

## Article J: Accessory Uses and Structures; Fences

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### Sec. 13-1-140 Accessory Uses or Structures.

- (a) **Building Permit Required for Accessory Buildings.** No owner shall, within the Village of Elk Mound, 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 Building Inspector. Application for an accessory building permit shall be made in writing to the Building Inspector. With such application, there shall be submitted the required fee and 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. If such application meets all requirements of this Section, the application shall be approved.
- (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) **Number of Permitted Garages and Accessory Buildings on Residential Lots.**
- (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) non-portable children's play structure may be placed on a lot, except as otherwise limited by Subsections (c)(2), (d) and (e) below.
  - (2) **Limitation on Number of Garages and Accessory Buildings.** One (1) detached accessory structure per dwelling unit shall be permitted, provided the combined area of an attached garage and detached accessory structure does not exceed the maximum size limits set forth in Subsection (d) and the following number limits:
    - a. Residentially zoned parcels with a single garage attached to the dwelling are permitted to have an additional one (1) or two (2) car detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.
    - b. Residentially zoned parcels with more than a one (1) stall garage attached to the dwelling are permitted to have an additional one (1) stall detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.
    - c. Garages attached to dwellings shall be three (3) stalls or less. Dwellings with an attached three (3) stall garage are not permitted to have an additional detached garage on the parcel.
- (d) **Size Limits for Attached Residential Garages.** For residences with attached garages, one (1) attached garage per dwelling unit shall be permitted, and the dimensions of said attached garage shall be as follows:

- (1) The maximum square feet of attached garage floor area shall be limited to the smaller of either one thousand (1,000) square feet or the first floor dwelling unit area in the case of a single family residence.
  - (2) The maximum square feet of attached garage floor area shall be limited to the smaller of either six hundred (600) square feet or the first floor dwelling unit area in the case of a duplex, two-family dwelling, or multi-family dwelling.
- (e) **Size Limits for Detached Residential Garages.** For residences with detached garages, one (1) detached garage per lot shall be permitted, and the dimensions of said detached garage shall be as follows:
- (1) The maximum square feet of detached garage floor area shall be limited to the smaller of either nine hundred (900) square feet, the first floor dwelling unit area of the principal structure, or thirty-five percent (35%) of the rear yard.
  - (2) The structure number limitations of Subsection (c)(2) shall be followed where applicable.
- (f) **Height and Setback Requirements for Attached Accessory Buildings/Garages.**
- (1) Accessory buildings/garages which are attached to the principal building shall comply with the setback requirements for the principal building.
  - (2) When accessory buildings are attached to the principal building by a breezeway, passageway or similar means, they become part of the principal building and shall comply in all respects with the yard requirements and local building code requirements for the principal building.
- (g) **Size, Height and Setback Requirements for Detached Residential Accessory Buildings/Garages.**
- (1) Garages and other detached accessory buildings shall be **less than twenty-five (25) feet in height**. Detached garages' and accessory buildings' roof pitch shall not exceed the steepest pitch of the principal structure.
  - (2) Provided that the accessory building number limits of Subsection (c)(2) are complied with, **no detached accessory building(s) shall occupy more than thirty percent (30%) of the required rear yard or exceed one thousand two hundred (1,200) square feet in size, whichever is more restrictive.** A larger accessory building may be permitted by variance from the Board of Appeals.
  - (3) No detached accessory building shall be located within five (5) feet of any other accessory building.
  - (4) **Detached accessory buildings shall have an six (6) foot setback from side lot lines and a six (6) foot setback from rear lot lines.** However, where a rear lot abuts an alley, accessory buildings not attached to the principal building shall be located so as to be not closer than six (6) feet to the rear lot line, except that when the accessory building is a garage that has its entrance facing the alley, the rear yard setback shall be twenty (20) feet for the garage.
  - (5) The dimensions of any swimming pool, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.

- (6) An accessory building shall not be nearer than six (6) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with.
- (7) In no event can a detached accessory structure be forward of the front line of the principal structure.
- (h) **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 permitted by Section 13-1-72 and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes. Under no circumstances may a tent or recreational vehicle be used as a dwelling or an accessory structure.
- (i) **Placement Restrictions — Nonresidential Districts.** An accessory use or structure in a commercial or industrial district may be established in the rear yard or side yard and shall not be nearer than ten (10) feet to any side or rear lot line or be greater than ten (10) feet in height. Detached accessory buildings and structures in commercial and industrial districts shall not occupy more than fifty percent (50%) of the rear and side lot areas.
- (j) **Corner Lots.** When an accessory structure is located on the rear of a corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- (k) **Landscaping 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.
- (l) **Temporary Accessory 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.
- (m) **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, 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.
- (n) **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 and shall not register more than one-half foot candles at the property line.
- (o) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, etc., shall be permitted

