
**SECTION 10 NONCONFORMING USES, STRUCTURES AND LOTS
ACCESSORY USES**

10.1 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

- a. Only That Portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- b. Total Lifetime Structural Repairs or alterations shall not exceed fifty percent (50%) of the market value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Ordinance.
- c. Substitution of New Equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

10.2 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty percent (50%) of its current market value, it shall not be restored, except so as to comply with the use provisions of this Ordinance.

A Current File of all nonconforming uses shall be maintained by the Town Clerk listing the following: Owner's name and address; use of the structure, land, or water; and assessed value at the time of its becoming a nonconforming use.

10.3 Existing Nonconforming Structures.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

10.4 Changes and Substitutions

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Zoning Appeals.

10.5 Substandard Lots

In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds Office before the effective date or amendment of this Ordinance.

Such Lot or Parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical, but shall not be less than the following, except where the Department of Natural Resources require more:

<u>Lot</u>	Width	Minimum sixty feet (60')
	Area	Minimum 12,000 square feet
<u>Build i ng</u>	Area	Minimum 1,000 square feet
	Height	Maximum thirty-five feet (35')
<u>Yards</u>	Street	See Section 8.5, Special Setbacks
	Rear Side	Minimum twenty-five feet (25')
		Minimum not less than eight feet (8')

If a substandard lot was created by a transfer of any kind from abutting lands, this section shall not apply.

10.6 Moving Buildings

No buildings or other structure that is devoted in whole or in part to a nonconforming use shall be moved, in whole or in part for any distance whatever, to any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being so moved. Moreover, no nonconforming use of land shall be moved, in whole or in part for any distance whatever, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

10.7 Nonconforming Accessory Uses

No nonconforming accessory use shall continue after the principal use to which it is accessory has been abolished.

10.8 Accessory Uses

- a. Purpose. The uses of land, buildings, and other structures permitted in each district are determined by the list of permitted uses for such district. In addition to such listed permitted uses, it is customary to allow certain accessory uses. This section defines generally the types of accessory and temporary uses, which will be allowed and gives certain specific examples of each.

- b. General Permitted Uses. Accessory uses are permitted in any district in connection with any use, which is permitted within such district. An accessory use is a building or use which:
- (1) Is subordinate to and serves a principal building or a principal use;
 - (2) Is subordinate in area, extent, or purpose to the principal building or principal use served;
 - (3) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served;
 - (4) Is located on the same premises as the principal building or principal use served.
- c. Specific Regulations. An accessory building or use includes, but is not limited to, the following; provided, however, that all of the specific uses must also fit the general definition of "general permitted uses" in this section.
- (1) Private one story garage, carport or accessory use structures shall not exceed the following limitations:
 - (a) For a single-family residence: A garage or accessory use structure shall not exceed fifteen hundred (1500) square feet.**
 - (b) For parcels or lots five (5) acres or greater in area, private garages, carports or accessory use structures shall not exceed three thousand (3000) square feet.**
 - (c) The Town Board may approve accessory use structures that exceed the limitations provided above by conditional use permit pursuant to the procedure and standards set forth in section 6 of this code.
 - (d) A conditional use permit, as governed by Chapter 6 of the Zoning Code, and authorizing greater private garage, carport or accessory use structure square footage shall be granted, granted with conditions, or denied based upon the consideration of the following factors: Proximity to adjacent lots, impact on storm water drainage, potential impacts on other utilities, impact to surrounding land uses, and physical characteristics of the proposed private garage, carport or accessory use structure, including size and compatibility with the principal dwelling.

** Square footage is determined by adding all accessory use structures in their entirety. This includes all sheds, garages, gazebos, etc.

- (f) For a multi-family residence: Two cars per dwelling unit that shall not exceed six hundred (600) square feet per unit.
- (2) A shed or building for storage incidental to a permitted use, provided that such shed shall not exceed two hundred (200) square feet and shall have a maximum height of twelve (12) feet. The shed shall be constructed on a four (4) inch concrete slab and the walls shall be bolted down with at least 3/8" bolts imbedded in said concrete. Structures which have less than fifty cubic feet (50') of interior space are exempt from the requirements of this subsection.
- (3) A child's playhouse.
- (4) Private swimming pool and bath house.
- (5) Statuary arbors, trellises, barbecue stoves, flag poles, fences, walls, and hedges.
- (6) Outdoor storage, except as specifically permitted by the district regulation, is prohibited.
Outdoor Furnaces. Outdoor furnaces means a furnace, stove, or boiler that is not located within a building intended for habitation by humans or domestic animals, and that burns wood, wood pellets, corn, or similar material.
- (7)

(a) Exclusions. This section does not apply to: Grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling appliances; burning in a stove, furnace, fireplace, or other heating device within a building used primarily for human or animal habitation; the use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating, construction or maintenance activities.

