

ORDINANCE NO. 313

AN ORDINANCE TO REGULATE
PATHS, SIDEWALKS AND/OR STAIRWAYS AND/OR ANY COMBINATION OF THE SAME
IN THE VILLAGE OF OCONOMOWOC LAKE
AND TO REPEAL AND RECREATE THE DEFINITION FOR STRUCTURE TO BE INSERTED INTO SECTION 17.10
AND TO REPEAL AND RECREATE SECTION 17.3 ENTITLED MODIFICATIONS,
SUBSECTION 2 ENTITLED YARDS; OFFSET SUBSECTION (d)
AND TO REPEAL AND RECREATE OTHER SECTIONS IN THE SPECIFIC ZONING DISTRICTS
DEALING WITH ACCESSORY STRUCTURE LOCATION
OF THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE

WHEREAS, an issue has arisen as to how to regulate paths to the lake;

WHEREAS, the Village Board has initiated this Zoning Code Amendment pursuant to Section 17.62(2) of the Village of Oconomowoc Lake Zoning Code; and

WHEREAS, the Village Board has referred the matter to the Village Plan Commission for report and recommendation and has received the recommendation of the Plan Commission; and

WHEREAS, upon notice as required by law, the Village Board held a public hearing regarding this Ordinance on June 20, 2022; and

WHEREAS, the Village Board finds that this change to the Village Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the supermajority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this Ordinance; and

WHEREAS, upon consideration of the recommendations found by the Village of Oconomowoc Lake Plan Commission, and all of the information received at the public hearing, and being fully advised, and for the purpose of promoting the health, safety, morals and general welfare of the community, and to provide a safe and efficient system for pedestrian and vehicular traffic, attractive recreational and landscaped open spaces, economic design and location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning; and to zone the land in accordance with the Village of Oconomowoc Lake Comprehensive Plan, and other purposes of the Village of Oconomowoc Zoning Code, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin hereby adopt the recommendation of the Village of Oconomowoc Lake Plan Commission.

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

Section 1: The definition of STRUCTURE in SECTION 17.10 entitled Definitions is hereby repealed and recreated to read as follows: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.
17. All paths, sidewalks and/or stairways and/or any combination of the same whether permeable or impermeable located between the main building and the high-water mark more than 6 feet in width.

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. Not more than 1 path, sidewalk and/or stairway and/or any combination of the same whether permeable or impermeable per property located between the main building and the high-water mark 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 path, sidewalk and/or stairway and/or any combination of the same are necessary to provide convenient access to the shoreline subject to approval of the Zoning Administrator, issuance of a permit and payment of applicable fees. Please see the individual zoning districts for additional information on regulation of paths, sidewalks and/or stairways and/or any combination of the same, and
 7. All paths, sidewalks and/or stairways and/or any combination of the same whether permeable or impermeable located within 25 feet of the main building.

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 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 may be 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 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 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: Section 17.36 of the Village of Oconomowoc Lake Zoning Code entitled, "R-1 General Agriculture/Rural Residential District," Subsection (4) entitled, "Structure, Accessory," Subsection (g) entitled, "Accessory Structure Location," is hereby repealed and re-created as follows:

(g) Accessory Structure Location.

An accessory structure shall be located only in the area behind the main building as it relates to any high water except accessory

structures between the main building and the high-water mark of a channel connected to the Oconomowoc Lake if the accessory structure is at least 200 feet from high water mark of Oconomowoc Lake, and except the following.

An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high-water mark or the offset areas of the main building, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.
2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.
3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.
4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.
5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.
6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.
7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or

any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

SECTION 3: Section 17.37 of the Village of Oconomowoc Lake Zoning Code entitled, "R-2 Suburban Residential District," Subsection (4) entitled, "Structure, Accessory," Subsection (g) entitled, "Accessory Structure Location," is hereby repealed and re-created as follows:

(g) Accessory Structure Location

No accessory structure shall be located between the main building and the high-water mark nor in the offset areas of the main building, except the following.

