

ORDINANCE NO. 274

**AN ORDINANCE TO REPEAL AND RE-CREATE THE
DEFINITION OF "STRUCTURE"
WITHIN THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE**

WHEREAS, the Village Board has recommended that the Village Zoning Code be amended to address the connection of disjointed sections of residential structures by narrow hallways, giving the appearance of having more than one structure on a single family residential lot; and

WHEREAS, upon receipt of the Village Attorney's recommendation, the Village Board initiated this amendment to the Village of Oconomowoc Lake Village Code and referred the matter to the Village Plan Commission for report and recommendation; and

WHEREAS, upon receipt of the Village Plan Commission's recommendation, the Village Board of Trustees held a public hearing on February 17, 2014, after providing all required notice, as required by §17.62(5)(a) of the Village of Oconomowoc Lake Village Code; and

WHEREAS, the Village Board for the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good zoning practice requires the Village Board to amend, change or supplement the regulations established by the Village of Oconomowoc Lake Zoning Code as described herein.

NOW, THEREFORE, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.10 entitled "Definitions," the definitions of "Structure" is hereby repealed and re-created as follows:

STRUCTURE

Anything, other than natural terrain or plant growth, whether or not moveable,

1. Constructed or erected above grade,
2. Constructed or erected at grade, or
3. Attached to something constructed or erected on the ground.

Unless specifically excluded hereinafter, examples of structures shall include but are not limited to:

1. Principal structures
2. Accessory structures
3. Nonconforming structures
4. Legal Nonconforming structures

Also included in the definition of structures are buildings of all types including prefabricated or pre-built buildings.

Specific examples of structures shall include but are not limited to:

1. Gazebos
2. Screen enclosures
3. Statuary in excess of 6 feet in height or 4 feet in width
4. Fences
5. Decks
6. Handrails
7. Lean-tos
8. Silos
9. Carports
10. Towers
11. Masts
12. Booms
13. Machinery
14. Equipment
15. Walls
16. Retaining walls two (2) feet or greater above grade. (For this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated.) Notwithstanding the foregoing, a retaining wall is not a structure if it is approved pursuant to Section 17.31(4) of this Code.

Structures shall not include:

1. Decks and patios more than 75 feet from the water at grade or less than 8 inches above the original grade.
2. Not more that 1 deck or patio 75 feet or less from the water at grade or less than 12 inches above the original grade and less than 300 square feet in size as long as said deck or patio does not have any railings and is screened with natural materials when viewed from the lake.
3. Statuary 6 feet or less in height or 4 feet or less in width,
4. Retaining walls less than two (2) feet above grade, for this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated.
5. Seawalls or rip rap at the shoreline which have been approved by the Wisconsin Department of Natural Resources, and
6. Stairways not in excess of four (4) feet in width together with associated handrails and landings not in excess of thirty-six (36) sq. feet where such stairways are necessary to provide convenient access to the shoreline.

Whether a construction constitutes one or more than one structure shall be determined by the Zoning Inspector based upon the above-ground elements.

The rule shall be: **If there is a separation or connection between the above-ground elements so that they appear to be separate structures, the above ground elements shall be regulated as separate structures, and such separate structures are restricted or prohibited as regulated herein.**

This shall be true even if the above ground elements are connected below ground, or by insubstantial means that do not dispel the above ground appearance of separate structures.

Insubstantial means to include, without limitation: unenclosed connections; connections that lack a roof or floor; connections that are not heated, ventilated or air conditioned in the manner of the main structure; connections that lack substantial structural elements that are present in the main structure; connections that lack a foundation or footing; connections that serve no significant purpose other than as a walkway; connections that are significantly smaller in any dimension than the connected parts; and connections that allow for motor vehicles to drive through the connection.

Among other purposes, this distinction between a construction that constitutes one or more than one structure, is intended to require each single family residential principal structure to have a single, integrated, configuration of living area, and to prohibit the appearance of being multiple connected residential units.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. 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.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 17th day of February 2014.

VILLAGE OF OCONOMOWOC LAKE



Joseph Birbaum, Village President

ATTEST:



Cindy J. Schieve, Village Clerk

Published and/or posted this 21st day of February, 2014.

