

CHAPTER 12

Accessory Uses and Structures; Fences and Hedges

SEC. 8-12-1 ACCESSORY USES OR STRUCTURES.

- (a) **Building Permit Required.** No owner shall, within the Village of Hales Corners, build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a permit shall have first been obtained from the Zoning Administrator. Application for an accessory building permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings.
- (b) **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.
- (c) **Placement Restrictions -- Residential District.** An accessory use or structure in Residence Districts R-1 to R-4 inclusive, and P-1 Institutional, may be established subject to the following regulations:
- (1) Accessory Building Number Limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building and one (1) children's play structure may be placed on a lot.
 - (2) Attached Accessory Buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (3) Detached Accessory Buildings; Lot Area Coverage.
 - a. No detached accessory building shall occupy any portion of the required front or side yard.
 - b. In the case of an interior lot abutting upon one (1) street, no detached accessory building shall be erected, altered, or moved so as to encroach upon the front setback of that lot.
 - c. In the case of a corner lot, no detached accessory building shall be erected, altered or moved so as to encroach upon the front setback or the side street setback.
 - d. Garages and other detached accessory buildings shall be less than fifteen (15) feet in height.
 - e. No detached accessory building(s) shall occupy more than fifty percent (50%) of the required rear yard. The dimensions of any swimming pool, children's play structure, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.
 - f. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1)

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hour fire-resistive construction are complied with. In no event, can the accessory uses or structures be forward of the front line of the principal structure.

- g. No detached accessory building shall be erected, altered or moved so as to be within five (5) feet of any side or rear lot line, or alley way.
 - h. Any detached accessory building in excess of one hundred (100) square feet must conform to the construction requirements of a garage.
- (d) **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 herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.
- (e) **Placement Restrictions – Nonresidential Districts.** Accessory buildings located in B-1, B-2, B-3, B-4, M-1 or P-1 Districts shall have a side yard setback and rear yard setback of not less than ten (10) feet. Front yard setbacks shall conform to the setback requirements and regulations for that district.
- (f) **Landscaping Units.** Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation include trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.
- (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) **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.
- (i) **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.
- (j) **Children's Play Structures.** For purposes of this Section, children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this Section, whether such play structures are placed on a foundation or not. Swing sets, slides and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- (k) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area or street right-of-way.

SEC. 8-12-2 OUTSIDE STORAGE OF FIREWOOD.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that
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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 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 ten percent (10%) of the side and rear yard may be used for storage of firewood at any one (1) time.

SEC. 8-12-3 OUTSIDE STORAGE.

No manure, rubbish, inoperable vehicles, salvage material or miscellaneous refuse may be stored within any residential district when the same may be construed as a menace to the public health or safety or may be held to have a depressing influence upon property values in the area. Junk shall be placed in properly zoned junkyards only.

SEC. 8-12-4 FENCES AND HEDGES.

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as any enclosing or partially enclosing barrier, regardless of kind or type of material used for construction, except that barriers composed solely of living plants, shrubs, bushes or trees shall not be construed a fence under this Chapter. The height of a fence shall be determined by measurements from the uppermost point of the fence to the existing immediately adjacent ground level of the adjoining property.
- (b) **Permit Required.** A permit from the Building Inspector shall be required for the construction or erection of any fence in excess of forty-eight (48) inches in height or of any fence of any height to be located closer to the road than the building setback line established by this Zoning Code. The fee shall be Fifty Dollars (\$50.00).
- (c) **Building Board.** No permit for a fence shall be issued unless it has been found as a fact by the Building Board, by at least a majority vote, after a review of the property site and an examination of the application for the fence permit, which shall include exterior elevations of the proposed structure, that the height or the architectural appeal and functional plan of the proposed fence or its location on the site will, when so constructed or erected, not be such as to cause a substantial depreciation in property values in the immediate neighborhood or as to cause a traffic hazard.
- (d) **General Requirements.**
 - (1) All fences erected in the front setback and side street setbacks (for corner lots) require a permit regardless of height.

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- (2) The structural side of the fence must be facing inward, or toward the owners'

property.

- (3) A five foot fence must be set one (1) foot off the property line. A six foot fence must be set two (2) feet off the property line. Fences four feet or under can be placed up to the property line.
- (e) **Security Fences.** Security fences are permitted, with Plan Commission approval, on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.** No fence shall be constructed which is in a 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 industrially zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground in height and project toward the fenced property and away from any public area. In no case shall the barbed wire protrude over any public walk, road or thoroughfare, nor overhang any adjoining property lines.
- (g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a good state of repair, and the finished side or decorative side of a fence shall face adjoining property.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than sixty (60) days.
- (i) **Snow Fences.** Snow fences shall be permitted from November 15th through April 15th, at which time all structures shall be removed.
- (j) **Nonconforming Fences and Hedges.** Any fence or hedge lawfully existing on the effective date of this Code of Ordinances and not in conformance with this Section may be maintained, but alterations, modifications or improvements of said fence shall comply with this Section.

SEC. 8-12-5 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 at any point greater than one and one-half (1-1/2) feet. Its use is exclusive for 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 private or
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residential swimming pools 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. The permit fee pursuant to the Village Building Code 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 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 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.
- (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 five (5) feet from any lot line.

(f) **Fences Required.**

- (1) Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing two hundred fifty (250) pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four (4) 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

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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 or uncovered sidewalls a minimum of thirty-six (36) inches high.

- (g) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced shall comply with the fencing requirements of this Section or when water is placed in the pool.
- (h) **Draining.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer.
- (i) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of water therein and maintenance of the proper bacterial quality thereof.
- (j) **Dirt Bottoms Prohibited.** 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.