- (b) Regulation. An outdoor furnace may be installed and used in the Town only in accordance with the following provisions:
1. Building Permit. The owner of the outdoor furnace shall obtain a building permit pursuant to Chapter 8 of this Municipal Code. Any violation of this subsection shall void the permit.
 2. Emission Standards. The outdoor furnace shall meet all emission standards required by the Environmental Protection Agency (EPA) and the Underwriter's Laboratory (UL) listing. This documentation must be provided at the time the building permit is applied for.
 3. Location. The outdoor furnace shall be located at least two hundred feet (200') from the nearest building, which is not on the same property as the outdoor furnace; at least one hundred feet (100') from the side or rear lot line; and not in a front or street yard.

4. Chimney. The outdoor furnace shall have a chimney that extends at least fifteen feet (15') above the ground surface. If there are any residences within two hundred fifty feet (250'), the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Building Inspector may approve a lesser height on a case-by-case basis, if necessary, to comply with manufacturer's recommendations and, if the smoke from the lower chimney height does not create a nuisance for neighbors.
 5. Prohibited Time. The outdoor furnace may not be in operation from May 1 through October 31.
 6. Other Restrictions. The Building Inspector may impose additional restrictions deemed necessary to protect public health and safety.
- (c) Materials That May Not Be Burned. An outdoor furnace shall not be used to burn any of the following materials:
1. Rubbish or garbage, including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes.
 2. Waste oil or other oily wastes, except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
 3. Asphalt and products containing asphalt.
 4. Treated or painted wood including but not limited to plywood, composite wood products, or other wood products that are painted, varnished, or treated with preservatives.
 5. Any plastic material, including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics.
 6. Rubber, including tires and synthetic rubber-like products.
 7. Newspaper, corrugated cardboard, container board, office paper, and similar materials.
- (d) Right of Entry and Inspection. The Building Inspector, or any authorized Town officer, agent, employee, or representative who presents credentials, may inspect any property for the purpose of ascertaining compliance with the provisions of this subsection. If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with Wis. Stat. § 66.0119."
- d. Bulk Regulations. All accessory uses shall comply with the bulk regulations of the district in which they are located, except the following are permitted in all yards: open terraces not covered four feet (4') above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch, awnings and canopies; steps four feet (4') or less

above grade, which are necessary for access to a permitted building or for access to a lot from a street or alley; one (1) story bay windows and overhanging eaves and gutters projecting thirty inches (30") or less into the yard; chimney projections thirty inches (30") or less into the yard; arbors and trellises; flag poles, signs, recreation and laundry drying equipment; lights, pillars, planters, posts, fountains and other water features, provided they are set back at least two feet (2') from the property line.

- e. Standards. All accessory uses shall comply with all standards applicable to the district in which they are located, and with the following additional standards.
- (1) No accessory building or structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal building to which it is accessory.
 - (2) No part of any accessory building shall be located closer than five feet (5') from any side or rear property line, nor closer than ten feet (10') to any main building, unless it is attached to or forms a part of such main building.
 - (3) No accessory use shall be permitted in any required front yard unless it is a permitted obstruction within the meaning of Section 10.8, d., above.
 - (4) Garage or car port shall not exceed twenty (20) feet in height.
- f. Conditional Use Permit. A conditional use permit may be issued pursuant to Section 6 of this Ordinance allowing a two-story garage or carport.
- (1) Said permit may be issued upon compliance with all the requirements of this Ordinance, including the particular district said lands are located in and of this section and Section 6.
 - (2) Said permit may, among other things, restrict the use of construction material of the requested accessory structure (see 6.5).
 - (3) Failure to comply with the restrictions of any conditional use permit issued under this Ordinance may result in the termination of the permit and removal of the structure and other improvements associated therewith, in addition to any penalties provided by law.
 - (4) All other provisions of this Ordinance shall be observed with the granting of a conditional use permit, including height limitations of each district.

