

*Town of Henlopen Acres, DE
Wednesday, April 22, 2015*

Chapter 43. BUILDING CONSTRUCTION

Article II. Building Requirements

§ 43-5. Other requirements.

- A. Outside lamps and lighting.
[Amended 4-11-2008; 1-17-2014]
 - (1) One outside lamp shall be installed on the premises at a location to be approved by the Building Official.
 - (a) Outside lamps required by this article shall be lit between dusk and dawn each and every day.
 - (2) All outside lighting shall be oriented, shielded or both, so that glare and illumination of adjacent properties is minimized.
- B. Exterior stairs from the ground to the first floor of a dwelling may or may not be enclosed. Exterior stairs from the ground to a second floor shall be enclosed.
[Added 10-8-1999]
- C. Separate steps on the exterior of a dwelling to a bedroom or a bedroom and bath suite are expressly prohibited.
[Added 10-8-1999]
- D. A construction site shall have an access pathway for trucks and vehicles no wider than 20 feet and which must be improved to a depth of two inches with crusher run or gravel. The size, depth and location must appear on the site plan and building permit application.
[Added 10-8-1999]
- E. Building criteria.
[Added 1-14-2000; amended 1-11-2002]
 - (1) Siding.
 - (a) All materials used for construction for the siding of a house, garage or accessory building, including but not limited to corner boards, trim around the windows and doors and fascia board, shall be made of stone, brick, wood, a painted cementitious material such as Hardi-plank, or solid PVC material, such as "KOMA Trimboard," as defined by the list of properties of KOMA Trimboard dated February 9, 2005.
[Amended 7-8-2005]

- (b) Stucco may only be used on a foundation to cover block.
- (c) T-111 siding material, stucco, plywood, vinyl, aluminum and dryvit are strictly prohibited for the siding of a house, garage, pilings, accessory building, corner boards, trim around the windows and doors and fascia boards.
- (d) The perimeter of the area created by exposed pilings which constitute the foundation of a house or structure shall be enclosed with lattice or other covering. All materials used to cover the perimeter of the area created by the exposed pilings shall be made of wood or a painted cementitious material or Hardi-plank.
[Amended 10-20-2008]

(2) Accessories. Accessories to a house, garage or accessory building may be of the following materials:

- (a) Exterior doors must be made of clad/wood, solid wood or painted steel, aluminum, vinyl or fiberglass.
- (b) Windows must be made of clad/wood or solid wood. Solid vinyl windows are prohibited.
- (c) Shutters must be made of vinyl or wood.
- (d) Columns must be wood, a painted composite material such as Fypon or wrapped with wood.
- (e) Soffits must be made of a beaded vinyl, wood or a cementitious product such as Hardi-plank.
- (f) Railings must be made of wood, metal or high-quality grade vinyl.
- (g) Decking must be made of wood or Trex.
- (h) Patios must be made of slate, brick, stone or concrete.

(3) Roofing. Roofing must be architectural grade asphalt shingles, composition or dimensional, heavy weight copper or standing seam metal, clay, slate or cedar shake. Corrugated metal roof or lightweight shingles are prohibited. Gutters must be made of heavy-gauge aluminum, copper or metal.
[Amended 7-12-2013]

(4) Garages. Vehicular access to garages shall only be to that part of the garage facing away from the street on which a lot fronts. The doors of a garage providing vehicular access shall not be less than 90° perpendicular to a straight line intersecting boundary corners of the lot fronting on a street.
[Added 7-14-2006]

(5) To avoid undue hardship, nothing in this chapter shall be deemed to require changes in the plans, construction or designated materials of any structure on which actual construction was lawfully begun prior to the effective date of the adoption of the amendment and upon which actual building construction has been diligently carried on. Replacement of any nonconforming materials shall be only with conforming materials.

