

CHAPTER 2 BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

2.01 AUTHORITY	pg. 1
2.02 FORCE AND EFFECT	pg. 1
2.03 DEFINITIONS	pg. 1-2
2.04 BUILDING PERMITS	pg. 2-5
2.05 REQUIREMENTS & STANDARDS	pg. 5-6
2.06 APPEALS, EXCEPTIONS AND VARIANCES	pg. 6-7
2.07 ENFORCEMENT AND PENALTIES	pg.

2.01 AUTHORITY

This code is enacted pursuant to the authority granted the Town Board under §60.10(2)(c) and 60.22(3), Wis. Stats. and replaces all previous Town of Gardner Building, Aesthetic, and architectural controls.

2.02. FORCE and EFFECT

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

2.03 DEFINITIONS

As used in this chapter, the following terms shall have the following meanings:

- 1) General – Except where specifically defined herein, all words in this Code shall carry the meaning as defined in Webster’s Unabridged Third New International Dictionary or dictionary based on it. Words used in the present tense include the future, and words in the plural include the singular. The word “shall” is mandatory.
- 2) Specific – As used in this Code, the following terms have the meaning hereinafter set forth unless the context clearly requires otherwise:
 - a) Family – two or more persons related by blood, marriage or adoption.
 - b) Impervious Surface - Surfaces which do not absorb precipitation including buildings, structures, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, or packed stone.
 - c) Multiple occupancy development – a structure or group of structures on one tax parcel containing separate living quarters or sleeping units for three or more facilities or persons, regardless of the form of ownership of said units; including campgrounds or mobile home parks.
 - d) Single-family dwelling – a detached structure designed for, used or occupied exclusively by one family.

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

- e) Structure – any building, functional appurtenance (such as but not limited to eaves, roof overhangs, decks, stairways, or balconies) or other construction designed or intended for the use, protection, shelter or enclosure of persons, animals or property.
- f) Wetland – an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions.
- g) Outbuilding – a detached structure subordinate to the primary structure that is located on the same lot as and serves the primary structure. No outbuilding may be used as a dwelling or for conducting business, profession, trade, or occupation.
- h) Commercial building – a structure occupied by a business or businesses to provide a service, rent, trade or store goods for the purpose of generating income.
- i) Industrial building – a structure designed for manufacturing, assembling, and processing materials, equipment, supplies, food, or other commodities for packaging and distribution to either wholesale or retail markets.
- j) Lot – a continuous parcel of land, not divided by a public right-of-way, occupied or intended to be occupied by a principal structure or use and the accessory structures or uses permitted thereto, and sufficient in size to meet the lot width and lot area provisions of this ordinance.
- k) Lot Line – a line bounding a lot which divides one lot from another lot or from a street or road.
- l) Lot Line, Front – the lot line nearest to the centerline of the public or private road from which the lot takes access, except that for essentially rectangular lots abutting cul-de-sacs, the front lot line shall be that lot line which is generally parallel and closest to the centerline of the access road.
- m) Lot Line, Rear – in the case of rectangular or most trapezoidal shaped lots, that lot line which is generally parallel to and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front lot line.
- n) Lot Line, Side – any lot line other than a front or rear lot line.
- o) Lot Width – the shortest distance between side lot lines, measured through the midpoint of the shortest line that can be drawn between the front lot line and the rear lot line.

2.04 BUILDING PERMITS

- 1) Activities Requiring and Activities Exempt from Building Permits.
 - a) New construction. No person shall commence to erect or move any structure, including manufactured housing or mobile homes, on or onto any land in the Town of Gardner unless the owner of the property or the property owner's authorized agent has obtained and posted a valid building permit issued for the project by the Town Board or its designated

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

agent. All required permit(s) for any structure shall be obtained before any footings or slab is poured to check setbacks and possible inspection required by the state.

b) Alterations and conversions. No person shall engage in any of the following activities without first obtaining a valid building permit issued for the activity by the Town Board or its designated agent:

- i) Altering the exterior measurements or height of an existing building or structure;
- ii) Converting a structure housing a non-residential use to one containing one or more residential units;
- iii) Converting a structure so as to increase the number of residential units and/or the number of commercial or industrial uses it contains;
- iv) Converting a structure so as to accommodate a commercial or industrial use.

c) Exemptions for temporary use. No building permit shall be required for mobile homes, manufactured housing, recreational vehicles, portable self-contained waste holding shelters and similar structures temporarily placed upon a property for occupancy or use during construction activities authorized by a valid building permit issued under this Code, but such temporary structures shall be promptly removed upon cessation of construction activities on the premises for longer than 30 days, substantial completion of construction or lapse of such building permit, whichever occurs first, and shall not be replaced on the property or occupied or used thereon until construction activities recommence under a valid, current building permit.