10.9 Swimming Pools

- a. Definitions:
- (1) Aboveground pool-type O: A removable pool of any shape that has a minimum water depth of thirty-six inches (36") and maximum water depth of forty-eight inches (48"). The wall is located on the surrounding earth and may be readily disassembled or stored and reassembled to its original integrity.

- (2) Hot tub: A spa constructed of wood with sides and bottoms formed separately, joined together by pressure from surrounding hoops, bands or rods, as distinct from spa units formed of plastic, concrete, metal or other materials.
- (3) In ground pool: A permanently installed swimming pool that is constructed in the ground, out of doors or in a building in such a manner that it cannot be readily disassembled for storage.
- (4) On ground residential swimming pool-type O: A removable pool package whose walls rest fully on the surrounding earth and has an excavated area below the ground level where diving, diving equipment and use of a water slide are prohibited. The floor slope adjacent to the shallow area shall have a maximum floor slope of 1:3, and the slope adjacent to the sidewalk shall have a maximum slope of 1:1.
- (5) Spa, permanent residential: A spa in which the water heating and water-circulating equipment is not an integral part of the product. The spa shall be intended as a permanent plumbing fixture.
- (6) Spa, residential portable, either self-contained or not self-contained:
 - (a) Self-contained spa: A spa in which all control, water heating and water circulating equipment is an integral part of the product.
 - (b) Non self-contained spa: A spa in which the water heating and water circulating equipment is not an integral part of the product. Non self-contained spas may contain separate components such as an individual filter, pump, heater and controls or they may employ assembled combinations of various components.
- (7) Swimming pool, in ground residential: A constructed pool, permanent or non-portable, that is intended for non-commercial use as a swimming pool by not more than three (3) owner families and their guests, over twenty-four inches (24") in depth, has a surface area exceeding 250 square feet and/or a volume over 3,250 gallons.
- (8) Type O: Any residential pool where the installation of diving equipment is prohibited.
- b. Permit Required: No in ground pool, nor on ground residential swimming pool, as defined above, shall be constructed, altered, remodeled or improved unless a permit therefore shall first be obtained from the building inspector.
- c. Submission of Plans: Plans and specifications for swimming pools which require a permit shall be submitted with the application for the swimming pool permit and shall include:
 - (1) plans, including a profile, drawn to scale showing all dimensions;
 - (2) equipment, layout of filters, pumps, strainers, sumps, gutters, skimmers, inlets, outlets, waste discharge lines, circulations and other piping;
 - (3) type, care and description of chlorination;
 - (4) capacity of pool;

- (5) proposed location on tract of land.

d. Design and Construction:

- (1) The material used for lining aboveground pools, in ground pools and on ground residential swimming pools shall be light in color and provide a tight tank with smooth and easily cleaned surfaces.
- (2) The walls of aboveground pools, Inground pools and on ground residential swimming pools shall be vertical. Conspicuous markings shall show the depth of the shallow and deep portions, and the location and depth of the points where the slope of the bottom of the pool changes.
- (3) Overflow gutters for swimming pools whose construction provides for said gutters shall completely surround the pool, provided that if such pool is less than thirty (30) feet in width, it may be provided with a skimmer built in to the sides and corners of the pool to take the place of gutters if approved by the building inspector.
- (4) Pools under thirty feet (30') in width shall have at least one (1) outlet at the deepest point of sufficient size to permit the pool to be completely emptied in eight (8) hours. Inlets shall be located to make possible a uniform circulation of water throughout the pool.
- (5) Inground pools shall be completely surrounded by a walkway.
- (6) Aboveground pools, Inground and on ground residential swimming pools shall provide for a complete recirculation of water through all parts of the pool.
- (7) Disinfecting equipment shall be adequate to conform to sanitary requirements.

e. Barrier Protection Requirements:

- (1) Walls, fences and structures as barrier protection. Barrier walls and fences may be stand alone walls and fences or may be in combination with a structural pool, spa or hot tub walls, or a building/dwelling wall to form the barrier around the swimming pool, spa or hot tub.
 - (a) Dimensions: The top of the wall/fence shall be at least forty-eight inches (48") above grade measured on the side of the wall/fence which faces away from the swimming pool, spa or hot tub. The maximum vertical clearance between grade and the bottom of the wall/fence shall be four inches (4").
 - (b) Chain link fence: Where a chain link fence is provided as the barrier, the perpendicular distance between parallel sides of the link shall not exceed two and one-quarter inches (2-1/4") which corresponds to a two and one-quarter inches (2-1/4") mesh size or chain link fencing as contained in specification for residential fencing of the Chain Link Fence Manufacturer's Institute.
 - (c) Picket/ornamental fence: Where a picket/ornamental fence is provided as the barrier, the horizontal open air spacing between pickets shall be a maximum of four inches (4") between all vertical pickets and support posts. Where a picket/ornamental type fence is provided, the maximum vertical

opening between the grade and the lowest part of the horizontal bottom rail or pickets of the fence shall not exceed four inches (4"). Decorative detail shall not provide climbability. Minimum openings between decorative detail shall be one and three-quarter inches (1-3/4") or greater.