F. Building permit.

[Added 10-12-2001]

- (1) A building permit, in addition to any other requirements of the ordinances of the Town of Henlopen Acres, shall be required. Such permit may be combined with the zoning permit required pursuant to §§ **130-35** through 42 and building permit required pursuant to § **71-12**.
- (2) An amount of \$5,000 cash or in a form acceptable to the Town shall be deposited by the owner,

his/her/their agents, employees or assigns, prior to the issuance of any building permit for major construction, which shall be defined as construction of a new structure or remodeling of an existing structure in an estimated amount greater than \$50,000. Such deposit shall be used by the Town to repair any damage to Town property in the event such damage is not repaired by the owners, his/her/their agents, employees or assigns. It shall be the responsibility of the owner to see that all repairs identified by the Town are completed satisfactorily within 30 days of notice from the Town. Once such repairs are accepted by the Town, the deposit or that amount remaining of the deposit shall be refunded within 30 days of such acceptance.

[Added 4-16-2004]

G. Relocation or moving of buildings within Town.

[Added 1-10-2003]

- (1) No building permit shall be issued to relocate any building or structure or portion thereof from one site within the corporate limits of the Town to another site within or without the Town, using Town rights-of-way, unless a professional engineer or architect duly licensed in the State of Delaware shall certify, in writing, to the Town that said building or structure or portion thereof complies with the Town building code and the State Fire Code.
- (2) Procedure. A letter of request for a relocation or moving permit shall be filed with the Mayor and Commissioners by submitting same to the Zoning/Building Official. Such request shall include the plan for such moving or relocation:
 - (a) The routes to be used.
 - (b) The location, approximate height and type of any trees or shrubs which are reasonably expected to be necessary to be trimmed or removed.
 - (c) Letters of disconnect from any utility that will be involved.
 - (d) Dates for the commencement and expected completion of the relocating or moving.
 - (e) Name and address of mover.
- (3) All the trees and shrubs which are removed must be replaced at the applicant's expense and without any expense or liability to the Town with trees and shrubs of a similar type, height and size as determined by the Town. Such replacement shall be planted during the normal planting season for such trees and shrubs and shall be replaced at the applicant's expense and without any expense or liability to the Town if any shrub or tree does not survive for a period of 12 months from the date of planting.
- (4) A bond approved by the Town Solicitor issued by a surety company authorized to do business in the State of Delaware or an irrevocable letter of credit with the terms being approved by the Town Solicitor issued by a bank or trust company authorized to do business in the State of Delaware in an amount approved by the Commissioners shall be filed with the Town before any work of moving or relocating is commenced. Once the moving is commenced, it shall proceed with due diligence and without any undue delay.
- (5) The cost of any replacement or repair of any utility lines located in the rights-of-way used for moving or relocating, including any engineering or inspection fees, or both, shall be at the applicant's expense and without any expense or liability to the Town.
- (6) Any damage to streets, paving or other public improvements or property resulting from any activities

conducted under a building or repair permit issued or while relocating or moving a building or clearing or filling a lot shall be repaired in order that such improvements or property is in a similar condition after the moving or relocating as it was before the moving or relocating, as determined by the Town, and by the applicant at applicant's sole expense and without any expense or liability to the Town.

H. Sediment and erosion control.

[Added 7-9-2004]

- (1) The owner, which term shall also include the owner's agents, employees, successors and assigns, shall be responsible for constructing and maintaining sediment and erosion controls as required by the Town and in accordance with the Delaware Erosion and Sediment Control Handbook.
- (2) Sediment and erosion control requirements.
 - (a) The Town shall issue no building permit for building construction until such time that all required perimeter erosion and sediment controls (including, but not limited to, silt fences, perimeter dikes, sediment traps) are installed by the owner and accepted and approved by state and County agencies.
 - (b) The Town shall issue no certificate of occupancy for lots until such time that all required perimeter erosion and sediment controls other than silt fences (which shall remain in place until such a time as the Town has approved removal of those structures) are removed.
- (3) Failure to complete or maintain improvements.
 - (a) Site management corrective measures. Failure of the owner, properly and promptly, to install and maintain drainage structures, stormwater management facilities, sanitary sewers, sediment and erosion controls, or other site management measures required by the Town, shall result in the following:
 - [1] Notwithstanding any notification provision in this chapter, the Town, through the Town Manager or designee, shall list deficiencies and endeavor to notify the owner that the deficiencies must be corrected within a specified time. Such notice may be effected by the most expeditious method as decided by the Town Manager, including, but not limited to, fax, hand delivery, regular mail, certified mail, telephone, or electronic mail. The Town, through the Town Manager, may notify the owner in advance of any proposed action, but failure of the Town to do so will not affect the owner's or the Town's rights or obligations hereunder.
 - [2] Failure to comply.
 - [a] Notwithstanding other remedies available in this chapter, failure to achieve compliance by the date specified shall be cause for the Town to take such action as it determines appropriate, including but not limited to:
 - [i] Suspension of issuance of certificates of occupancy or use for all structures covered by this chapter;
 - [ii] Refusal to issue new building permits to the owner; and
 - [iii] The right to correct the deficiency and draw all costs from the building permit deposit.
 - [b] If there is not complete compliance within seven days of the date specified in the notification, the Town may issue a stop-work order on all building permits issued to the

