

**ORDINANCE 2020-05**

**AN ORDINANCE REPEALING AND RECREATING SECTION 315-21, POOLS AND SPAS, OF CHAPTER 315, ZONING, RELATING TO THE HEALTH, SAFETY AND WELFARE OF ALL INDIVIDUALS AND TO PROVIDE LAND USE CONTROLS IN THE VILLAGE**

**THE VILLAGE BOARD OF THE VILLAGE OF DENMARK, BROWN COUNTY, WISCONSIN DOES ORDAIN THAT SECTION 315-21 BE CREATED TO READ AS FOLLOWS:**

**§315-21. Swimming pools, hot tubs, spas and ponds.**

All swimming pools or spas as defined by this chapter are accessory structures and shall meet all the following requirements of this section. This includes pools, hot tubs or spas intended as a permanent installation and pools and spas that will be used only for temporary use and are not intended for permanent installation.

- A. Purpose. The purpose of this section is to provide for the health, safety and welfare of all individuals and to provide land use controls in the Village.
- B. Application. This section shall apply to all new, remodeled, altered and relocated private swimming pools, hot tubs, spas and ponds.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated.

**BACKYARD POND or LANDSCAPE POND**

Any naturally occurring or manmade depression in the ground containing or detaining water, either temporary or permanent, which is 18 inches or greater in depth and is used for the purpose of a fishpond or landscape water garden. This definition does not include retention or detention ponds used for a stormwater management plan required by the Village.

**POND**

A backyard pond and/or a landscape pond.

**PORTABLE SWIMMING POOL**

A container of water less than 18 inches in depth that can be readily disassembled for storage and assembled to its original integrity.

**PUBLIC SAFETY**

Rules and regulations designed to protect individual members of the public from death or injury. In this ordinance specifically fences and covers designed to prevent unwanted entry to a swimming pool, hot tub, spa or landscape pond.

**SPA or HOT TUB**

A hydro massage pool or tub for recreational or therapeutic use designed for immersion of users which may or may not have a filter, heater and motor driven blower.

**SWIMMING POOL**

Any depression in the ground, either temporary or permanent, either above ground or below ground, which is used primarily for the purpose of wading or swimming, which shall cause retaining of water over a depth greater than 18 inches and/or having a larger plane surface greater

than 150 square feet. For this definition, temporary means installed for seven days or less, and permanent means installed for more than seven days.

**D. Permit required.**

Before commencing the construction and installation of a swimming pool, hot tub, spa, or pond, a permit authorizing such construction must be obtained from the building inspector. A fee will be required for the permit. Permit applications shall be made on a form furnished by the Village and shall be accompanied by fully dimensioned plans showing the following information:

- (1) Location of swimming pool, hot tub, spa or pond on the lot showing the distance from property lines, easements and structures;
- (2) Location of overhead and/or underground wiring in relation to swimming pool, hot tub, spa or pond;
- (3) Dimensions and depth of swimming pool, hot tub, spa or pond;
- (4) Type, location and height of fence either if existing or proposed; and
- (5) Type, dimensions and location of deck if proposed.

**E. General requirements.**

- (1) Swimming pools, hot tubs, spas and ponds shall not be allowed in the front yard and interior side yard building setbacks of interior lots.
- (2) Interior side yard and rear yard setbacks for swimming pools, hot tubs, spas and ponds shall be a minimum of ten feet measured from the property line. In determining the setback permanent fencing, decks or similar surfaces shall be considered part of the swimming pool, hot tub, spa or pond.
- (3) Swimming pools shall not be located closer than five feet to any structure other than a deck.
- (4) Swimming pools, hot tubs and spas shall not be located in utility or drainage easements and shall not be located in a conservancy.
- (5) All plumbing shall meet the requirements of the state plumbing code SPS 382.85.
- (6) All electrical work shall meet the requirements of the state electrical code, SPS 316 and the National Electrical Code.

**F. Fence requirements.**

- (1) A fence of not less than four (4) feet in height, measured from grade, with clear zone distance of 3 feet beyond the fence without encroachment by pumps, sloping grade or the like shall completely enclose all swimming pools, hot tubs, spas and ponds with the following exceptions:

- (a) Hot tubs and spas with a lockable safety cover that can be fastened and key locked when unattended and shall be able to withstand 150 pounds.
  - (b) Swimming pools with a powered safety cover that complies with safety standard ASTM F1346-91.
  - (c) Where decks surround or adjoin an aboveground swimming pool, hot tub, spa or pond, a three-foot minimum height guardrail mounted to and measured from the deck surface to the top of the guardrail will be considered as meeting the fencing requirements as long as the design and construction regulations of this section are complied with and the overall vertical measurement from grade (ground) level to the top of the guardrail is a minimum height of four feet. Sides of stairs and gates leading to a deck shall also comply with the requirements of this section. Interior side yard and rear yard setbacks for a detached deck surrounding a swimming pool, hot tub or spa shall be measured ten feet from the property line.
  - (d) Ponds may be exempt from the fence requirements if an approved wire screen, mesh or grate is placed and maintained three to four inches below the waterline of sufficient strength to withstand a weight of 100 pounds.
- (2) Fences shall be located a minimum of five (5) feet beyond the outside perimeter of a swimming pool, hot tub, spa or pond.
  - (3) Fences shall not be greater than eight feet in height.
  - (4) The vertical clearance between grade and the bottom of the fence shall not exceed two inches for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the fence away from the swimming pool, hot tub, spa or pond.
  - (5) The vertical clearance between a surface below the fence to a solid surface, such as concrete, and the bottom of the required fence shall not exceed four inches where measured on the side of the fence away from the swimming pool, hot tub, spa or pond.
  - (6) The fence shall be constructed and designed so as to prevent penetration of an object greater than four inches in diameter.
  - (7) Fences shall be able to withstand 200 pounds of force in any direction and shall be properly maintained in a good state of repair and appearance.
  - (8) Fences with horizontal boards, spaced more than one inch apart, are prohibited.
  - (9) All gates or doors opening through a fence enclosure shall be kept securely closed at all times while unattended and shall be equipped with a self-closing and self-latching device designed to keep such gate or door securely closed. All gates or doors shall comply with all other height and structural requirements of this section.
  - (10) Portable pools 18 inches or less in depth are exempt from permitting and do not need fence protection but must be drained or covered in such manner as to provide public safety when left unattended. All covers are required to meet safety standard ASTM F1346-91.

- (11) To ensure public safety, variances for lesser fence heights than specified in this section shall not be granted.
- (12) Chain Link Dimensions The maximum opening formed by a chain link fence shall be not more than 1<sup>3</sup>/<sub>4</sub> inches (44 mm). Where the fence is provided with slats fastened at the top and bottom which reduce the openings, such openings shall be not more than 1<sup>3</sup>/<sub>4</sub> inches (44 mm). Mesh fences shall not be installed on top of on ground residential pools.
- (13) On Ground Residential Pool Structure as a Barrier. An on ground residential pool wall structure or a barrier mounted on top of an on ground residential pool wall structure shall serve as a barrier where all of the following conditions are present:

A. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of this section and the pool manufacturer allows the wall to serve as a barrier.

B. Where a barrier is mounted on top of the pool wall, the top of the barrier is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, and the wall and the barrier on top of the wall comply with the requirements of this section

C. Ladders or steps used as means of access to the pool are capable of being secured, locked or removed to prevent access except where the ladder or steps are surrounded by a barrier that meets the requirements of this section.

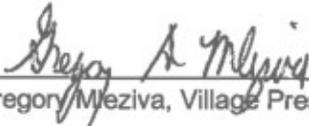
D. Openings created by the securing, locking or removal of ladders and steps do not allow the passage of a 4-inch (102 mm) diameter sphere.

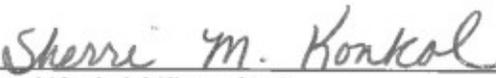
E. Barriers that are mounted on top of on ground residential pool walls are installed in accordance with the pool manufacturer's instructions.

- G. Shielding lights. Lights used to illuminate any residential swimming pool, hot tub, spa or pond shall be so arranged and shaded as to reflect light away from adjoining premises.
- H. Drainage. In no case shall any swimming pool, hot tub, spa or pond be drained on to properties other than that of the owner of the swimming pool, hot tub, spa or pond.
- I. Sanitation. Filtration systems shall be maintained in proper working order. The swimming pool, hot tub, spa or pond shall be kept clean and in sanitary condition at all times.
- J. Unnecessary noise. No person shall make, continue or cause to be made or continued, at any swimming pool, hot tub or spa any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. In operating the swimming pool, hot tub or spa, the use or permitting the use or operation of any radio, receiving set, musical instrument, phonograph or other machine or device for the producing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing of the persons in the residential swimming pool, hot tub or spa premises, shall be unlawful.

- K.** Interference with enjoyment of property rights. No residential swimming pool, hot tub, spa or pond shall be so located, designed, operated or maintained so as to interfere unduly with the enjoyment of the property rights of owners of property rights of owners of property adjoining such residential swimming pool, hot, tub, spa or pond located in the neighborhood of such residential swimming pool, hot tub, spa, or pond.

Approved and adopted this 6<sup>th</sup> day of July 2020.

  
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Gregory Meziva, Village President

  
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Sherri Konkol, Village Clerk

Published this 10<sup>th</sup> day of July 2020.

