

CHAPTER 2

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SEC. 12-2-1 MINIMUM REQUIREMENTS

In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City of Thorp and shall not be deemed a limitation or repeal of any powers granted by the Wisconsin Statutes.

SEC. 12-2-2 RELATIONSHIP WITH OTHER LAWS

Where the conditions imposed by any part of this Ordinance upon the use of land or building or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other laws, ordinances, resolutions, rules or regulations of any kind, the regulations which are more restrictive (or imposed higher standards or requirements) shall be enforced. Unless specifically exempted by law, all cities, towns, villages and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.12(4) (a) of the Wisconsin Statutes applies.

SEC. 12-2-3 EFFECT OF EXISTING AGREEMENTS

This ordinance does not abrogate existing easements, covenants, or any other private agreements provided that where the regulations of this ordinance are more restrictive (or imposed higher standards or requirements) than such easements, covenants or other private agreements, the requirements of this ordinance shall prevail.

SEC. 12-2-4 SCOPE OF REGULATIONS

Except as may otherwise be provided in the nonconforming uses section of this article, all buildings erected hereafter, all structural alterations or relocations, all uses of land or buildings established and all enlargements of or additions to existing uses occurring after the adoption of this ordinance shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which such buildings, uses or land shall be located.

SEC. 12-2-5 BUILDING PERMIT

Where a building permit for a building or structure has been legally issued prior to the effective date of this Ordinance and permitted construction is begun within ninety (90) days of such effective date and diligently pursued to completion, said building or structure may be completed in accordance with the plans on the basis of which the building permit has been issued.

SEC. 12-2-6 NONCONFORMING BUILDINGS, STRUCTURES AND USES

- (a) **Nonconforming Uses of Land.** The lawful nonconforming use of a structure or land which use existed at the time of the adoption or amendment of this Chapter may be continued although such use does not conform with the provisions of this ordinance; however:
- (1) Only that portion of the land in actual use may be continued and the nonconforming use may not be extended, enlarged, substituted, moved, added to or changed.
 - (2) Total lifetime structural repairs or alterations of a nonconforming structure shall not exceed fifty (50%) percent of the assessed 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 Chapter.

- (3) A nonconforming use shall be permanently discontinued when:
 - (a) It is discontinued for twelve (12) consecutive months or when there is clear evidence that the owner has abandoned the use; or
 - (b) When the structure containing the nonconforming use is destroyed by any means to the extent of fifty (50%) percent of its then current assessed value. In such a case, the structure can only be reconstructed for a conforming use. Restoration or repair of a less damaged structure must be started within ninety (90) days from the date of damage and diligently pursued to completion, or else the use shall be permanently discontinued.
- (b) **Existing Conforming Uses on Nonconforming Lots Containing Conforming Structures.** A conforming structure existing at the time of the adoption or amendment of this Chapter may be continued, although the lot does not conform to the requirements of this chapter, as long as all uses on the lands containing the structure are legal conforming uses. The structure may be extended enlarged, substituted, moved, remodeled, modified or added to as long as any such change conforms with the established building setback lines along streets and the yard, height, parking, loading and access provisions of this chapter or may be totally rebuilt if such reconstruction is identical in size and shape and use to the original.
- (c) **Legal Conforming Uses on a Conforming Lot or Nonconforming Lot Containing Legal Nonconforming Structures.** A legal conforming use of a nonconforming structure existing at the time of the adoption or amendment of this ordinance may be continued, whether on a conforming or nonconforming lot, although the structure's size or location does not conform with established building setback lines along streets, or the yard, height, parking, loading and/or access provisions of this Chapter. The structure may be extended enlarged, substituted, moved, remodeled, modified or added to as long as any such change conforms with the established building setback lines along streets and the yard, height, parking, loading and access provisions of this chapter or may be totally rebuilt if such reconstruction is identical in size, shape and use to the original.