2) County, State and Federal Permits. No building permit shall be issued by the Town until relevant County, State and/or Federal permits or approvals have been obtained, unless the building permit applicant can show that said permit(s) cannot be issued until the Town building permit is issued.

3) Approval of New Lots or Parcels and Driveways or Roads Required. No building permits shall be issued for construction, alteration, or conversion of any structure on any lot or tax parcel that has been divided, subdivided, transferred or sold in violation of any Town of Gardner Codes. Any new roads or driveways installed as part of any building project shall be in compliance as applicable with the Town Driveway Permit, and/or Highway Design Standards Ordinance(s).

4) Fee. No building permit shall be issued until the fee has been paid. The fee for a building permit shall be as from time to time established by resolution of the Town Board.

5) Application. Application for a building permit shall be made to the Town of Gardner Building Inspector in writing and show the following:

- a) The owner's name, address and telephone number.

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

- b) The section, tract, range, fire and tax numbers.
- c) The lot area, shape, width and length of all sides.
- d) Plot plan drawn to scale of not less than 1 inch equals ten (10) feet showing location and use or type of all existing structure; the location of the proposed structure and its distance to the centerlines of all roads and lot lines; and the location of all portions of the private on-site wastewater treatment system, if required. Before the building permit shall be issued, the structure shall be staked out at the site.
- e) The location, width and grade of the driveway.
- f) The intended use of the structure.
- g) One set of building plans drawn to a scale of not less than 1/8" per foot showing the dimensions, height, exterior elevations, floor plans, and side elevation view of all proposed structures. For commercial, industrial and multiple use occupancy developments, building plans shall include proposed landscaping.
- h) Boundaries of any wetlands on the property. Any new wetland delineations shall be made between April 30 and October 15.

6) Public Hearings. No permit shall be issued for a new multiple occupancy development or a new commercial or industrial development, including any changes of use to a previous commercial or industrial use, other than ownership until the Town Board holds a public hearing regarding the application. Notice of the hearing shall be given by publication of a Class 2 notice as provided in Chapter 985 of the Wisconsin Statutes. The Town Board shall also send written notice by mail to all surrounding property owners within 300 feet of the property of the applicant. In addition to the fee in 2.04(4), the applicant shall pay the costs of publication of the public hearing notice, administrative activity associated with the hearing and any mailing and handling costs before the hearing will be scheduled. Such costs shall be as from time to time determined by the Town Board and shall be posted at the Town Hall.

7) Posting. All building permits in effect shall be posted in a prominent place on the premises.

8) Plan Amendments. If any changes to the plans for a permitted structure are made that will alter its exterior measurements or its location, construction must cease and the Town Board or its designated agent must approve the amended plan before construction can continue.

9) Revocation of Permit. If the Town Board or Building Inspector finds at any time the ordinances, laws, orders, plans and specifications or conditions as set forth in the permit or the application are not being complied with, and holder of the permit refuses to conform after a written warning or instructions have been issued, the Town via the Building Inspector shall revoke the permit by written notice posted at the work site. When such permit is revoked, no person shall do any further work until the permit is reissued, except such work as the Town Building Inspector may order to be done as a condition to the reissuance of the permit or as may be required for the preservation of human life and safety.

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

10) Lapse of Permit. Building permits shall expire two years from issuance. Renewal building permits, which shall be valid for a period of one year, may be issued if the project previously approved has commenced and if the permit start date shall be on or before the expiration date of the original permit. In the case of structures subject to public hearing, the application for a building permit to alter, convert, or establish the structure(s) must be received within 24 months of Town Board approval of the project. Renewal building permits, as described herein, may also be issued for such projects.

2.05 REQUIREMENTS & STANDARDS

1) Buildable Lots. All construction, regardless of the creation date of the lot or tax parcel on which it is occurring, must comply with setbacks and all other relevant provisions of this code. Any lot or tax parcel legally created and recorded in the office of the Door County Register of Deeds on or before July 01, 1984 may be considered buildable. Any lot created after July 01, 1984 must contain no less than 1 ½ acres in area and a minimum lot width of 150 feet.

2) Non-buildable Lots. Any lot or tax parcel created after July 01, 1984 without complying with relevant Town codes shall be considered non-buildable in its current configuration, unless it may be and is legally recreated according to the requirements of the Town Codes.

3) Minimum Lot Size. The minimum lot size allocated to a new single family dwelling unit, condominium unit, each unit of a duplex or apartment unit, hotel or motel room or suite, sleeping room in a dormitory or bed and breakfast establishment, individual mobile home site, or commercial or industrial structure shall be no less than 1 ½ acres with a minimum lot width of 150 feet. Except where otherwise allowed by the Town Board under s. 2.06 of this Code, the property used to determine compliance with this minimum lot size allocation shall be contiguous.

4) Height Limit. No structure shall exceed thirty-five (35) feet in height as measured from the mean ground elevation along the foundation to the top or peak of the roof. TV antennas, satellite dishes, vents and chimneys are excluded from this restriction.