An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high-water mark or the offset areas of the main building, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.
2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.
3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.
4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

SECTION 4: Section 17.38 of the Village of Oconomowoc Lake Zoning Code entitled, "R-3 Low Density Residential District," Subsection (4) entitled, "Structure, Accessory," Subsection (g) entitled, "Accessory Structure Location," is hereby repealed and re-created as follows:

(g) Accessory Structure Location

No accessory structure shall be located between the main building and the high-water mark nor in the offset areas of the main building, except the following.

An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high-water mark or the offset areas of the main building, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 75 feet of the ordinary high-water mark of Oconomowoc Lake.
2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.
3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.
4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.
5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.
6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.
7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass, subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.
2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths,

sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

SECTION 5: Section 17.385 of the Village of Oconomowoc Lake Zoning Code entitled, “R-4 Low Density Residential District,” Subsection (4) entitled, “Building, Accessory,” Subsection (f) entitled, “Accessory Structure Location,” is hereby repealed and re-created as follows:

f) Accessory Structure Location.

Accessory Structure Location. No accessory building shall be located between the main building and the high-water mark or on an outlet (“outlet” being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation), except the following. An in-ground pool and associated fencing, and an Outdoor Cooking Facility as defined herein may be located between the main building and the high-water mark, subject to the following restrictions.

1. In ground pools and associated fencing and Outdoor Cooking Facilities are prohibited within 50 feet of the ordinary high-water mark of Oconomowoc Lake.
2. In ground pools and associated fencing and Outdoor Cooking Facilities are only permitted in locations where a principal structure could lawfully be located in compliance with this Zoning Code.
3. The total square footage of Outdoor Cooking Facilities shall not exceed 120 square feet.

4. No part of the Outdoor Cooking Facility shall exceed 6 feet in height, except that the chimney for the cooking device may be up to 12 feet in height.

5. The Outdoor Cooking Facility shall not be further than 50 feet from the footprint of the existing principal structure.

6. In ground pools and associated fencing and Outdoor Cooking Facilities located in a side yard cannot be located closer than 30 feet to an existing structure that is located on an adjacent lot.

7. These limitations shall not be interpreted to prohibit construction that is part of the principal structure, including construction in the area defined by the footings of the principal structure.

Paths to the Lakeshore.

1. Other than the 1 path, sidewalk and/or stairway and/or any combination of the same allowed under the definition of structure, not more than 1 additional path, sidewalk and/or stairway and/or any combination of the same between the main building and the high-water mark 6 feet in width or less if the same is constructed of permeable materials 50% of which has to be grass subject to the approval of the Zoning Administrator, issuance of a permit and payment of all applicable fees.

2. In addition to the 2 paths, sidewalks and/or stairways and/or any combination of the same allowed by right, additional paths, sidewalks and/or stairways and/or any combination of the same located between the main building and the high-water mark 4 feet in width or less whether permeable or impermeable, are allowed with Plan Commission approval on lots with over 200 feet of water frontage, issuance of a permit and payment of all applicable fees. In determining whether to allow additional paths, sidewalks and/or stairways and/or any combination of the same the Plan Commission is to look to whether:

- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not contrary to the public interest; and
- The property has a special or unique condition; and
- The proposed additional path, sidewalk and/or stairway and/or any combination of the same is not objectionable from the lake.

SECTION 6: Section 17.31 of the Village of Oconomowoc Lake Zoning Code entitled "MODIFICATIONS", Subsection (2) entitled, "YARDS; OFFSET", Subsection (d) is hereby repealed and re-created as follows:

17.31 (2)(d) Essential services, utilities, electric power and communication transmission lines are exempt from the offset and distance requirements of this chapter. Landscaping and vegetation are exempt from the offset and setback requirements of this chapter unless otherwise regulated by this chapter.

Section 7: 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 ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Section 8: EFFECTIVE DATE

This Ordinance shall take effect and be enforced from and after its passage and publication as provided by law.

Dated this 20th day of June, 2022

VILLAGE OF OCONOMOWOC LAKE



Michael J. Bickler, Sr., Village President

ATTEST:



Teri Sayles, Village Clerk