

CHAPTER 3

BUILDING PERMITS AND ARCHITECTURAL CONTROLS

(Updated March, 2019)

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3.01 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 Egg Harbor building and architectural controls.

3.02 FORCE AND EFFECT. This code applies to all lands in the Town of Egg Harbor. If the provisions of this Code conflict with County, State or Federal regulations, the most restrictive shall prevail.

3.03 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, or see, 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. *Adopted 07/20/15*

(k) *Lot Line* – a line bounding a lot which divides one lot from another lot or from a street or road. *Adopted 07/20/15*

(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. *Adopted 07/20/15*

(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. *Adopted 07/20/15*

(n) *Lot Line, Side* – any lot line other than a front or rear lot line. *Adopted 07/20/15*

(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. *Adopted 07/20/15*

3.04 BUILDING PERMITS.

(1) Activities Requiring and 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 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:

1. altering the exterior measurements or height of an existing building or structure;
2. converting a structure housing a non-residential use to one containing one or more residential units;
3. converting a structure so as to increase the number of residential units and/or the number of commercial or industrial uses it contains;
4. 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.

(d) *Exemption for canvas shelters.* No building permit shall be required for the placement of up to 2 canvas shelters no larger than 600 square feet total combined so long as the placements meet required lot line setbacks. They can not be placed on a non-pervious surface and must be freestanding. *(added, 3/23/19)*

(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 Chapter 7 of the Town of Egg Harbor Codes. Any new roads or driveways installed as part of any building project must be in compliance with Chapter 4 of the Town of Egg Harbor Codes.

(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 and posted in the Town Hall.

(5) Application. Application for a building permit shall be 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 3.04(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 Code Administrator 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 Code administrator 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 Code Administrator 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 one year 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.

3.05 REQUIREMENTS AND 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 of Egg Harbor Codes.

(3) Minimum Lot Size. Any single-family dwelling unit excepting hotels licensed under Wis. Stats. Sect. 97.605 shall have allocated 1.5 acres per dwelling unit or sleeping room. Licensed hotels shall have a minimum of 1.5 acres per 5 units, with not less than 5 units. Any commercial or industrial structure shall have 1.5 acres for each unit constructed. Minimum lot width for any construction shall be 150 feet.

Except where otherwise allowed by the Town Board under s. 3.06 of this Code, the property used to determine compliance with this minimum lot size allocation shall be contiguous. A single-family dwelling legally existing as of February 21, 2000 may be converted to a bed and breakfast establishment provided the floor area of the dwelling is not expanded and it is located on a parcel of land at least 1.5 acres in area. (*revised 3/23/19*)

(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 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 seventy-five (75) feet from the centerline of any public or private road or permanent access easement. Structures on lots fronting State and Federal roads must meet State and Federal regulations if more restrictive.

(b) *Side and rear lot line setbacks.* No structure shall be located closer than 20 feet to a side or rear lot or parcel line.

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

(d) *Niagara Escarpment setback.* In no event shall any part of any structure be closer than 25 feet to the upper or lower edge (talus) of the Niagara escarpment. The Niagara escarpment includes areas shown on the Door County Escarpment Protection Area map dated February 1995, as well as escarpment areas having slopes with a vertical drop of 10 feet or greater in a horizontal distance of 30 feet.

(8) Architectural controls. The Town of Egg Harbor Architectural Control Commission is hereby created, members of which shall consist of the Town Plan Commission members, to examine all applications for any commercial or industrial buildings to include but not limited to outbuildings. Stand alone outbuildings of 200 square feet or less may obtain Architectural Control approval from the Code Administrator. *(Revised, 05-16-2016 #186)*

(a) *Procedures.* No building permit shall be issued by the Code Administrator until a complete set of plans and specifications has been filed with the Architectural Control Commission and the Commission has determined that the proposed structure, addition, or alteration complies with the architectural control provisions of this code. If the Architectural Control Commission determines that the proposed structure does not comply with the requirements of this Architectural Control subchapter, it shall reject the application and give written notice of the rejection and reasons therefore the applicant and the Code Administrator. Where the Commission fails to complete the action required herein with the thirty (30) days of first receiving the plans and specifications, the proposed structure, addition or alteration shall be deemed to be in compliance with the architectural controls of this Code and the Code Administrator may issue a building permit if the proposed structure, addition, or alteration satisfies all other Town code requirements.

