modification.** The application for modification and the final decision of the Building Official or designees shall be officially recorded with the permanent application for the permit in the permanent records.

#### 4.19 INSPECTION

- (1) **Preliminary and Interim Inspections.** Before issuing a permit, the Building Official or designees may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof; and may conduct such inspections from time to time during and upon completion of the work for which a permit has been issued. Records of all such examinations and inspections and of all violations of the Town Building Code shall be maintained.
- (2) **Final Inspection.** Upon completion of the building or structure, and before issuance of the certificate of use and occupancy required in this section, a final inspection shall be made and all violations of the approved plans and permit shall be noted and the holder of the permit shall be notified of the discrepancies. Failure of a permit holder to notify the Building Official or designees of the need for any required inspections including the final inspection shall be a violation of this chapter.

#### 4.20 RIGHT OF ENTRY

The Building Official or designees may enter at any reasonable hour any building, structure or premises in the Town to enforce the provisions of the Town Building Code.

#### 4.21 APPLICATION FOR PERMIT

- (1) **When a Permit is Required.** It shall be unlawful to construct, enlarge, alter, remove or demolish, or change the occupancy of a building from one use group to another requiring greater strength, exit or sanitary provisions; or to change to a prohibited use; or to install or alter any equipment for which provision is made or the installation of which is regulated by the Town Building Code, without first filing an application with the Building Official or designees on the form provided in writing and obtaining the required permit therefore, except that ordinary repairs as defined in Section 4.03 which do not involve any violation of the Town Building Code shall be exempt from this provision.

- (2) **By Whom Application is Made.** Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either or by the licensed engineer or architect employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
- (3) **Description of Work.** The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and such additional information as may be required by the Building Official or designees.
- (4) **Plans and Specifications.** The application for the permit shall be accompanied by not less than 2 copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the Town Building Code, specific information shall be given to establish such quality; and in no case shall this code be cited or the term "legal" or its equivalent be used as a substitute for specific information.
- (5) **Plot Diagram.** There shall also be filed a plot plan showing to scale the size and location of all the new construction and all existing structures on the site, distances, from lot lines and the established street grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot.
- (6) **Engineering Details.** The Building Official or designees may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design.
- (7) **Amendments to Application.** Amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed part of the original application and shall be filed therewith.

#### 4.22 PERMITS

- (1) **Action on Application.** The Building Official or designees shall examine or cause to be examined all applications for permits and amendments thereto. If the applicant or the plans do not conform to the requirements of all pertinent laws, the Building Official or designees shall reject such application in writing stating the reasons therefore. Otherwise if the proposed work conforms to the requirements of the Town Building Code and all laws and ordinances applicable thereto, a permit shall be issued.

- (2) **Suspension of Permit.** Any building permit issued shall become invalid twenty-four (24) months after the date the building permit is issued.
- (3) **Previous Approvals.** Nothing in the Town Building Code shall require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which shall have been actively prosecuted within 90 days after and the entire building shall be completed as authorized within 2 years after the date of approval of the application.
- (4) **Signature to Permit.** The Building Official or designees shall attach his/her signature to every permit.
- (5) **Approved Plans.** The Building Official or designees shall stamp or endorse in writing both sets of corrected plans "Conditionally Approved" and one set of such approved plans shall be retained and the other set shall be kept at the building site, open to inspection of the Building Official or designees at all reasonable times.
- (6) **Revocation of Permits.** The Building Official or designees may revoke a permit or approval issued under the provisions of the Town Building Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.
- (7) **Approval in Part.** The Building Official or designees may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of the Town Building Code. The holder of such permit for the foundations or other part of a building or structure shall proceed at their own risk with the building operation and without assurance that a permit for the entire structure will be granted.
- (8) **Posting of Permit and Site Plans.** A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of the work and until the completion of the same.

#### 4.23 CONDITIONS OF PERMIT

- (1) **Payment of Fees.** No permit shall be issued until the fees have been paid.
- (2) **Compliance with Code.** The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the Town Building Code, except as specifically stipulated by modification or legally granted violation as described in the application.
- (3) **Compliance with Permit.** All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

- (4) **Compliance with Plot Plan.** All new work shall be located strictly in accordance with the approved plot plan.
- (5) **Change in Plot Plan.** No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.
- (6) **Cleanliness - Removal of Debris.** Every building shall be kept reasonably clean, during construction and after construction, and shall be kept reasonably free from any accumulation of dirt, filth, rubbish, garbage, excess building materials or other matter in or on the same, or in the yards, courts, passages, areas or alleys connected with or belonging to the same. Streets shall be kept clear and clean of boards, nails or other debris, and shall be further kept clean of accumulation of dirt, mud or ground. The holder of the permit, whether it be the owner of the premises upon which construction is being undertaken, or the general contractor, or any subcontractor on said building project, shall be responsible for hauling all rubbish and debris away from the construction site, at the contractor's expense, or the expense of the subcontractor or the owner, as agreed between the parties, all at no cost to the Town of Fremont. This section includes residential, commercial and industrial construction and any remodeling of existing residential, commercial or industrial properties. This section may be enforced, as herein provided, or under public nuisances, under the abatement thereof.