**13-1-140**

in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

- (p) **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. (See Section 13-1-144.)
- (q) **Children's Play Structures.** For purposes of this Section, non-portable children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures for purposes of complying with the setback requirements of this Section, whether such play structures are placed on a foundation or not. Portable 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.
- (r) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Title 6, Chapter 2 of 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.
- (s) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall it impair the use, enjoyment or value of any property.
- (t) **Prohibited Dwelling Use.** No accessory dwelling unit in any Residential District shall be used or let for living purposes, whether for compensation or not.
- (u) **Gardening.** Home gardening is a permitted accessory use on any dwelling lot or the principal use on any vacant lot or parcel.
- (v) **Dog Houses/Runs.** Dog houses and/or runs shall comply with the setback requirements in Sec. 13-1-142(n)(2).
- (w) **Agricultural Structures.** Agricultural structures in properly zoned agricultural districts such as barns, silos and windmills 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. "Firewood" is defined as wood used for fuel or decorative burning in a fireplace, stove, furnace or burning pit.
- (b) Firewood shall be neatly stacked and shall not be stacked closer than three (3) 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. Said storage of firewood or woodpile shall be raised at least three (3) inches off the ground.

- (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.**

- (a) **Definitions.** The following words and terms shall have the meanings herein provided in this Section:
  - (1) **Arbor.** A decorative solid or latticework structure or trellis which is used as an entrance focal point along a barrier which serves the purpose of a fence.
  - (2) **Berm.** A mound of earth higher than the final elevation of a lot.
  - (3) **Fence.** An enclosed barrier or vertical screen device consisting of wood, stone, vinyl or metal intended to limit ingress or egress and/or provide privacy and containment. This definition also includes, but is not limited to, trellises, railings and walls around the perimeter of a property.
  - (4) **Fence, Agricultural/Farm.** A fence meeting the agricultural fence standards of Chapter 90, Wis. Stats., consisting of wire strands, high tensile strands or other types of material used for agricultural purposes meeting the statutory requirements.
  - (5) **Fence, Architectural or Aesthetic.** A fence constructed to enhance the appearance of the structure or the landscape.
  - (6) **Fence, Boundary.** A fence placed on or within five (5) feet of the property lines of adjacent properties.
  - (7) **Fence, Good Neighbor.** A fence constructed of solid or spaced boards where the face boards are installed at the center of the posts so that the fence looks the same from both sides.
  - (8) **Fence, Protective.** A fence constructed to enclose a hazard to the public health, safety and welfare.
  - (9) **Install, Installation, Installed.** To construct, erect, install, place, or replace over sixteen (16) lineal feet.
  - (10) **Lot, Double Frontage.** An interior lot having street frontage on the front and the rear of the lot.
  - (11) **Trellis.** A frame or structure of open latticework.

- (b) **Fence Permit Required.** No person shall install a fence in the Village without first obtaining a fence permit from the Village, including special purpose fences under Subsection (n), paying the required permit fee prescribed by Sec. 1-3-1, and complying in all respects with the terms and conditions of this Section. A fence permit shall be valid only for the term of issuance, unless sooner revoked. A fence permit is not required for painting, maintenance, or repair or replacement of less than sixteen (16) lineal feet of a fence within a three (3) year period. A fence permit may include reasonable conditions required by the Village. A fence permit application shall be filed with the Village and include the following:
- (1) Payment of the permit fee and completed application forms required by the Building Inspector or Village.
  - (2) A drawing, site plan or plat map displaying property boundaries, the location of buildings and structures on the property, the proposed location of the fence and its distances from other structures on the parcel.
  - (3) Accurate design information for the proposed fence, including height and materials to be utilized.
  - (4) If the fence is proposed to be installed on leased or rented property, the written consent of the owner.
- (c) **Responsibilities of Applicant; Location Determination.**
- (1) The property owner installing a fence is solely responsible for ensuring that the fence is properly located on his/her property, and is in compliance with height, setback, vision clearance and materials requirements. If uncertainty exists regarding the actual location of lot lines, it is the applicant's responsibility to secure a lot survey.
  - (2) The applicant is responsible for complying with any private subdivision covenants or deed restrictions or utility easement(s) restrictions, including any applicable plan review/approval requirements.
- (d) **Fence Installation General Requirements.** No fence shall be installed except in strict compliance with this Section, permit conditions, and the following:
- (1) Prior to fence installation, the applicant shall contact Diggers Hotline service to have the project site marked.
  - (2) Structural and support components of a fence shall face internally into the applicant's lot, facing away from adjacent properties. Fences shall be installed with the finished side facing adjacent properties or the public right-of-way. Fence posts shall be located on the inside of the fence facing the property on which the fence is located, except when the style of fence is of a design commonly known as a "Good Neighbor Fence."
  - (3) Fences shall be installed plumb and the top finish of the fence shall be uniform. Fences shall follow the contour of the ground to the extent practical. Adjustments for grade shall occur at the bottom of the fence.
  - (4) Fence height shall be measured from the surface of the ground immediately below the fence. Berms, retaining walls or other methods to raise the elevation of the fence site

