

# CHAPTER 1

## BUILDING CONSTRUCTION CODE

Effective 11/01/2023

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### **1.01 AUTHORITY**

These regulations are adopted under the statutory authority granted pursuant to Section 60.10(2)(c), 60.22, 101.65, 101.76, and 101.761 of the Wisconsin Statutes and replaces all previous Town of Gardner Building codes and ordinances.

### **1.02 PURPOSE**

The purpose of this Code is to promote the health, safety, and general welfare within our community, to protect property values and provide for orderly, appropriate development and growth of the community.

### **1.03 FORCE and EFFECT**

This code applies to all lands in the Town of Gardner. If the provisions of this Code conflict with County, State or Federal regulations, the most restrictive shall prevail.

### **1.04 DEFINITIONS**

As used in this Chapter, the following terms have the meaning prescribed herein: (Any item not defined herein shall follow the Wisconsin Administrative Code definitions.)

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- 1) Building. Any structure erected or constructed of wood, metal, stone, plastic or other materials, which is intended to be used by human beings or animals for occupancy, livery, commerce, education, cultural activities or other purpose.
- 2) Building Inspector. The individual(s) or firm appointed by the Town to exercise all of the powers and duties of a Building Inspector under Wisconsin law.
- 3) Construction. Any part or portion of the activity of installing, locating, siting, erecting or raising a building.
- 4) Contractor. Any person, firm or entity which undertakes any activity related to the construction of a building other than the mere provision of supplies, materials.
- 5) Demolition. The activity of completely or partially destroying a previously erected or constructed building.
- 6) Electrical. The trade which relates to the design, installation, maintenance and repair of the mechanical equipment, wiring, fixtures and connections which tie a structure to the power grid of an electric generating utility or on-site source and distribute the electricity through a structure to end uses, including any work which may be performed by a master electrician licensed by the State of Wisconsin or a person under the supervision of such an electrician.
- 7) HVAC. An acronym which stands for Heating, Ventilating and Air Conditioning; the trade which installs mechanical equipment, systems and accessory ducting and gratings for the purpose of warming, purifying, cooling and exchanging air in a building.
- 8) Occupancy. The act of utilizing a building for human habitation, use, or occupancy. Any use of a building for any activity which is customarily or routinely associated with utilization of a building as a residence shall constitute occupancy.
- 9) Owner. The individual, firm or entity which has record title to the real estate on which construction or demolition is taking place.
- 10) Plumbing. The trade which relates to the design, installation and maintenance or repair of pipes, drains, sinks, basins, hot water heating systems, natural gas pipes, grease traps, floor drains, and all other work for which the individual performing the work may either be a master plumber licensed by the State of Wisconsin or work under the supervision of such a plumber.

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- 11) 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 exit stairways or exits, fire protection or exterior esthetic appearance and which do not increase a given occupancy and use, shall be deemed minor repairs.
- 12) Stop work order. A directive issued with respect to a construction project by a building inspector which compels the owner and any contractor or builder of a building to cease any further work or activity on the construction project until the building inspector has authorized the resumption of the construction project.

### **1.05 SCOPE**

This Code applies to all projects for 1 & 2 Family Dwellings and their accessory structures, Commercial and Agricultural buildings including New, Remodels and Additions; except as exempted within this ordinance.

### **1.06 BUILDING PERMITS**

- 1) No owner or contractor may commence construction of any building or mechanical system regulated under this ordinance prior to obtaining a required permit from the Building Inspector.
- 2) The following construction activities shall require a building permit including, but is not limited to:
  - a) New 1 & 2 Family Dwellings and their Accessory Buildings, Commercial and Agricultural Buildings
  - b) Remodeling of 1 & 2 Family Dwellings and their Accessory Buildings, Commercial and Agricultural Buildings
  - c) Additions to 1 & 2 Family Dwellings and their Accessory Buildings, Commercial and Agricultural Buildings
  - d) Re-roofing that would constitute a third or more layer of roofing, requires a permit with structural load-bearing calculations.
  - e) Projects that, after review by the Building Inspector, he/she determines inspections are in the best interest for health, safety, or welfare of the building's occupants.
- 3) The following construction activities shall not require a building permit but do require an administrative permit issued by the Town Chairperson or their designee.
  - a) 1 & 2 Family Accessory Buildings under 150 sq. feet.
  - b) Re-siding, re-roofing and finishing of interior surfaces, installation of cabinetry, and repairs which are deemed minor by the Building Inspector. Re-roofing that would

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constitute a third or more layer of roofing, requires a permit with structural load-bearing calculations.

c) Replacement of major building equipment including furnaces, central air conditioners, water heaters or any other major piece of equipment whose replacement would substantially be considered regular maintenance.

d) Normal repairs of HVAC, plumbing and electrical equipment or systems such as replacing switches, receptacles, dimmers and fixtures.