Typographical corrections made. Re-posted this 6th day of May, 2014

Comments:

This ord. needed typographical corrections. Corrected Ord. was posted on 05-06-2014

ORDINANCE NO. 274

AN ORDINANCE TO REPEAL AND RE-CREATE THE DEFINITION OF "STRUCTURE" WITHIN THE VILLAGE OF OCONOMOWOC ZONING CODE

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WHEREAS, upon receipt of the Village Attorney's recommendation, the Village Board initiated this amendment to the Village of Oconomowoc Lake Village Code and referred the matter to the Village Plan Commission for report and recommendation; and

WHEREAS, upon receipt of the Village Plan Commission's recommendation, the Village Board of Trustees held a public hearing on February 17, 2014, after providing all required notice, as required by §17.62(5)(a) of the Village of Oconomowoc Lake Village Code; and

WHEREAS, the Village Board for the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good zoning practice requires the Village Board to amend, change or supplement the regulations established by the Village of Oconomowoc Lake Zoning Code as described herein.

NOW, THEREFORE, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

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2. Constructed or erected at grade, or
3. Attached to something constructed or erected on the ground.

Unless specifically excluded hereinafter, examples of structures shall include but are not limited to:

1. Principal structures
2. Accessory structures
3. Nonconforming structures
4. Legal Nonconforming structures

*Comments:
This version had typos.
Was revised and reposted
on 05-06-2014*

Also included in the definition of structures are buildings of all types including prefabricated or pre-built buildings.

Specific examples of structures shall include but are not limited to:

1. Gazebos
2. Screen enclosures
3. Statuary in excess of 6 feet in height or 4 feet in width
4. Fences
5. Decks
6. Handrails
7. Lean-tos
8. Silos
9. Carports
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13. Machinery
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15. Walls
16. Retaining walls two (2) feet or greater above grade. (For this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated.) Notwithstanding the foregoing, a retaining wall is not a structure if it is approved pursuant to Section 17.31(4) of this Code.
- ~~17. Swimming pools and ponds~~

Structures shall not include:

1. Decks and patios more than 75 feet from the water at grade or less than 8 inches above the original grade.
2. Not more than 1 deck or patio 75 feet or less from the water at grade or less than 12 inches above the original grade and less than 300 square feet in size as long as said deck or patio does not have any railings and is screened with natural materials when viewed from the lake.
3. Statuary 6 feet or less in height or 4 feet or less in width,
4. Retaining walls less than two (2) feet above grade, for this purpose, the vertical rise of walls with less than two (2) horizontal feet of planting area between them shall be cumulated.
5. Seawalls or rip rap at the shoreline which have been approved by the Wisconsin Department of Natural Resources, and
6. Stairways not in excess of four (4) feet in width together with associated handrails and landings not in excess of thirty-six (36) sq. feet where such stairways are necessary to provide convenient access to the shoreline.

Whether a construction constitutes one or more than one structure shall be determined by the Zoning Inspector based upon the above-ground elements.

The rule shall be: **If there is a separation or connection between the above-ground elements so that they appear to be separate structures, the above-ground elements shall be regulated as separate structures, and such separate structures are restricted or prohibited as regulated herein.**

This shall be true even if the above ground elements are connected below ground, or by insubstantial means that do not dispel the above ground appearance of separate structures.

Insubstantial means to include, without limitation: unenclosed connections; connections that lack a roof or floor; connections that are not heated, ventilated or air conditioned in the manner of the main structure; connections that lack substantial structural elements that are present in the main structure; connections that lack a foundation or footing; connections that serve no significant purpose other than as a walkway; connections that are significantly smaller in any dimension than the connected parts; and connections that allow for motor vehicles to drive through the connection.

Comments:

This version had typos
was revised and reposted
on 05-06-14

Among other purposes, this distinction between a construction that constitutes one or more than one structure, is intended to require each single family residential principal structure to have a single, integrated, configuration of living area, and to prohibit the appearance of being multiple connected residential units.

~~Swimming pools and ponds shall in all instances be considered separate structures regardless of the manner in which they are contained or connected to the footings or foundations of the main structure unless the swimming pool and/or pond are completely enclosed in the main structure.~~

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. 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.

SECTION 3: EFFECTIVE DATE.

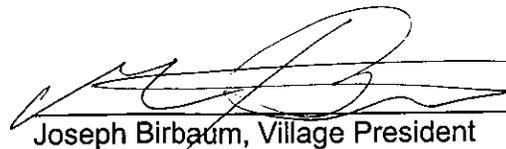
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Dated this 17th day of February 2014.

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VILLAGE OF OCONOMOWOC LAKE


Joseph Birbaum, Village President

ATTEST:


Cindy J. Schlieve, Village Clerk

Published and/or posted this 21st day of February, 2014.

Typographical errors "X'd out. New original signed and posted. 05/06

