

ORDINANCE 2019-09

**AN ORDINANCE TO MAKE REVISIONS TO THE ZONING REGULATIONS IN
CHAPTER 510 OF THE VILLAGE OF EAST TROY MUNICIPAL CODE RELATING TO
SWIMMING POOLS AND OUTDOOR FURNACES**

WHEREAS, the Village Board for the Village of East Troy adopted zoning regulations for the Village of East Troy and has amended such regulations from time to time; and

WHEREAS, the zoning regulations, as amended, are codified as Chapter 510 of the Village of East Troy municipal code, which is titled "Zoning;" and

WHEREAS, the Plan Commission desires to make various changes to the zoning code; and

WHEREAS, the Plan Commission prepared a draft ordinance to address the aforementioned changes, and recommended approval of the same at its meeting on July 8, 2019; and

WHEREAS, upon due notice as required by the zoning code, the Plan Commission conducted a public hearing on August 12, 2019; and

WHEREAS, within a reasonable time after the public hearing, the Plan Commission reported its recommendation to the Village Board as set forth in this ordinance; and

WHEREAS, the Village Board considered the Plan Commission's recommendation at its meeting on August 19, 2019; and

WHEREAS, the Village Board accepted the Plan Commission's recommended text amendment without revisions.

WHEREAS, the Village Board for the Village of East Troy, after careful review and upon consideration of the recommendation of the Plan Commission of the Village of East Troy and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Village of East Troy, will enhance property values in the Village and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Village or for any other reason cause a substantial adverse effect on the property values and general desirability of the Village.

NOW, THEREFORE, the Village Board of the Village of East Troy, Walworth County, Wisconsin, do ordain as follows:

Section 1. Change the title of section 510-98 to "Reserved" and amend that section to read as follows:

Reserved.

Section 2. Change the title of section 510-110 to “Reserved” and amend that section to read as follows:

Reserved.

Section 3. Amend section 510-47(K) to read as follows:

K. Residential Recreational Facility. This land use includes all active outdoor recreational facilities located on a private residential lot which are not otherwise listed in the Table of Land Uses in Section 510-38. Common examples include swing sets, tree houses, basketball courts, tennis courts, and recreation-type equipment. Residential recreational facilities shall adhere to the following listed regulations:

- (1) All private residential recreation facilities and their attendant structures shall comply with the bulk requirements for accessory structures (see Article VIII).
- (2) Materials and lighting at said property line are to be equal to or less than 0.5 footcandle (see Section 510-95).
- (3) Tree houses and similar platforms shall not exceed a platform height of eight feet and shall be set back twice their elevation from any property line.

Section 4. Amend the Table of Land Uses (referenced as 510 Attachment 1) to include “Y. Swimming pools” under Section 510-47, titled “Accessory Uses” and indicate it is a permitted use in each of the residential zoning districts.

Section 5. Amend the Table of Land Uses (referenced as 510 Attachment 1) to include “Z. Outdoor furnaces pools” under Section 510-47, titled “Accessory Uses” and indicate it is a conditional use in the R-35 residential zoning district.

Section 6. Add the following to Section 510-47 as subsection Y.

Y. Swimming pool. A swimming pool is as a receptacle or other container that can hold 36 inches or more of water at any point and that is used for recreational purposes and which is not located within a building with exterior walls. The term includes above-ground designs, below-ground designs, and hot tubs and spas, whether such pools are temporary or permanent. The term also includes structural facilities, appliances, appurtenances, equipment, and other items used and intended to be used for the operation and maintenance of a swimming pool. Swimming pools must comply with the following requirements:

- (1) Exemptions. (i) Modular or one-piece aboveground pools erected on a seasonal basis are exempt from the provisions of this subsection, except that they shall be located a minimum of six feet from any lot line or building and must be in rear or side yards only. (ii) Storable one-piece swimming or wading pools that may be readily disassembled for storage and reassembled to their original integrity are exempt from the provisions of this subsection. (iii) Spas and hot tubs with lockable tops are also exempt.
- (2) All materials and methods of construction in the construction, alteration, addition, remodeling, or other improvements and pool installation shall comply with all state regulations and with any and all ordinances of the Village now in effect or hereafter enacted.

- (3) All plumbing shall comply with all applicable ordinances of the Village and all state plumbing codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located, or in the general vicinity. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Director of Public Works.
- (4) All electrical installations, including lighting and heating, which are used in conjunction with a swimming pool shall comply with applicable state laws and Village ordinances regulating electrical installations.
- (5) Setbacks and other requirements. A swimming pool shall be erected or constructed in rear or side yards only, and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building. All swimming pools shall be at least six feet from any lot line or building unless designed and approved as an addition to a building.
- (6) Principal use required. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (7) Safety features. A fence as described in this paragraph must be installed around the perimeter of an in-ground pool and around an above-ground pool, except when the side wall of the above-ground pool is 48 inches or more and the grade extending away from the pool for a distance of 4 feet is at the same or a lower grade as the base of the pool. When required, a fence (i) must be of sufficient strength to prevent access to the pool; (ii) may not have any voids, holes, or openings larger than 4 inches in diameter; (iii) must be at least 4 feet in height, (iv) may not be closer than 4 feet to the pool edge; and (v) must be located so that the surrounding grade extending away from the fence for a distance of 4 feet is at the same or a lower grade as the base of the fence. Ladders that provide access to an above-ground pool with a wall height of 48 inches or more must be secured to prevent use when the pool is not being actively used. Variations in enclosure requirements that do not adversely affect the safety of the public may be approved. This section shall not apply to existing fences on the date of adoption of this chapter at least 40 inches in height that otherwise comply with this section.
- (8) Compliance. All swimming pools existing at the time of adoption of this chapter not satisfactorily fenced as described in subsection (7) above shall comply when water is placed in the pool. Enclosures on existing pools shall be inspected by the Building Inspector for compliance.
- (9) Filter system required and electrical permit required. All private swimming pools within the meaning of this section, except those exempted in Subsection E, must have some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof. Any swimming pool served by an electrical device, including otherwise exempted pools in Subsection E above, shall require an electrical permit.
- (10) Side and bottom materials. All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

Section 7. Add the following to Section 510-47 as subsection Z.