owner. The determination as to whether there is complete compliance with the notification rests solely with the Town.

[3] The structures relative to building permits and certificates of occupancy stated above shall not be lifted until all deficiencies have been satisfactorily remedied as determined by the Town.

(b) Deteriorating or unsafe conditions. If the condition of an improvement presents a health, safety, or welfare risk, the Town may take immediate corrective action without notice to the owner. The Town may use the proceeds from the building permit deposit to perform any work necessary or remove or correct the condition.

I. Site preparation. Site preparation, including but not limited to, demolition of all or any portion of an existing structure, removal of any trees, bushes, or ground cover on any lot as part of or in anticipation of any construction, demolition or removal or reconstruction shall not begin until a zoning certificate/building permit has been issued.

[Added 4-11-2008; amended 12-11-2009]

J. Solar panels/collectors.

[Added 12-11-2009]

(1) Only roof-mounted solar panels/collectors (solar panels) may be installed and used on any principal structure, subject to any applicable building code, including but not limited to the International Residential Code, Section M2301, and approved by the Environmental Review Committee (ERC).

(2) Solar panels shall not to be installed on the roof surface facing the street. On corner lots, solar panels shall not be installed on roof surfaces facing either street. For structures placed diagonally on corner lots, solar panels shall not be installed on the roof surface facing either or both streets.

(3) The roof-mounted solar panels shall be parallel to and no higher than six inches from the roofline or flush with the roof covering. The panels shall be no higher than the peak of the highest roof. Ground-mounted, freestanding solar panels and panels on side walls are prohibited.

(4) The ERC, in its review of any application for solar panels, may consider:

(a) The location where solar panels may be placed on roofs.

(b) The concealment of supportive structures, fixtures and piping for solar panels.

(c) The color harmonization of solar panels among commercially available products with the color of the roof and/or structure where the solar panels are to be located.

(d) The aggregate size or coverage or total number of solar panels.

(e) In applying the factors listed herein, the ERC should allow seventy-percent annual access to solar energy per a Solar Pathfinder study or equivalent and should not be more restrictive than 10% of its maximum potential efficiency.

K. Site work.

[Added 7-9-2010]

(1) Application requirements. Applicants intending to construct a dwelling or other structure, requiring the construction of footings, foundations, pilings, slabs on grade, or other earth-moving activities, shall include a site plan with their application for a building permit.

- (2) Site plan. A site plan shall be drawn by a professional engineer or a land surveyor licensed in the State of Delaware. The applicant must submit two copies showing the entire property of the applicant and as much adjacent property as may be affected by the proposed activity and/or stormwater subsequent to the proposed activity. A site plan shall also include property lines, lot and block number, local address, Sussex County tax map number, property elevation contour lines, and location of all improvements, including but not limited to structures, driveways, walks, stairs, swimming pool and any proposed changes to the existing grade.
- (3) Review. A site plan is subject to review for compliance with § **43-5H**, Sediment and erosion control, as well as Chapter **71**, Floodplain Management, and all provisions of Chapter **130**, Zoning, including review by the Environmental Review Committee if, in the opinion of the Town Manager and Zoning Officer, grading and earthwork activities are excessive and may impact the adjacent properties and/or the community.

[1]: *Editor's Note: Former § 43-5, Violations and penalties, was renumbered as § 43-8, 7-9-1999.*