

## ARTICLE K

### Accessory Uses and Structures; Fences and Hedges

(Revised Ord. 2010-04, May 11, 2010)

#### SEC. 13-1-140 ACCESSORY USES OR STRUCTURES.

- (a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
- (1) Number of Accessory Buildings. In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building may be placed on a lot.
  - (2) Accessory Uses and Structures Restrictions.
    - a. Accessory Building Setbacks: (Rev. 08/10 Ord. 2010-07)
      1. Front Yards: Accessory uses and detached accessory structures are permitted in the rear and side yard only.
      2. Side Yards: Minimum five (5) feet. Minimum side yard if street side of corner lot, fifteen (15) feet.
      3. Rear Yards: Minimum five (5) feet. Minimum rear yard if abutting an alley, ten (10) feet.
    - b. Height: Maximum fifteen (15) feet.
    - c. Accessory uses and structures shall not be closer than ten (10) feet to the principal structure unless fire separation is provided as required under the Uniform Dwelling Code, and shall not occupy more than thirty percent (30%) of the rear yard area and shall not exceed two hundred (200) square feet in floor area space. (Rev. 4/98)
    - d. Accessory structures exceeding two hundred (200) square feet in floor area space shall be subject to the setback requirements of Section 13-1-140(b)(4).
    - e. The maximum area of additional accessory buildings shall not exceed the square footage listed in the respective zoning district. (Rev. 08/10 Ord. 2010-07)
  - (3) Attached Accessory Buildings. (Rev. 08/10 Ord. 2010-07) All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
  - (4) Accessory Buildings Exceeding Two Hundred (200) Square Feet. (rev. 8/96)
    - a. Front Yard: Accessory uses and detached accessory structures are permitted in the rear yard and side yard only.
    - b. Side Yards: Minimum eight (8) feet. Minimum side yard if street side of corner lot: fifteen (15) feet.
    - c. Rear Yards: Minimum eight (8) feet. Minimum rear yard if abutting an alley: fifteen (15) feet.

- d. Height: Maximum fifteen (15) feet. Accessory building shall not exceed 15 feet in height as measured to the roof peak except in those cases where the existing home and at least one (1) of the abutting property homes are two (2) stories in height or more. In those cases the accessory building can be up to 25 feet in height. This exception is only applicable to any home built prior to January 1, 1940. *(rev. 9/00)*
  - e. Shall not be closer than ten (10) feet to the principal structure, unless fire separation is provided as required under the Uniform Dwelling Code, and shall not occupy more than thirty percent (30%) of the rear yard area. *(rev. 7/98)*
- (c) **Use Restrictions Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.
- (d) **Placement Restrictions, Nonresidential Districts.** *(rev. 8/96)*
- (1) Front Yard: Accessory uses and detached accessory structures are permitted in the rear yard only.
  - (2) Side Yards: Minimum eight (8) feet. Minimum side yard if street side of corner lot: fifteen (15) feet.
  - (3) Rear Yards: Minimum eight (8) feet. Minimum rear yard if abutting an alley: fifteen (15) feet.
  - (4) Height: Maximum fifteen (15) feet.
  - (5) Shall not be closer than ten (10) feet to the principal structure, unless fire separation is required under the Uniform Dwelling Code, and shall not occupy more than thirty percent (30%) of the rear yard area. *(Rev. 7/98)*
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five (5) feet to the side line of the adjacent structure.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, following approval by the Plan Commission, provided as follows:
- (1) That such private garage shall be located not less than five (5) feet from the front lot line;
  - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
  - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

- (i) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- (k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- (l) **Agricultural Structures.** Agricultural structures such as barns, silos and windmills in agricultural districts shall not exceed in height twice their distance from the nearest lot line.

**SEC. 13-1-141      OUTSIDE STORAGE OF FIREWOOD.**

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

**SEC. 13-1-142      FENCES AND HEDGES. (rev. 11/01)**

- (a) **Purpose.** The purpose of this section is to regulate the materials, location, height, and maintenance of fences, hedges, landscaping walls and decorative fences or posts in order to prevent the creation of nuisances and to promote the general welfare of the public.