#### **4.24 DEMOLITION OF BUILDINGS OR REMOVAL OR RELOCATION OF MOBILE OR MANUFACTURED HOMES**

**Service Connections.** Before a building can be demolished or removed or a mobile or manufactured home can be moved or relocated, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer and other connections. A permit to demolish, remove or relocate a building shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment such as meters and regulators, have been removed or sealed and plugged in a safe manner.

#### **4.25 REMOVAL OF BUILDINGS**

**Lot Regulation.** Whenever a building is demolished or removed, or a mobile or manufactured home can be moved or relocated, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the ordinances.

#### **4.26 FEES**

- (1) No permit to begin work for new construction, alteration, removal, demolition or other building operation shall be issued until the fees prescribed in this code shall have been paid to the Building Official or designees, nor shall an

amendment to a permit, necessitating an additional fee because of an increase in the estimated cost of the work involved, be approved until the additional fee shall have been paid.

- (2) **Special Fees.** The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinances for sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees for inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of the Building Official or designees.
- (3) **New Construction and Alterations.** The fee for a building permit shall be based on the square feet of the structure, or as otherwise prescribed in the local ordinances, and the Building Official or designees may establish by approved rules a schedule of square foot rates for buildings and structures where not established by the Town Board.
- (4) **Moving of Buildings.** The fee for a building permit for the removal of a building or structure from one lot to another or to a new location on the same lot shall be per the Town of Fremont fee schedule and shall be paid to the Town Clerk.
- (5) **Demolition.** The fee for a permit for the demolition of a building or structure shall be per the Town of Fremont fee schedule.
- (6) **Refunds.** In the case of a revocation of a permit or abandonment or discontinuance of a building project, refunds shall be at the discretion of the Building Official. Refunds, if granted, shall only include fees that are refundable and they shall be based on the amount or work completed.

#### 4.27 CERTIFICATE OF USE AND OCCUPANCY

- (1) **New Buildings.** No building hereafter erected shall be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the Building Official or designees. Commercial, industrial, or multi-family buildings shall also require approval by the Fire Department.
- (2) **Buildings Hereafter Altered.** No building hereafter enlarged, extended or altered to change from one use group to another, in whole or in part, and no building hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall be occupied or used until the certificate shall have been issued by the Building Official or designees, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued within 30 days after the completion of the alteration unless the required certificate is secured from the Building Official or

designees. Commercial, industrial, or multi-family buildings shall also require approval by the Fire Department.

- (3) **Changes in Use and Occupancy.** After a change of use has been made in a building, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless all the applicable provisions of the Town Building Code are complied with. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of the Town Building Code.
- (4) **Partial Occupancy.** Upon the request of a holder of a permit, the Building Official or designees may issue a partial certificate of occupancy for a building or structure before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building without endangering life or public welfare.
- (5) **Contents of Certificate.** When a building or structure is entitled thereto, the Building Official or designees shall issue a certificate of use and occupancy within 10 days after written applications.

#### 4.28 STOP WORK ORDER

- (1) **Notice to Owner.** Upon notice from the Building Official or designees that work on any building or structure is being prosecuted contrary to the provisions of the Town Building Code, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.
- (2) **Unlawful Continuance.** Any person who shall continue any work in or about the building after having been served with a stop order, except such work as the Building Inspector is directed to perform to remove a violation or unsafe conditions, shall be liable to a penalty as provided in Section 13.26(3) of this code.

#### 4.29 UNSAFE BUILDINGS

- (1) **Right of Condemnation.** All buildings or structures that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure, as the Building Official or designees may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe with the meaning of the Town Building Code.
- (2) **Examination and Record of Damaged Building.** The Building Official or designees shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard; and shall prepare a report for

unsafe structures and premises, stating the use of the building, and the nature of damages, if any, caused by collapse or failure.