Z. Outdoor furnace. An outdoor furnace is an outdoor device, structure, building or apparatus in which combustion of solid fuel takes place and such combustion supplies (either directly or indirectly) heat, hot water, or both for the interior of another building. An outdoor furnace shall adhere to the following listed regulations:

- (1) Fuel. The outdoor furnace shall only use seasoned wood or other materials which have low smoke, odor, and pollutant generating properties and which have been approved for such use by the State of Wisconsin. The outdoor furnace shall not be used to burn any prohibited materials, including rubbish or garbage, food waste, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes, waste oil, asphalt, tires, and synthetic rubber-like products.
- (2) Spark protector. The outdoor furnace shall have a spark protector that shall be adequately maintained at all times.
- (3) Location. The outdoor wood-burning furnace must be located at least 300 feet from the property line.
- (4) Chimney height. Chimney heights shall comply with the manufacturer's recommendations.
- (5) Nonconforming wood-burning furnaces. Use of any outdoor furnace in existence prior to the effective date of this chapter may continue until such time that replacement or maintenance is required, at which time all requirements of this subsection must be met.

Section 8. This ordinance shall become effective upon passage and posting or publication as provided by law.

Section 9. 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.

Adopted this 19th day of August 2019



Scott Seager, President

ATTEST:



Eileen Suhm, Village Administrator Clerk-Treasurer

ORDINANCE 2019-09

- Public Hearing Draft -

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WHEREAS, within a reasonable time after the public hearing, the Plan Commission reported its recommendation to the Village Board as set forth in this ordinance; and

WHEREAS, the Village Board considered the Plan Commission's recommendation at its meeting on _____, 2019; and

WHEREAS, the Village Board accepted the Plan Commission's recommended text amendment **without revision OR with minor revision.**

WHEREAS, the Village Board for the Village of East Troy, after careful review and upon consideration of the recommendation of the Plan Commission of the Village of East Troy and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Village of East Troy, will enhance property values in the Village and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Village or for any other reason cause a substantial adverse effect on the property values and general desirability of the Village.

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- (1) All private residential recreation facilities and their attendant structures shall comply with the bulk requirements for accessory structures (see Article VIII).
- (2) Materials and lighting at said property line are to be equal to or less than 0.5 footcandle (see Section 510-95).
- ~~(3) Swimming pools shall be regulated by the performance standards provided in Section 510-98.~~
- (3) Tree houses and similar platforms shall not exceed a platform height of eight feet and shall be set back twice their elevation from any property line.

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- (2) All materials and methods of construction in the construction, alteration, addition, remodeling, or other improvements and pool installation shall comply with all state regulations and with any and all ordinances of the Village now in effect or hereafter enacted.

- (3) All plumbing shall comply with all applicable ordinances of the Village and all state plumbing codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located, or in the general vicinity. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Director of Public Works.
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- (6) Principal use required. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (7) Safety featuresEnclosure. A fence as described in this paragraph must be installed around the perimeter of an in-ground pool and around an above-ground pool, except when the side wall of the above-ground pool is 48 inches or more and the grade extending away from the pool for a distance of 4 feet is at the same or a lower grade as the base of the pool. When required, a fence (i) must be of sufficient strength to prevent access to the pool; (ii) may not have any voids, holes, or openings larger than 4 inches in diameter; (iii) must be at least 4 feet in height, (iv) may not be closer than 4 feet to the pool edge; and (v) must be located so that the surrounding grade extending away from the fence for a distance of 4 feet is at the same or a lower grade as the base of the fence. Pools within the scope of this subsection that are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Gates or doors shall be equipped with self closing and self latching devices located at the top of the gate or door on the pool side of the enclosure, except the door of any residence that forms a part of the enclosure. Ladders that provide access to an above-ground pool with a wall height of 48 inches or more must be secured to prevent use when the pool is not being actively used. Variations in enclosure requirements that do not adversely affect the safety of the public may be approved. This section shall not apply to existing fences on the date of adoption of this chapter at least 40 inches in height that otherwise comply with this section.
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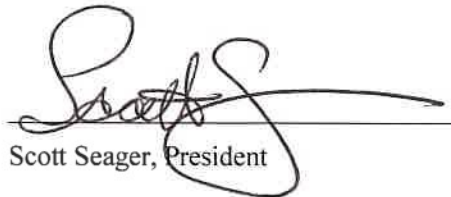
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Section 8. This ordinance shall become effective upon passage and posting or publication as provided by law.

Section 9. 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.

Adopted this day of , 2019


Scott Seager, President

ATTEST:

Eileen Suhm, Village Administrator Clerk-Treasurer