shall require approval by the Building Inspector prior to installation. The height of fences and walls shall be measured vertically from the finished grade on the exterior side of the fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a fence is prohibited. If a fence is placed on a berm, the berm shall be included in the height of the fence and the height will be measured vertically from the base of the berm.

(5) Fences shall be installed no closer than six (6) inches to a public sidewalk.

(e) **Approved Fence Materials.**

(1) Fences located in side and/or rear yards of residential parcels shall be constructed using materials suitable for residential-style fencing, including, but not limited to: brick, fieldstone, wrought iron, vinyl, chain link [with a required top rail support and a minimum nine (9) gauge thickness], split rail wood, stockade or board-on-board wood.

(2) Residential front yard fences shall be fifty percent (50%) open (see-through) and be of wrought iron, picket or split rail design. Chain link fencing is permitted in side or rear yards only and its use is not permitted in residential front yards.

(3) Agricultural/farm fences shall only be permitted in agriculturally-zoned or used districts, as determined by the Village, and shall comply with Ch. 90, Wis. Stats.

(4) No fence shall be constructed of used, discarded or scrap materials in disrepair, including, but not limited to, pallets, tree branches/stumps, crates, vehicle parts, refuse or other similar items. Materials not specifically manufactured for fencing, such as doors, railroad ties, landscape timbers or utility poles shall not be used in fences. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials.

(5) All fences, including privacy fences, shall only be painted or stained in neutral colors.

(f) **Modifications to Existing Fences.** All modifications to a pre-existing fence shall comply with this Section. Any existing fence shall not be enlarged, extended or replaced for more than sixteen (16) linear feet in a three (3) year period except in compliance with this Section.

(g) **Height and Placement of Residential Fences Regulated.**

(1) Residential fences six (6) feet or less in height are permitted on rear and side lot lines, but shall not continue beyond the front of the principal structure or the required front yard setback, whichever is furthest from the street right-of-way. Residential fences less than or equal to three (3) feet in height are permitted in the street yard setback area but shall not be closer than two (2) feet to any public right-of-way.

(2) In any residential district or on any lot or premises, the principal use of which is for residential purposes, no lengthwise fence or other lengthwise barrier or obstruction shall be erected, placed, installed or reinstalled in any area where there is a distance between main residential buildings of ten (10) feet or less.

(3) No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.

**13-1-142**

- (h) **Setback for Residential Fences.** Fences in or adjacent to a residential property (or property primarily residential in use) are permitted on lot lines. Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines.
- (i) **Industrial/Commercial Security Fences.** Security fences are permitted 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.
- (j) **Corner Lot Vision Clearance Requirements.**
  - (1) In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:
    - a. A minimum of twenty (20) feet from the intersection of the two street property lines;
    - b. A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
    - c. A minimum of ten (10) feet from the intersection of the two driveway property lines.
  - (2) Street or alley property lines are measured from the right-of-way or easement lines establishing such street or alley. Driveway lines are measured from the easement establishing such driveway, or, in the case of no easement, from the edge of the driveway surface.
- (k) **Prohibited Fences.**
  - (1) No fence shall be constructed which is of a dangerous condition, 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 or height and project toward the fenced property and away from any public area.
  - (2) Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control if located five (5) feet from a lot line.
  - (3) No woven, twisted, welded or interlaced wire fence, such as using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character.
  - (4) No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (m).
  - (5) No fence shall consist solely of fence posts or be maintained as an incompletely constructed fence consisting only of posts and supporting members.
- (l) **Fences to be Repaired; Corrective Action.**
  - (1) All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property. Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not