- (b) **Applicability.** The requirements of this section apply to all fences, hedges, landscape walls, and decorative fences or posts for all land uses and activities.
- (c) **Permits required.** Fences, hedges and landscape walls may only be constructed following issuance of a permit by the Building Inspector; such permit application is to be accompanied by a description and/or sketch of the proposed fence.
- (d) **Permits not required.** A permit is not required for the installation of a temporary fence or for a decorative fence or post.
- (e) **Definitions:**
1. Architectural or Aesthetic Fence, decorative posts. A fence or post constructed to enhance the appearance of the structure or the landscape; a fence intended for decorative purposes only and not intended to prevent escape or intrusion or to mark a boundary and not forming an enclosure.
  2. Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
  3. Fence. A barrier intended to prevent escape or intrusion or to mark a boundary, which forms an enclosure. Fence includes a security fence, which is a fence constructed to enclose a hazard to the public health, safety and welfare.
  4. Landscaping Walls. A wall incorporated into the landscaping of a property, including walls constructed to retain or prevent soil movement.
  5. Temporary fence. Fences erected for the protection of planting, limiting snow drifting, protection of excavation and construction sites, or to warn of construction hazard, or for similar purposes.
- (f) **Materials.**
1. Residential Districts. Acceptable materials for constructing fences, landscape walls, and decorative fences or posts include wood, stone or other landscaping blocks, vinyl, brick, wrought iron, chain link with a top rail, and wire mesh with a top rail.
  2. Nonresidential Districts. Acceptable materials for constructing fences, landscape walls, and decorative fences or posts include wood, stone or other landscaping blocks, brick, wrought iron, chain link with a top rail and wire mesh with a top rail. Up to three strands of barbed wire fencing is permitted on top of security fences at heights equal to or greater than five and one-half (5½) feet; coiled barbed wire is prohibited.
  3. Temporary fences. Fences constructed of wood and wire (such as snow fences), and/or plastic shall be permitted only as temporary fences.
- (g) **Location.**
1. Residential fences & hedges. Fences and hedges in or adjacent to a residential property shall have a minimum six (6) inch side and rear yard setback. Fences and hedges may be constructed alongside lot lines but shall not extend into the front yard as extended to the side lot lines; fences and hedges shall not be placed between the front of the structure and the front lot line. If a fence or hedge is being placed on a street side of a corner lot a minimum fifteen (15) foot setback from the lot line is required.
  2. Security fences. Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in

height and shall be of an open type similar to woven wire or wrought iron fencing.

3. Temporary fences. Such fences may be erected at any location on a property; however, said fences shall not be erected for more than one hundred twenty days (120) days.
4. Decorative fences or posts. Decorative fences or posts are permitted in the front yards in the residential district, but shall have a minimum three (3) foot front and side yard setback.
5. Landscaping Walls. At the discretion of the Building Inspector, landscaping walls may be erected at any location on a property, provided the Building Inspector determines that the location does not pose a threat to the health, safety or welfare of any person.

(h) **Height of Fences Regulated.**

1. Except as provided in this Section, a fence, hedge, temporary fence or landscaping wall may be erected, placed or maintained along aside or rear lot line on residentially zoned property or adjacent thereto to a height not exceeding six and one-half (6½) feet above the ground level.
2. No fence, hedge, temporary fence or landscape wall that is located in a required front or corner side yard shall exceed a height of two and one half (2½) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence, hedge or landscaping wall along such lot line.
3. No fence, hedge, temporary fence or landscape wall shall be erected, placed, maintained or grown along a lot line on any non-residential zoned property, adjacent to a residentially zoned property to a height exceeding eight (8) feet.
4. In any residential district, no fence, hedge, temporary fence or landscaping wall shall be erected, constructed, maintained or grown to a height exceeding three (3) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected. (See Article G, Section 13-1-90).
5. Decorative fences or posts shall not exceed a height of eight (8) feet.

(i) **Prohibited Fences.**

1. No above-ground fence shall be constructed which is of an otherwise unsafe or dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in security fences under paragraph (f) of this section.
2. Fences under thirty (30) inches in height having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence are prohibited.

(j) **Fences to be Repaired.** All fences, hedges, temporary fences, landscaping walls and decorative fences or posts shall be maintained and kept safe and in a state of good repair. The finished side or decorative side of a fence or decorative fence or post shall face adjoining property.

(k) **Nonconforming Structures.** Any fence, hedge, landscaping wall or decorative fence or post existing on the effective date of this Section and not in conformance with this Section may be maintained, but any alteration, modification or improvement of said fence shall comply with this Section; all non-conforming structures are subject to Paragraph (j) of this Section.

- (l) **Enforcement.** Any person who shall violate any provision of this Section shall be subject to a penalty as provided in Section 1-1-6. Violation of Paragraph u) of this section shall be deemed a public nuisance, subject to abatement pursuant to Sections 11-6-6 and 11-6-7.

**SEC. 13-1-143 SWIMMING POOLS.**

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water any point greater than one and one-half (1½) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- (c) **Permit Required.** Before work is commenced on the construction or erection of a private or residential swimming pool or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A current fee shall accompany such application.
- (d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:
- (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the Village now in effect or hereafter enacted.
  - (2) All plumbing work shall be in accordance with all applicable Ordinances of the Village and all state 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 on, or in the general vicinity.
  - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Village Ordinances regulating electrical installations.
- (e) **Setbacks and Other Requirements.**

- (1) Private swimming pools shall be erected or constructed on rear or side lots 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.
  - (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six (6) feet from any lot line.
- (f) **Fence.**
- (1) Pools within the scope of this Section which are not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than six (6) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.
  - (2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top, or if the sidewalls are unobstructed and a minimum of thirty-six (36) inches high. Such pool must have secure access by use of self-closing/self latching gates.
- (g) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced are not required to comply with the fencing requirements of this Section.

**SEC. 13-1-144 THROUGH SEC. 13-1-149 RESERVED FOR FUTURE USE.**