### **1.07 ADOPTION OF STATE CODES**

1) The following Chapters of the Wisconsin Administrative Codes and all subsequent revisions, are adopted by the Town and shall be enforced by the Town or their designee.

Ch. SPS 302 Plan Review Fee Schedule

Ch. SPS 305 Credentials

Ch. SPS 316 Electrical

Chs. SPS 320-325 Uniform Dwelling

Ch. SPS 327 Camping Units

Ch. SPS 360 Erosion Control, Sediment Control & Storm Water Management

Chs. SPS 361-366 Commercial Building

Chs. SPS 375-79 Buildings Constructed Prior to 1914

Chs. SPS 381-387 Plumbing

### **1.08 SCOPE of UNIFORM DWELLING CODE EXPANDED**

For the purposes of this Ordinance, the standards contained in the Wisconsin Uniform Dwelling Code shall be expanded to apply as the standards for construction of the following:

13) Additions and alterations for 1& 2 family dwellings built prior to June 1, 1980.

### **1.09 CERTIFIED MUNICIPALITY STATUS**

The Town has adopted the following -

- 1) Permitting and inspections of 1- and 2- family dwellings and camping units. [Wis. Admin. Code §§ SPS 320.06 and 327.06(1)]
- 2) Permitting and inspections of all commercial buildings, without size limitations. [Wis. Admin. Code § SPS 361.60(2)(d)2]
- 3) Permitting and inspections for electrical wiring at farms, public buildings, places of employment, campgrounds, manufactured home communities, public marinas, piers, docks, wharves, and recreational vehicle parks. [Wis. Admin. Code § SPS 316.011]

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### **1.10 BUILDING-HVAC-ELECTRICAL and PLUMBING INSPECTOR**

- 1) Creation and Appointment. There is hereby created the position of Building Inspector. The Building Inspector shall be appointed by the Town of Gardner. The Building Inspector shall be certified for inspection purposes by the Department in the required categories specified under SPS 305, Wisconsin Adm. Code, as amended.
- 2) Subordinates. The Building Inspector may employ, assign or appoint, as necessary, subordinate, mechanical inspectors. Any subordinate hired to inspect buildings shall be certified as defined in SPS 305, Wisconsin Adm. Code, as amended by the Department.
- 3) Duties. The Building Inspector shall administer and enforce all provisions of this ordinance.
- 4) Powers. The Building Inspector or an authorized certified agent of the Building Inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The Building Inspector 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 Inspector or his/her agent while in the performance of his/her duties. In the event that the inspector is refused access to any such premises, then the Inspector is authorized to apply for a special inspection warrant pursuant to Section 66.0119, Stats., as amended. The Building Inspector is authorized to issue, suspend or revoke raze orders pursuant to Wis. Stat. 66.0413.
- 5) Inspections. In order to permit inspection of a building project at all necessary phases without causing delay for the property owner, the owner and/or contractor shall request all of the following inspections in conformity with the appropriate time frame defined in the Wisconsin Administrative Code or at least 48 hours in advance by the applicant/contractor or property owner as applicable.
  - a) Erosion Control
  - b) Footing
  - c) Foundation
  - d) Electric Service
  - e) Rough Carpentry, HVAC, Electric and Plumbing
  - f) Under floor Plumbing
  - g) Drain tile/Basement Floor
  - h) Insulation
  - i) Final Carpentry, HVAC, Electric & Plumbing
- 6) Failure to request any inspection will be the responsibility of the contractor and/or property owner. No Construction shall be deemed approved by default or lack of inspection by the Building Inspector.

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7) The expense of uncovering or exposing any work which must be inspected, where such work was required by the failure of the owner to request any inspection, will be the responsibility of the contractor and/or property owner.

8) Records. The Building Inspector shall perform all administrative tasks required by the Department under all codes covered in sec.1.07. In addition, the Inspector shall keep a record of all applications for permits.

### **1.11 SUBMISSION OF PLANS AND OTHER DOCUMENTS**

The property owner or contractor shall submit two sets of complete construction plans to the Building Inspector for any work covered under this Ordinance. If a new building or building addition is proposed, then a site plan drawn to scale showing such proposed work with dimensions to existing buildings and property lines shall be submitted. A third set of plans may be requested at the discretion of the Building Inspector for the Assessor. The Building Inspector may require the property owner or contractor to submit plans for any construction project when the Building Inspector determines that it is necessary to review such plans to assure that the proposed project will comply with all applicable codes. If the project requires approval from other agencies or departments, such as but not limited to the County Sanitarian or Land Use Department; copies of those approvals shall be submitted at the same time.