- (d) Spacing, less than forty-five inches (45"): Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-five inches (45"), the horizontal member shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed one and three-quarters inches (1-3/4") in width. Decorative cutouts shall not exceed one and three-quarters inches (1-3/4") in width.
- (e) Spacing, more than forty-five inches (45"): Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-five inches (45") or more, spacing between vertical members shall not exceed four inches (4"). Decorative cutouts shall not exceed one and three-quarters inches (1-3/4") in width.

Pedestrian access gates: Access gates in the barrier shall comply with the requirements of Section 10.9(e), and be self-closing, self-latching, accommodate a locking device, and open outward away from the pool, spa or hot tub except where natural topography or other conditions dictate that it open inward.

- (a) Latch Release. Release of the latch on the self-latching device for the gate shall be activated as follows: a height no less than fifty-four inches (54") above grade for chain link access gates and at a height no less than fifty-four inches (54") above the horizontal bottom rail of a picket/ornamental access gate, or; on the pool, spa or hot tub side of the gate at a distance no less than three inches (3") below the top of the gate.
- (b) Self-latching devices. Where a self-latching device is also self-locking and is opened by means of a key, electronic opener, or integral combination lock, it may be located at any height on the gate, so long as it does not negate the function of the gate. Said gate need not comply with Section (d) below:
- (c) Chain link access gate: Where the gate is a chain linked gate, and where the release of the self-latching device is activated in accordance with (c), there shall be no opening greater than one-half inch (1/2") in diameter within eighteen inches (18") where the latch release is activated when the gate is closed.
- (d) Picket/ornamental access gate: Where the gate is a picket/ornamental type, such that the distance between the vertical members is greater than one and three-quarter inches (1 -3/4"), and where the release of the self-latching device is activated in accordance with section 2(b) above, there shall be no opening the gate/fence greater than one-half inch in diameter within eighteen inches (18") of where the latch release is activated when the gate is closed.

Other access gates: Gates other than pedestrian access gates need not have a self-closing, self-latching feature, but shall be provided with the means to secure the gate when it is not in use.

- f. Pool Wall as Barrier for Aboveground/On ground Pools:
- (1) Pool Wall. An aboveground, on ground pool wall itself may be the barrier if the pool structure is on grade and the wall is at least forty-eight inches (48") in height. Other types of barriers can be mounted on the pool structure or can be a barrier that surrounds the pool at ground level. Where the barrier is mounted on the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four inches (4").
 - (2) Ladders or Steps. Where an aboveground/on ground pool structure is used as a barrier, or where the barrier is mounted on the pool structure, and the means of access to the pool is a ladder or steps, then
 - (a) the ladder or steps shall be capable of being secured, locked or removed to prevent access, or
 - (b) the ladder or steps shall be surrounded by a barrier which meets the requirements of section e., or
 - (c) a lockable and self-closing and self-latching gate at deck level shall be provided.
 - (3) Fence Rail Mounted on Top of Forty-eight Inch Aboveground/On ground Pool Wall Structure. Where provided, the top rail of a pool fence, deck fence, patio fence, walkaround fence and gate, mounted on top of a pool structure or deck of an aboveground/on ground pool which is in conformance with section f(1) shall be a minimum of thirty-six inches (36") above the deck surface.
 - (a) Picket/ornamental type fence. Where a picket/ornamental type fence is provided, maximum open air spacing between all vertical pickets and support posts (vertical) and between the top rail of the pool and the lower horizontal bottom rail of the fence shall not exceed four inches (4"). A sphere greater than four inches (4") shall not pass through openings in the fence.
 - (b) Visibility. Where fencing is required and/or provided with the pool or deck, the fencing shall have at least sixty-five percent (65%) open area to allow visibility from outside to inside the pool area.
 - (4) Deck. Where an aboveground/on ground pool has a deck which abuts or is adjacent to a dwelling and direct access to the deck is through the exterior wall of the dwelling, such access shall be in accord with section g.
- g. Wall of Building with Three-sided Fencing as Barrier. The wall of a building/dwelling may be used to form the barrier or part of the barrier as provided herein. Section e. shall apply to all residences with a swimming pool, spa or hot tub when a wall of a building/dwelling serves as a barrier to said swimming pool, spa or hot tub.
- (1) Doors. Doors in the wall of a building/dwelling which allow direct access through the wall to the pool, spa or hot tub area must be provided with one of the following - an alarm capable of detecting unauthorized entry through a door into the pool, spa or hot tub area and which when activated, emits a sound of sufficient volume to be