(b) *Standards.* Building permits reviewed by the commission shall be determined to be in compliance with the architectural controls of this chapter if and only if the Commission finds by majority vote that the following requirements have been met:

1. The proposed structure, addition, or alteration will conform to the general development of the area within which it is to be erected and with the character of the area as established by the Town's Master Development or Comprehensive Plan.
2. The land forms and landscape will be preserved in their natural state, insofar as practicable, by minimizing soil and tree removal that is not essential to project development and by retaining grades and contours in keeping with the general appearance of neighboring developed areas.
3. Building masses and long, straight building fronts and sides (relative to the overall length of the building) that are visually accessible shall be broken up and made more variegated with staggering and offsets, with landscaping or surficial features or with accumulation of mass in the form of smaller, related units. This is a directive standard as to residential and commercial structures and those industrial structures that are visually accessible to larger volumes of traffic and a recommendatory standard to industrial buildings within the center core of industrial districts.

4. Within residential properties, parking areas that are located in front or street-side yards must have landscape screening and/or screening by fencing having decorative character to soften views of parked vehicles. All design reviewed parking lots shall have decorative landscape treatment at the perimeter of the lot and, for larger lots, in island areas within the lot to provide break-up of the expanse of parking.
5. Mechanical equipment, such as heating, air conditioning, and ventilation fixtures, that will be readily visible when viewed from ground level from neighboring properties or roadways should be softened by screening or covered in a manner that forms an integral part of the building design.
6. External garbage or refuse containers shall be screened by walls, fences, berms, or effective landscaping, or combinations thereof.
7. Each project requiring landscaping must provide landscaping of sufficient height and density to accomplish positive visual impact within three years from the time of planting.
8. All developments and occupancies subject to design review may be required to create and install a storm water runoff control plan approved by the Door County Soil and Water Conservation Department.
9. The following principles of landscape design are stated as guides to be applied with discretion by the Commission taking into account how visible the site is to public view, sensitivity of neighboring properties and the cost considerations: Overhead canopy trees contribute to a pattern within the neighborhood and streetscape focus plantings (trees or shrubs) accomplish screening of less attractive elements, afford privacy, noise control and windbreak, soften transitions from vertical to horizontal features and create visual focal points. Ground plane plantings (lawn, ground cover, etc.) provide lower level continuity, and retard soil erosion. Terraces, trellises, walks, drives, garden walls and berms and related elements increase variety. Commission preferences on species shall be made available in writing to project applicants.
10. Storage of materials, fuel, scrap, inoperative vehicles and similar objects in places that are readily visible from public rights-of-way or parts of neighboring properties where a significant amount of viewing is expected shall be minimized and, where necessary, shall be reasonably screened. Where other portions of this Ordinance establish more stringent standards, the other portions shall govern.

11. The exterior architectural appeal, including landscaping, and the functional plan of the proposed structure, addition, or alteration will not, when erected, be so at variance with the exterior architectural appeal and functional plan of structures already constructed or in the course of construction in the immediate neighborhood, or with the character of the Town established by the Egg Harbor Master Development or Comprehensive Plan, or any amendments or supplements thereto, so as to cause substantial depreciation in the property values within the Town.

12. The exterior architectural appeal and functional plan of the proposed structure, addition, or alteration will not, within the discretionary judgment of the Commission, be contrary to generally accepted design standards or to the underlying aesthetic values of the community, or in any manner contribute to decay or blight within the community.

13. Driveway access to public roads shall be paved to a length of 25 feet to facilitate access to the abutting road. (Added per Ordinance #141, 2002)

14. Exterior lighting, when used, shall comply with the provisions of Chapter Twelve of this Code of Ordinances. (Added per Ordinance#143, 2002)

15. Need to be compliant with the Fire Department's Lock Box Ordinance. (Per Ordinance #149, 2004)

16. Other features of site design and construction, building and structural design and construction and landscaping not listed may also be addressed by Commission advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.

3.06 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.

3.07 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 five times 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 Code Administrator in the performance of duties, the person shall forfeit not less than Fifty Dollars (\$50) and not more than Five Hundred Dollars (\$500) plus the cost of enforcement, and any required State penalty assessments or fees. Each day the violation exists may be considered a separate offense.

(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, the Town Board may order the Code Administrator, 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 3.07(1).