- to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public. Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.
- (2) Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.
  - (3) All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. Failure to maintain a fence in good condition and repair will result in the Village issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-6.
- (m) **Temporary Fences; Permit Not Required.**
- (1) 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 forty-five (45) days.
  - (2) This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists.
- (n) **Special Purpose Fences.**
- (1) **Swimming Pool/Hot Tub Fences.** Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-143.
  - (2) **Pet Enclosures; Dog Runs.** Pet enclosures and dog runs shall be permitted in residential districts subject to the following conditions:
    - a. A fence permit is required prior to installation of a pet enclosure or dog run.
    - b. No pet enclosure or dog run shall be in excess of two hundred and fifty (250) square feet in area, or be more than six (6) feet in height above the surface of the ground.
    - c. Pet enclosures and dog runs may be constructed of any material permitted for a residential fence.
    - d. No pet enclosure or dog run shall be constructed contrary to required vision clearance area requirements.
    - e. Pet enclosures and dog runs shall be located no closer than ten (10) feet to a side or rear lot line, and shall not be located to the front of the principal structure.
  - (3) **Anhydrous Ammonia Sites.** Anhydrous ammonia tank sites shall be fenced as prescribed in Section 8-1-13.

- (o) **Nonconforming Fences.** Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications or improvements of more than fifty percent (50%) of said fence shall require the owner to bring the fence into compliance with this Section.

### **Sec. 13-1-143 Swimming Pools and Hot Tubs.**

- (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 two (2) feet located above or below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her 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 twenty-four (24) 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. Inflatable pools of all types are exempt.
- (c) **Permit; Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed and the fee as prescribed in Section 1-3-1 is paid:
  - (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations 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 or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub 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.
  - (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 or hot tub shall be in conformance with the state laws and Village Ordinances regulating electrical installations.
- (d) **Setbacks and Other Requirements.**
  - (1) Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot

tub 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 or hot tub 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 or hot tub be less than six (6) feet from any lot line.
- (3) Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.
- (4) Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

(e) **Enclosure.**

- (1) ***Fence; In-Ground Pools.*** All outdoor, below grade swimming pools shall have a fence or other solid structure not less than four (4) feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than three (3) inches square. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when not in actual use and shall be equipped with a self-closing and self-latching device designed to keep and be capable of keeping such door or gate securely locked at all times when not in actual use.
- (2) ***Above-Ground Pools; Pool Wall Barrier.***
  - a. An approved barrier shall consist of a solid wall of durable material of which the pool itself is constructed and shall extend directly above the vertical water enclosing wall of the pool. Such walls shall extend more than three (3) feet above the level of the ground immediately adjacent to the pool. Such a solid pool wall barrier shall not be located within six (6) feet of any other wall or fence or other structure which can be readily climbed by children. Every entrance to a pool, such as a ladder, must be secured or adequately safeguarded to prevent unauthorized entry into the pool.
  - b. 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.
- (3) ***Miscellaneous Requirements.***
  - a. Swimming pools and hot tubs surrounded in whole or in part by a deck which has steps leading to the swimming pool or hot tub shall be equipped with a gate a minimum of four (4) feet in height and capable of being latched and locked with a combination lock or by a lock worked by a key to secure access to the swimming pool or hot tub when not in use.
  - b. Service gates and gates which are part of a fence or wall enclosing a swimming pool or hot tub which are located across a driveway shall be kept closed and latched at all times by the property owner or occupier when not in use for ingress

or egress. When such areas are not in use, such gates shall be locked with a combination lock or by a lock worked by a key.

- c. Hot tubs equipped with a fitted cover and capable of supporting a minimum of two hundred (200) pounds shall be exempt from required fencing.
- (f) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer 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, but such installation shall be subject to prior approval by the Plumbing Inspector.
- (g) **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 the water therein and maintenance of the proper bacterial quality thereof.
- (h) **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.

### **Sec. 13-1-144 Retaining Walls.**

- (a) **Purpose.** The purpose of this Section is to protect public and private property from the effects of poorly designed and constructed retaining walls.
- (b) **Permit Required.** A permit shall be required for all retaining walls constructed that exceed twenty-four (24) inches in height, including terraced retaining wall projects where the total height of all walls exceeds twenty-four (24) inches, and are closer than fifteen (15) feet to a property line.
- (c) **Application.** Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed by a professional engineer registered in the State and/or other information necessary to adequately review the proposed retaining wall may also be required by the Zoning Administrator.
- (d) **Performance Standards.** A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than thirty (30) pounds per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.
- (e) **Setbacks.** Setbacks for retaining walls shall be as established under Section 13-1-140(1).

**Sec. 13-1-145 through Sec. 13-1-149      Reserved for Future Use.**