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- (d) **Current File.** A current file of all legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, shall be created and maintained by the Director of the Public Works Department listing the following: owner's name and address, description of all uses of the structure or land, a site plan of the property showing the location and size of all structures on the same, a plat map showing the dimensions of the lot, and equalized value of the land and improvements at the time the legal nonconformity was created.
- (e) **Burden of Proof.** The property owner has the burden of showing that a use, structure, or lot is legal nonconforming. The determination shall be made by the Planning Commission after a majority of the Planning Commission has been satisfied by proof presented by the property owner that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Planning Commission concerning the determination of legal nonconformity may be made by any person aggrieved to the City Council. Such appeal shall be filed with the City Clerk within thirty (30) days after the determination by the Planning Commission.
- (f) **Reversion.** Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to legal nonconforming status.
- (g) **Substandard Lots.** In any residential district, a one-family residential detached dwelling and its accessory structures may be erected on any lot or parcel legally filed and of record in the Clark County Register of Deeds office before the effective date of this Chapter as long as such lot or parcel is in separate ownership of abutting lands. If abutting lots are owned by the same owner and any of the same are legal nonconforming, whether or not any or all of the lots are improved, none of the lots shall be sold or used without all being in full compliance with the provisions of this Chapter.

SEC. 12-2-7 DIMENSIONAL REQUIREMENTS

After the adoption of this Ordinance, no lot area shall be so reduced that the dimensions and yard requirements imposed by this Ordinance cannot be met.

SEC. 12-2-8 ACCESSORY BUILDINGS, USES AND STRUCTURES

Accessory buildings, structures and uses must comply with the following conditions and restrictions:

- (a) **Size Restrictions.** Accessory structures in residential districts shall not occupy more than thirty (30) percent of the area of the rear yard, nor exceed the Ground Floor Area of the principal building.
- (b) **Separation.** Accessory structures shall be separated at least eight (8) feet from the principal building and other accessory structures.
- (c) **Accessory structure height.** No accessory structure shall exceed 25 feet in height, or the height of the principal building, whichever is less.
- (d) **Front Yard Restrictions.** Accessory uses and structures must be located in the side or rear yard except that a detached private garage may have the same front yard setback as the principal building.
- (e) **Visual Compatibility.** Any accessory building in an R-1 or R-3 residential district exceeding 150 square feet in size must, through the use of similar materials, styles and colors, be visually compatible with the principal building.
- (f) **Accessory Structures Without Principal Structure.** No accessory structure shall be erected or constructed prior to the erection or construction of the principal structure.
- (g) **Accessory Structures and Driveways.** In a residential district, no more than one accessory use or structure may adjoin, or be located within 8 feet of, the driveway serving the lot.
- (h) **Swimming Pools.** Notwithstanding the provisions of Section 12-2-6 of this Ordinance, all swimming pools located in the City of Thorp must conform to the provisions of this Section after the effective date of this Ordinance prior to being filled with water.
 - (1) No swimming pool shall be constructed, erected, or located in a front yard.
 - (2) A swimming pool must be entirely surrounded by a fence, wall, or barrier not less than four (4) feet and not more than eight (8) feet high with all gates or other entrances being self-closing and self-latching. The Board of Appeals may grant an exception to the requirement of fencing when it finds that under all of the circumstances and conditions affecting the swimming pool, it does not constitute a safety hazard.

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- (3) Glare from lights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties.
- (4) Swimming pool wastewater shall be disposed of in such a manner as to not cause a nuisance or hazard to adjacent properties.

SEC. 12-2-10 OBSTRUCTIONS

Every part of the required area of a yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices, and ornamental features. In addition, the following obstructions are also permitted.

- (a) Open fire escapes which do not project more than five (5) feet into a required yard.
- (b) In a rear yard, open terraces, decks and porches not over four (4) feet above the average level of adjoining ground but not including permanently roofed-over terraces or porches.
- (c) Awnings and canopies.
- (d) Steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
- (e) Chimneys, provided they do not project more than eighteen (18) inches into a required yard.
- (f) Recreational equipment.
- (g) Laundry-drying equipment.
- (h) Arbors, trellises, landscaping, and trees.
- (i) Flag Poles.
- (j) Television and/or radio antennas provided the base unit is within thirty (30) inches of the eaves of the principal structure and the entire antenna does not project more than eight (8) feet into any required side or rear yard. In no case may an antenna project into the required front yard.
- (k) Open, uncovered porches, patios, paved terraces, decks and steps to building entrances may project into a required front yard for a distance of not more than 8 feet, provided the area of the porch or deck does not exceed a total of 64 square feet excluding steps.
- (l) Fences, walls, and continuous linear shrubbery such as hedges are allowed in all yards, with no required setback, provided they meet the following limitations unless otherwise stated:

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- 1) All Zoning Districts
 - a. All fences shall be constructed of appropriate material manufactured for such purpose and shall be maintained in a condition of good repair
 - b. All fences shall be installed in such a manner so that the finished surface faces the exterior of the lot on which the fence is located. In this paragraph "finished surface" means the side of a fence which does not contain any exposed supporting posts or framing members; provided that in the case of a double-sided fence, where an equal amount of supporting posts and framing members are visible on both sides of the fence, each side shall be considered a "finished surface"
 - c. When fencing height requirements for one lot are more restrictive than those of an abutting lot, the more restrictive of the two shall apply to both lots, so long as the abutting lots share common zoning.
 - d. No fence shall be erected in the "Traffic Visibility Triangle" in violation of Section 12-2-11
- 2) Residential and Urban Transitional Districts
 - a. In front yards: not to exceed four (4) feet in.
 - b. In side and rear yards: not to exceed six (6) feet in height except that a fence, wall or other barrier enclosing and surrounding a swimming pool may not exceed eight (8) feet in height.
 - c. Within 5 feet of any driveway or street or alley access: not to exceed (3) feet in height, except chain link fences with a mesh of 2 inches or greater, for which the height restrictions above are permitted.
 - d. No barbwire fences are allowed in residential or urban transitional districts.
- 3) Commercial and Industrial Districts
 - a. No fencing to exceed twelve (12) feet in height
 - b. Barbwire shall only be allowed on the top of security fences at heights of greater than 6 feet.

SEC. 12-2-11 TRAFFIC VISIBILITY TRIANGLE

No obstructions, such as structures, parking or vegetation, shall be permitted between the heights of two and one-half (2½) and ten (10) feet above the average curb grades, or the street or highway grades at the centerline where there is no curb, within the triangular space formed by any two (2) existing or proposed intersection street, highway or alley right-of-way lines and a line joining points on such lines located fifteen (15) feet from their intersection. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the traffic visibility triangle shall be increased to fifty (50) feet. This section shall not apply to electric, gas and communication lines installed and maintained under regulation of a government agency, but a permit shall be required if more than one pole is erected within the twenty-five (25) foot traffic visibility triangle at the intersection of two public roads or if more than three (3) poles are erected within the fifty (50) foot traffic visibility triangle at the intersection of two arterial highways or an arterial highway and a railway.

SEC. 12-2-12 HOME OCCUPATIONS

- (a) **Purpose:** The purpose of this section of the Ordinance is to regulate the conditions under which home occupations may be carried on in order that they do not undermine the general intent and purpose of this Ordinance and the specific purposes of the residential districts.
- (b) **Limitations:** Home occupations shall be subject to the following limitations:
 - (1) Only the residents of the dwelling, one principal and one assistant may be employed on the premises.
 - (2) The occupation shall be conducted wholly within the dwelling or an accessory building, and there shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.
 - (3) Floor area devoted to the occupation shall not exceed 15 percent of the total ground area occupied by house on the lot.
 - (4) Only those occupations which by their nature can be carried out safely in homes, without creating any nuisance or hazard are allowed. The occupation shall

produce no odors, noises, vibrations, radio or electrical interference, glare or heat which affect adjacent property or the public. No occupations involving the use or storage of explosive or inflammable materials are permitted.

- (5) There shall be no signs other than those allowed by this Ordinance in residential districts.

SEC. 12-2-13 CLASSIFICATION OF UNLISTED USES

- (a) **Purpose.** In order to ensure that the Zoning Ordinance will permit all similar uses in each district, the Zoning Board of Appeals, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted use or a conditional use in Commercial, Residential or Industrial Districts shall be deemed a permitted use or a conditional use in one or more districts on the basis of similarity to uses specifically listed.
- (b) **Application.** Application for determination that a specific use should be included as a permitted use or a conditional use in Commercial, Residential or Industrial Districts shall be made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Zoning Board of Appeals to facilitate the determination.
- (c) **Investigation.** The Zoning Board of Appeals shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Ordinance and to determine its classification.
- (d) **Determination.** The determination of the Zoning Board of Appeals shall be rendered in writing within sixty (60) days from application and shall include findings supporting the conclusion.
- (e) **Effective Date of Determination.** Within five (5) days following the date of a decision, the Zoning Board of Appeals shall transmit to the City Council and petitioner written notice of the decision, at which time the classification of the unlisted use shall become effective.