heard in the building/dwelling. The audible warning, at no less than 85 dB, shall commence not more than seven (7) seconds after the door and/or its screen, if present, are open and shall sound continuously for a minimum of thirty (30) seconds, or - as a self-latching device on a self-closing door which is either fifty-four inches (54") above floor level or at any convenient height if the device uses a key, electronic opener or integral combination lock so long as it does not negate the function of the door.

- h. Windows. Windows in the wall of the building/dwelling which allow direct access to the wall to the pool, spa or hot tub area, and are located four feet (4') or higher above the floor level, and where there is no foothold in the building/dwelling wall, shall be exempt and considered equivalent protection to the barrier set out in section e. Windows in the all of the building/dwelling which allow direct access through the wall to the pool, spa or hot tub area and where the lowest opening is at a height of less than four feet (4') above floor level shall comply with one of the following requirements:
 - (1) Window guards, screens or other means of equal protection, shall limit access such that there are no openings large enough to allow a four inch (4") sphere to pass through, or
 - (2) Windows shall be fixed in such a way that they will not open sufficiently far to create a gap which will allow a four inch (4") sphere to pass through or
 - (3) The lowest opening panel of a window shall be located not less than four feet (4') above the floor and there shall be no footholds wider than 4/1 0th's of an inch on the internal wall down to approximately three and one-half feet (3-1/2') below the lowest opening panel.
- i. Safety Cover for Spa/Hot Tubs as a Barrier. A safety cover for a hot tub or spa which complies with ASTM F 13.46 (1991) is acceptable.
- j. Automatic Power Safety Cover for Swimming Pools as a Barrier. An automatic power safety cover for a swimming pool which complies with ASTM F 13.46 (1991) is acceptable.
- k. Natural Topography as a Barrier. Natural topography which prevents direct access to swimming pool, spa or hot tub areas shall include, but not be limited to, mountains and natural rock formations. A natural barrier shall be approved by the building inspector so long as the degree or protection is not less than the protection afforded by manufactured or constructed means.
- l. Screen Enclosure as Barrier. Screen enclosures that meet or exceed the door, wall, fence and gate requirements of this code are acceptable.
- m. Other Layers of Protection as a Barrier: Other means of protection shall not be used unless demonstrated to provide an equivalent level of protection as approved by the building inspector.
- n. Clear Zone. There shall be a clear zone of at least four feet (4') between the barrier for or on a pool, spa or hot tub and any permanent structures or pool equipment, such as pumps, filters, heaters and similar equipment which can be used to climb the barrier.
- o. Supplemental Layers of Protection-Indoor Swimming Pools, Spas and Hot Tubs. A residential indoor swimming pool, spa or hot tub shall be provided with the means or combination of means to exclude children from the pool, spa or hot tub area and which shall comply with sections i., j. and k.

10.10 Garage Sales

- a. Definitions. "Garage sale", also known as yard sale, tag sale, alley sale, means a sale of miscellaneous household or personal articles, such as furniture, tools, or clothing, held on the seller's own premises. A sale conducted on any three (3) consecutive days, or portions thereof, shall be considered one (1) garage sale. [For example, a sale conducted on a consecutive Thursday, Friday, and Saturday shall be considered one (1) garage sale, while a sale conducted on a consecutive Thursday, Friday, Saturday and Sunday shall be considered two (2) garage sales.]

- b. Number Restricted. No person or group of persons may conduct, carry on, operate or run more than six (6) garage sales as defined in Sec. a. above upon the person or groups' premises in any calendar year. In addition, no person or group of persons may conduct, carry on, operate or run more than one (1) garage sale on any premise in any thirty (30) day period of time.

- c. Penalty. The penalty for violation of this section shall be a penalty as provided in Section 11.04(1) of this Code.