

**TOWN OF GARDNER
DOOR COUNTY, WISCONSIN**

**Repeal and Replacement of All Town of Gardner Building Code of Ordinances
Prior to 02/14/2018**

The Town Board of the Town of Gardner pursuant to its authority under sections 60.12(2)(c), 60.22, 101.65 and 101.76 of the Wis. Stats., hereby repeals and replaces all Town of Gardner Building Code Ordinances prior to 02/14/2018, and recreates Ordinance # 01-2018 titled;

**TOWN OF GARDNER
BUILDING CODE ORDINANCE 01-2018**

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BUILDING CODE TOWN OF GARDNER

1.01 AUTHORITY

These regulations are adopted under the statutory authority granted pursuant to Section 60.12(1)(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.)

- 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 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.
- 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 new 1 & 2 family dwellings, additions, remodels and commercial buildings. Notwithstanding this section, this ordinance shall not apply to agricultural buildings and children's play structures.

1.06 BUILDING PERMITS

1) No owner or contractor may commence construction of any building or mechanical system prior to obtaining a required permit from the Town of Gardner Building Inspector.

2) Construction which shall require a building permit includes, but is not limited to:

a) New 1 & 2 Family Dwellings and Commercial Buildings

b) New 1 & 2 Family Accessory Building over 150 sq. feet

c) Additions and Remodels. A permit and inspection is required for all increased square footage and or structural change (any change in the supporting members of a building such as foundations, bearing walls, columns, beams, floor or roof joists, girders or rafters, or changes in roof or exterior lines) for any one or two family dwellings.

d) Any electrical wiring for new construction of 1 & 2 family dwellings, additions and remodels.

e) Any HVAC for new construction of 1 & 2 family dwellings, additions and remodels.

f) Any plumbing for new construction of 1 & 2 family dwellings, additions and remodels.

3) The following construction activities shall not require a building permit but do require an administrative permit issued by the Town or their designee.

a) Agricultural Buildings.

b) 1 & 2 Family Accessory Buildings under 150 sq. feet.

c) Re-siding, re-roofing and finishing of interior surfaces, installation of cabinetry, and repairs which are deemed minor by the Building Inspector. Notwithstanding this section, however, a permit accompanied by structural load-bearing calculations shall be required

for re-roofing a building if the proposed re-roofing would constitute a third or more layer of roofing.

d) Replacement of major building equipment including furnaces, and central air conditioners, water heaters and any other major piece of equipment.

e) 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, as well as 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 Code

Chs. SPS 320-325 Uniform Dwelling Code

Ch. SPS 360 Erosion Control, Sediment Control & Storm Water Management Chs. SPS 361-366 Commercial Building Code

Chs. SPS 375-79 Buildings Constructed Prior to 1914

Chs. SPS 381-387 Uniform Plumbing Code

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:

1) Additions and alterations for one and two family dwellings built prior to June 1, 1980.

1.09 CERTIFIED MUNICIPALITY STATUS .

1) Certified Municipality. The Town has adopted the Certified Municipality Status as described in SPS 361.60 of the Wisconsin Administrative Code.

a) Responsibilities. The Town shall assume the following responsibilities for the Department of Commerce (Department):

1. Provide inspection of commercial buildings with certified commercial building inspectors.

b) Plan Examination. Drawings, specifications and calculations for all the types of buildings and structures, except state-owned buildings and structures, to be constructed

within the limits of the municipality shall be submitted, if the plans are for any of the following:

1. A new building or structure containing less than 50,000 cubic feet of total volume.
2. An addition to a building or structure where the area of the addition results in the entire building or structure containing less than 50,000 cubic feet of total volume.
3. An addition containing no more than 2,500 square feet of total floor area and no more than one floor level, provided the largest roof span does not exceed 18 feet and the exterior wall height does not exceed 12 feet.
4. An alteration of a space involving less than 100,000 cubic feet of total volume.
5. A certified municipality may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.
6. The department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.

c) Plan Submission Procedures. All commercial buildings, structures and alterations require plan submission as follows:

1. Building permit application
2. Application for review – SBD-118, as amended
 - a. Fees per Table 302.31-2 and SPS 302.31, as amended
 - b. Fees apply to all commercial projects
3. 4 sets of plans
 - a. Signed and sealed per SPS 361.31, as amended
 - b. 1 set of specifications
 - c. Component and system plans
 - d. Calculations showing code compliance

1.10 BUILDING-HAVC-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.

5) Inspections. In order to permit inspection of a building project at all necessary phases without causing delay for the 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) Footing
- b) Foundation
- c) Rough Carpentry, HVAC, Electric and Plumbing
- d) Drain tile/Basement Floor
- e) Under floor Plumbing
- f) Electric Service
- g) Insulation
- h) Final Carpentry, HVAC, Electric & Plumbing
- i) Erosion Control

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.

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 and shall number each permit in the order of its issuance.

1.11 SUBMISSION OF PLANS

The owner or contractor shall, with respect to any proposed construction, submit two sets of building plans to the Building Inspector for any work which expands the size of a building, any new building or as required by the Building Inspector. If a new building or building addition is proposed, then a plot plan drawn to scale showing such proposed work and 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 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.

1.12 ISSUANCE OF PERMIT

- 1) The Building Inspector shall issue the requested permit if the owner or contractor demonstrates that all state, county and local submission 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, owner or contractor grants the Building Inspector the right of access to the real estate on which the permitted construction will occur.
- 3) Permits are issued conditionally on the condition that the owner and/or contractor(s) shall conform to the requirements of all applicable codes, zoning ordinances and setback requirements in constructing the building.
- 4) No building, 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 building, plumbing, electrical or HVAC permit shall be issued to any person to whom an order has been issued by the Building Inspector.
- 6) It shall be the responsibility of the installer or contractor to determine if a permit is required and to obtain the same prior to commencing work.

1.13 OCCUPANCY PERMIT

If the Building Inspector, after completing all required inspections, finds that a building has been constructed in accordance with the applicable codes, then the Building Inspector shall issue an

occupancy permit. If the building fails to comply with the code in minor respects which do not threaten the safety, health or welfare of the building's occupants, the Building Inspector may issue a temporary occupancy permit for 30 days or a specified term. No person may have occupancy of a building until an occupancy permit is issued.

1.14 FEES

At the time of building permit application issuance, the applicant shall pay fees as established periodically by the Town of Gardner. 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 or provisions of this ordinance.
- 2) Every person, firm or entity which violates this code 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 safety, health and well-being 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 STOPWORK ORDER

The Town Building Inspector may issue a stop work order for a project to prevent further non-complying work. No person, firm or entity may continue a construction project after a stop work order has been issued. The person, firm or entity that receives such a stop work order may contest the validity of the same by requesting a hearing before the Town. 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 State building codes.

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 20 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 in Wisconsin Administrative Rules SPS 320.21, as amended

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.

BUILDING PERMITS & ARCHITETURAL CONTROLS

2.01 AUTHORITY

This code is enacted pursuant to the authority granted the Town Board under §60.12(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.

- e) Structure – any building, functional appurtenance (such as 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 agent. Building permits for any structure must 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 and State Permits. No building permit shall be issued by the Town until relevant County and or State 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 town building permit 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 must be in compliance with Town of Gardner Ordinance 4-96 Driveway Permit, and Ordinance 3-06 Highway Design Standards.

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.

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 can 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 of Gardner or Town 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 of Gardner via the Town 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.

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 of Gardner 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 of Gardner 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 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 above and below-ground structures and also include but are 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 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 dollars (\$20) and not more than Two Hundred Dollars (\$200) plus the cost of enforcement, 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(1).

Town of Gardner
Door County, Wisconsin

Vote: Aye ___4___
Nay ___ 0___

____R. Mark Stevenson____
R. Mark Stevenson, Chairman

__Amy Sacotte_____
Amy Sacotte, Clerk, Town of Gardner