5) Impervious Surface Ratio. No more than 40% of the area of any lot or tax parcel shall be covered by an impervious surface. Any plan to cover more than 40% of the area of any lot or tax parcel will require variance approval accompanied by a storm water runoff plan.

6) Razing of Buildings or Structures. Anyone who wishes or intends to dismantle or destroy a structure such as but not limited to a dwelling, barn, shed or garage shall first notify in writing the Town Board, their designee or the Town Assessor.

7) Setbacks. The setback shall be measured from the nearest portion of the structure, except that the first 2 feet of an overhanging eave of buildings shall not be included. Setbacks apply to both

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

above and below-ground structures including but not limited to appurtenances (such as attached or abutting porches, decks, stairways and balconies). Readily removable structures, such as an open fence, that do not interfere with fire access or visibility may be permitted within setback areas.

a) Road setbacks. No structure shall be placed or constructed within sixty (60) feet from the centerline of any public road or permanent access easement. Structures on lots fronting County, State and Federal roads must meet County, State and Federal regulations if more restrictive.

b) Private road setbacks. The required setback for all structures fronting on private roads or private road easements, except those serving 4 lots or less, shall be 30 feet. No setback shall be required from private roads or private road easements which serve 4 lots or less. If the width of the private road or private road easement is described by plat, survey, deed or similar document, the setback shall be measured from the edge of the described road or road easement. If the width of the private road or private road easement is not so described, then the set back shall be measured from the edge of the traveled roadway

c) Setback reduction. When the required road setback, in conjunction with the Door County Shoreland Zoning Ordinance required ordinary high water mark setback, leaves a buildable area of less than 30 feet in depth, the required road setback shall be reduced to provide a buildable area depth of up to 30 feet, except that in no case shall the required road setback be less than 10 feet from the right-of-way.

d) Side and rear lot line setbacks. No structure shall be located closer than 10 feet to a side or rear lot or parcel line.

e) Navigable water and wetlands setbacks. No structure shall be located closer than 35 feet to navigable waters or wetlands.

2.06 APPEALS, EXCEPTIONS AND VARIANCES

1) Provisions of this Code shall not be construed so as to prevent the customary and necessary maintenance or repairs of buildings, structures and property.

2) The Town Board may issue a permit in variance from the terms of this Code only if the goals of the Town Master Development or Comprehensive Plan are not thereby thwarted. Any person aggrieved by the strict enforcement of this Code may appeal to the Town Board for a variance. The applicant shall submit a letter of request for variance along with the appeal letters from all adjoining property owners consenting to the granting of the variance or giving reasons why the adjoining property owner objects to the granting of the variance and a fee established by the Town Board from time to time to offset the administrative costs of reviewing the appeal. The Board shall meet and act upon the appeal after receiving a report from the Town Plan Commission. Where there are practical difficulties or unnecessary hardship in the carrying out the strict letter of this Building Code, the Town Board may issue a permit or authorize the use of the property in variance

CHAPTER 2

BUILDING, AESTHETIC AND ARCHITECTURAL CONTROLS

Effective 11/01/2023

from the terms of this Code so that the purpose of the Code may be observed and substantial justice done.

3) Variance - The Town Board shall have authority to grant requests for variance from the provisions of the Town of Gardner Building code. Requests for variance shall be in writing and filed with the Town Clerk. Such requests shall not be acted upon until the appropriate fee as established by the fee schedule established by the Town Board is paid by the applicant.

2.07 ENFORCEMENT AND PENALTIES

The Town Board shall provide for the enforcement of this Code by means of the withholding of building permits, imposition of forfeitures, issuance of citations and injunction action in accordance with §60.29(9), Wis. Stats.

1) Commencing Construction without Permit. All permit fees shall be twice the permit fee if work commences before the required permits are obtained, and the proper fees are paid.

2) Forfeiture. If the Town Board finds any person violating any provision of this Code or interfering with or failing to follow any lawful order of the Town of Gardner or Town Building Inspector in the performance of duties, the person shall forfeit not less than Twenty Five dollars (\$25) and not more than One Thousand Dollars (\$1,000) plus the cost of enforcement, including actual attorney fees, and any required State penalty assessments or any other fees. Each day the violation exists may be considered a separate offense. In addition, violation of this ordinance may be enjoined upon action filed by the Town of Gardner, and the party in violation may be required to pay attorney fees and costs incurred by the Town.

3) Removal. If the Town Board finds a structure built or placed on a property within the Town without a building permit from the Town Board or their designee, the Town Board may order the Town Building Inspector, with the assistance of the Town Attorney, to issue an order to the owner to remove the structure and if the owner fails to do so, to commence an action in the Door County Circuit Court for an injunction ordering such removal and a forfeiture as provided in 2.07(2).