### **1.12 ISSUANCE OF PERMIT**

1) The Building Inspector shall issue the requested permit if the property owner or contractor demonstrates that all applicable Federal, State, County and local code requirements are satisfied. If a permit card is issued, it shall be posted at the job site in a visible location from the street. Permits are valid for two years. Permit may be extended for 30, 90, or up to 180 days with the Building Inspector's approval and payment of permit fees.

2) By accepting a permit, the applicant, property owner and / or contractor grants the Building Inspector the right of access to the real estate for which the permit was issued.

3) Permits are issued conditionally on the condition that the property owner and/or contractor(s) shall conform to the requirements of all applicable codes, zoning ordinances and setback requirements as applicable.

4) No construction, plumbing, electrical or HVAC permit shall be issued to any person who is in violation of this ordinance until such violation has been corrected.

5) No construction, plumbing, electrical or HVAC permit shall be issued to any person to whom an order has been issued by the Building Inspector.

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6) It shall be the responsibility of the property owner, installer or contractor to determine if a permit is required and to obtain the same prior to commencing work.

### **1.13 OCCUPANCY PERMIT**

If an Occupancy Permit(OP) is required for the intended occupant to start using the space and after the Building Inspector completes all required inspections and they find that the project has been constructed in accordance with the applicable codes, then the Building Inspector shall issue an OP. **No building requiring a building permit may be occupied without an occupancy permit.** If the building fails to comply with the code(s) in ways that the Building Inspector deems are not a threat the health, safety, or welfare of the building's occupants, the Building Inspector may issue a Temporary Occupancy Permit(TOP) for a specified period with conditions. Once all requirements under the TOP are met and confirmed, the Building Inspector shall issue a final OP. If the TOP sunsets, the building shall stop being occupied until the Building Inspector determines all issues are resolved and issues the final OP.

### **1.14 FEES**

At the time of building permit application issuance, the applicant shall pay fees as established periodically by the Town. If work commences prior to permit issuance, the permit fee shall double.

### **1.15 VIOLATIONS and PENALTIES**

- 1) Prohibition. No person, entity, or firm may construct, remodel, demolish or repair any building in a manner which violates any provision(s) of this ordinance.
- 2) Every person, entity, or firm which violates this ordinance shall, upon conviction, forfeit not less than \$25.00 nor more than \$1,000.00 for each day of non-compliance, together with the costs of prosecution, and actual attorney fees incurred in enforcement.
- 3) Violations discovered by the Building Inspector shall be corrected within 30 days, or more if allowed by the Building Inspector, after written notice is given. Violations involving life safety issues shall be corrected in a reasonable time frame established by the Building Inspector.
- 4) Compliance with the requirements of this ordinance is necessary to promote the health, safety, and welfare of the community and the owners, occupants and frequenters of buildings. Therefore, violations of this ordinance shall constitute a public nuisance that may be enjoined in a civil action.

### **1.16 STOP WORK ORDER**

The Building Inspector may issue a Stop Work Order for a project to prevent further non-complying work. No person, entity, or firm may continue a construction project after a Stop Work

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Order has been issued. The person, entity, or firm that receives such a Stop Work Order may



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contest the validity of the same by requesting a hearing before the Town Board under Wisconsin Statutes Chapter 68. The Town shall hear the appeal within seven days. The Town shall affirm the Stop Work Order unless the owner or contractor shows that the Building Inspector erred in determining that the construction project violated a provision or provisions of the applicable code(s).

### **1.17 VARIANCE**

The Town Board shall hear requests for variances from the building code to the extent the Town Board has authority to hear and grant variances. The Town Board shall approve, conditionally approve, or deny a requested variance. The Town may grant a variance from a code requirement only if the variance is permitted by state law and if the performance of the proposed variance is equal to or greater than the code requires.

### **1.18 APPEALS**

Any person feeling aggrieved by an order of the Building Inspector may, within 230 days thereafter, appeal from such order to the Town Board. The Town Board will follow procedures explained in Wisconsin Statutes Chapter 68, to arrive at a final determination. Final determinations may be reviewed as explained provided in Wisconsin Administrative Rules Code SPS 320.21, as amended, to be filed within 10 days of the final determination under ch. 68.

### **1.19 DISCLAIMER and NON-LIABILITY for DAMAGES**

This ordinance shall not be construed as an assumption of liability by the Town or the Building Inspector for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.

### **1.20 SEVERABILITY**

If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.