- (3) **Notice of Unsafe Building.** If an unsafe condition is found in a building or structure, the Building Official or designees shall give notice of such findings to the owner, agent or person in control of the building or structure and order compliance with the ordinance as hereinafter provided. Such notice shall describe the building or structure deemed unsafe and shall require repairs or improvement to be made to render the building or structures safe and secure, or require the unsafe building or structure or portion thereof to be demolished. Such notice and order shall be in writing on an appropriate form and shall include:
- (a) A list of the violation(s), with reference to the code sections violated
  - (b) Specification of a reasonable time for compliance

Such notice and order shall be served upon the owner, agent or person in control of the building or structure, however, that the notice and order shall be deemed to be properly served if such owner, agent or person in control of the building or structure is sent a copy thereof by U.S. Postal Service to his last known address and a copy is posted in a conspicuous place in or on the building or structure affected.

- (4) **Restoration of Unsafe Building.** A building or structure condemned by the Building Official or designees may be restored to a safe condition; except that if the damage or cost of reconstruction or restoration is in excess of 50 percent of its replacement value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of buildings hereafter erected.
- (5) **Disregard of Unsafe Notice.** Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the Town Attorney shall be advised of all the facts and shall institute the appropriate action to compel compliance.

#### 4.30 EMERGENCY MEASURES

- (1) **Vacating Buildings.** When, in the opinion of the Building Official or designees, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the Building, the Building Official or designees is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. The Building Inspector shall cause to be posted at each entrance to such building a notice reading as follows:

"This building is unsafe and its use or occupancy has been prohibited by the Building Official or designees, Town of Fremont" and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

- (2) **Temporary Safeguards.** When, in the opinion of the Building Official or designees, there is an actual or immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, the Building Inspector shall cause the necessary work to be done to render such building or structure or part thereof temporarily unsafe, whether or not the legal procedure herein prescribed has been instituted.
- (3) **Closing Streets.** When necessary for the public safety, the Building Official or designees may temporarily close streets, buildings and structures and places adjacent to such unsafe buildings, and prohibit the same from being used.
- (4) **Emergency Repairs.** For the purpose of this section the Building Official or designees shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (5) **Costs of Emergency Repairs.** Costs incurred in the performance of emergency work shall be paid from the Town treasury on certificate of the Building Official or designees; and the Town Attorney shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs.

#### 4.31 PUBLIC PROTECTION FUND

- (1) **Purpose.** A public protection fee is hereby established for all new construction occurring in the Town of Fremont, for which a building permit is issued after the 1st day of July 15, 2003 the establishment of the public protection fee is to insure adequate provisions for public protection for the residents of the Town of Fremont. Said fees shall be used for the purpose of public safety facilities and capital expenditures.
- (2) **Fee Established.** The public protection fee is hereby established for all residential (including garages), commercial and industrial buildings as follows:
  - (a) Buildings shall be assessed a fee per square foot, including garages, but excluding subgrade excavations of six feet or more as specified in the Appendix A Fee Schedule.
  - (b) Additional fees, over and above those established in (2)(a) for multiple family dwelling units shall be established in the sum as specified in the Appendix A Fee Schedule per dwelling unit which is defined as a building or group of rooms within a building where one person or a group of persons resides as a family unit.
- (3) **Method of Assessment**
  - (a) In all cases the method of assessment hereunder shall be by assessment at the time that a building permit is obtained from the Town of Fremont. No building permit shall be issued without the payment of the above

established fees to the Town of Fremont Building Official or designees prior to the issuance of the said permit.

- (b) **Use of Public Protection Fee.** Any public protection fees assessed pursuant to this ordinance shall be placed in a nonlapsing fund to be used for public safety in the Town of Fremont. Any expenditure made for public safety shall be of the nature of a capital expenditure or repairs or upkeep to capital investment property for public safety.

In no event shall any of the funds collected be used for current operating expenses for public safety in the Town of Fremont. The monies to be placed in a nonlapsing fund shall not be included in the general fund and shall be designed separately as an asset of the Town of Fremont on its municipal budget.

#### 4.32 VIOLATIONS

- (1) **Prosecution of Violation.** Any person who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit, not less than \$25.00 nor more than \$400.00 plus the costs of prosecution of each violation. Each violation and each day a violation exists or continues shall constitute a separate offense.
- (2) **Abatement of Violation.** The imposition of the penalties herein prescribed shall not preclude the Town Attorney from instituting appropriate action to prevent unlawful construction or to restrain, correct or act, conduct business or use of a building or structure in or about any premises. The Town Attorney is hereby authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct business or use of a building or structure in or about any premises. In addition, the Town, upon successful prosecution and/or enforcement of the Town ordinance shall be entitled to reasonable attorneys' fees and costs for the prosecuting of the same.