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# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2015-19

By Cheryl A. Banaszak Sponsored By Cheryl A. Banaszak

## AN ORDINANCE

**AMENDING THE ZONING CODE OF THE CITY OF BEREA AT SECTION 305.02 (C), SECTION 309.05 AND CHAPTER 400, DEFINITIONS, OF THE ZONING CODE OF THE CITY OF BEREA, OHIO, AS ADOPTED MAY 7, 2012 AND AS AMENDED THEREAFTER, TO MODIFY THE STANDARDS FOR SWIMMING POOLS AS RESIDENTIAL ACCESSORY USES.**

**WHEREAS**, the Zoning Code of the City of Berea, Ohio, was enacted by Ordinance No. 2012-29 and adopted on May 7, 2012; and

**WHEREAS**, it is important to periodically review and appropriately amend the Zoning Code of the City of Berea to ensure that it serves the best interest of the City and its residents and businesses; and

**WHEREAS**, the Zoning Code of the City of Berea, Ohio, was amended by Ordinance No. 2012-29 and adopted on May 7, 2012; and

**WHEREAS**, Section 201.04 (C) of the Zoning Code provides for swimming pools as an Accessory Use in residential districts; and

**WHEREAS**, certain lots, known commonly as peninsula lots because they have dedicated rights-of-way on three sides, cannot meet the current zoning and building code requirements for placement of a swimming pool.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Berea, State of Ohio:

**SECTION 1.** That Section 305.02, Accessory Use Standards, at subsection (C), which sets standards for accessory use location on a lot, which has heretofore read as follows:

(C) Accessory structures shall be located on the same parcel for which the principal structure is found and shall be in compliance with the following requirements:

- (1) In all residential districts, an accessory building shall not be located closer than five (5) feet to a rear or side lot line.
- (2) In all non-residential districts, an accessory building shall not be located closer than ten (10) feet to a rear or side lot line when abutting any residential use or residential zoning district. When an accessory use abuts a non-residential use or zoning district, there shall be no side yard or rear yard setback requirement for an eligible accessory use.

shall be, and the same is hereby amended to, read as follows:

(C) Accessory structures shall be located on the same parcel for which the principal structure is found and shall be in compliance with the following requirements:

- (1) In all residential districts, an accessory building shall not be located closer than five (5) feet to a rear or side lot line.
- (2) In all non-residential districts, an accessory building shall not be located closer than ten (10) feet to a rear or side lot line when abutting any residential use or residential zoning

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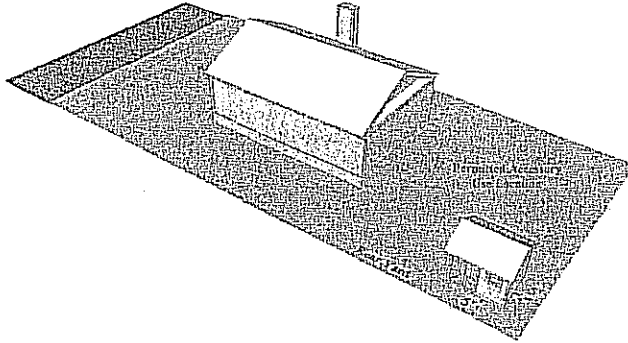
district. When an accessory use abuts a non-residential use or zoning district, there shall be no side yard or rear yard setback requirement for an eligible accessory use.

- (3) Swimming Pools. If approved by the Planning Commission, a swimming pool may be located in a side yard or front yard when located on an eligible peninsula lot bordered on three sides by dedicated public rights-of-way. Please refer to "Section 309.05(I) Private Residential Swimming Pools" for additional standards and application procedure.

**SECTION 2.** That Figure 28, Residential Accessory Use Setback Illustration, and Figure 29, Corner Lot Accessory Use Location Illustration, in Chapter 305, Accessory Use Standards, of the Zoning Code of the City of Berea which currently appear as follows:

## **Figure 28: Residential Accessory Use Setback Illustration**

*Illustration above depicts minimum setback and rear yard location requirements for residential accessory structures.*



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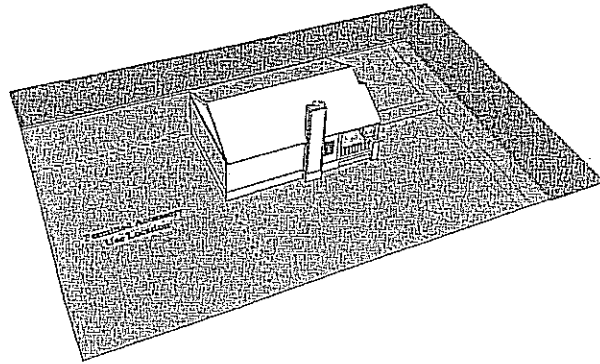
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## Figure 29: Corner Lot Accessory Use Location Illustration

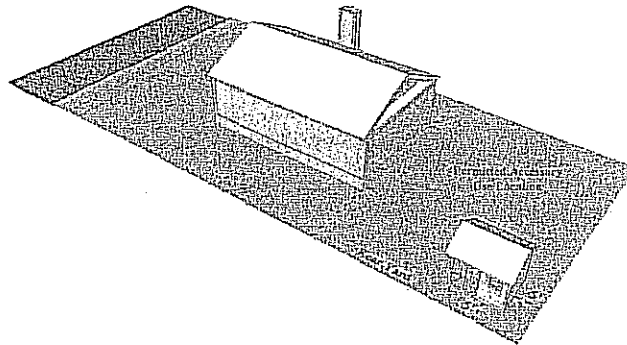
*Illustration above depicts the permitted location for accessory uses located on a corner lot.*



shall be, and are hereby amended to, be shown as follows:

## Figure 28: Residential Accessory Use Setback Illustration

*Illustration below depicts minimum setback and rear yard location requirements for residential accessory structures.*



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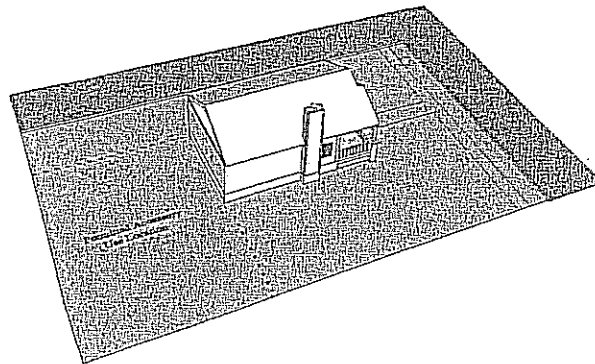
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Figure 29: Corner Lot Accessory Use Location Illustration

*Illustration below depicts the permitted location for accessory uses located on a corner lot.*



**SECTION 3.** That Section 309.05, Private Residential Swimming Pools, in Chapter 309, Supplemental Regulations, which currently reads as follows:

**Section 309.05 Private Residential Swimming Pools.**

No private residential swimming pool, exclusive of "Portable, Blow-up, Wading, and Kiddie Pools", shall be allowed in any district, except as an accessory use and unless it complies with all the following conditions and requirements:

- (A) The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (B) The pool may not be located in the front yard or side yard area; nor, closer than ten feet (10') to a rear or side lot line.
- (C) Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than 60" inches (5') above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in a place of a wall or fence.
  - (1) Such fence or other barrier shall be of conventional design and each gate in it shall be provided with a self closing, self latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation and supervision of a responsible person.
  - (2) The latch shall not be lower than 48" inches and located on the inside of the gate, not accessible to a small children. In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than sixty inches or five feet (5').

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- (3) The steps or ladder can be designed to be secured, locked or removed to prevent access, or the steps or ladder can be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above. Temporary, portable, blow-up and/or wading pools are excluded from this option.
- (D) Spas, Hot Tubs, and similar water recreational devices, having a span of 9' or less at the widest point, shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a responsible adult. Spas/Hot tubs and similar water recreational devices having a span greater than 9' at any point, shall be considered a swimming pool and must adhere to the swimming pool guidelines contained in this Chapter.
- (E) No part of any barrier shall be located between the building setback line as established by this Zoning Code and the street on which the lot or parcel abuts.
- (F) Required fencing and/or other permitted barriers must be in place within twenty-four hours after the swimming pool has been constructed or filled.
- (G) Prior to the construction or erection of any private residential swimming pool, the applicant shall obtain a zoning permit under §101.04, and all permit fees shall be paid.
- (H) Portable, Blow-up, Wading or Kiddie Pools, hereinafter referred to as "portable pools" shall meet all of the following requirements:
  - (1) Portable pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½') of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.
  - (2) Portable pools that are not erected, whether containing water or not, on one's property, when not wholly enclosed inside of a building, except for between and including the dates of May 1<sup>st</sup> through September 30<sup>th</sup> of the same calendar year.
  - (3) Portable pools shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
  - (4) Portable pools are not permitted in front yards.
  - (5) Water recirculating system or involve structural materials shall not be utilized.
  - (6) Portable pools may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Zoning Administrator.
  - (7) No zoning permit shall be required for a portable pool.

shall be, and is hereby amended to, read as follows:

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Section 309.05 Private Residential Swimming Pools.

No private residential swimming pool, exclusive of "Portable, Blow-up, Wading, and Kiddie Pools", shall be allowed in any district, except as an accessory use and unless it complies with all the following conditions and requirements:

- (A) The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (B) Except as provided in Section 309.05(I), a swimming pool may not be located in the front yard or side yard area; nor, closer than ten feet (10') to a rear or side lot line.
- (C) Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than 60" inches (5') above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in place of a wall or fence.
  - (1) Such fence or other barrier shall be of conventional design and each gate in it shall be provided with a self closing, self latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation and supervision of a responsible person.
  - (2) The latch shall not be lower than 48" inches and located on the inside of the gate, not accessible to small children. In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than sixty inches or five feet (5').
  - (3) The steps or ladder can be designed to be secured, locked or removed to prevent access, or the steps or ladder can be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above. Temporary, portable, blow-up and/or wading pools are excluded from this option.
- (D) Spas, Hot Tubs, and similar water recreational devices, having a span of 9' or less at the widest point, shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a responsible adult. Spas/Hot tubs and similar water recreational devices having a span greater than 9' at any point, shall be considered a swimming pool and must adhere to the swimming pool guidelines contained in this Chapter.
- (E) Except as approved by the Planning Commission on a lot bordered on three sides by dedicated rights-of-way, no part of any barrier shall be located between the building setback line as established by this Zoning Code and the street on which the lot or parcel abuts.
- (F) Required fencing and/or other permitted barriers must be in place within twenty-four hours after the swimming pool has been constructed or filled.
- (G) Prior to the construction or erection of any private residential swimming pool, the applicant shall obtain a zoning permit under §101.04, and all permit fees shall be paid.

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- (H) Portable, Blow-up, Wading or Kiddie Pools, hereinafter referred to as "portable pools" shall meet all of the following requirements:
- (1) Portable pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½') of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.
  - (2) Portable pools that are not erected, whether containing water or not, on one's property, when not wholly enclosed inside of a building, except for between and including the dates of May 1<sup>st</sup> through September 30<sup>th</sup> of the same calendar year.
  - (3) Portable pools shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
  - (4) Portable pools are not permitted in front yards.
  - (5) Water recirculating system or involve structural materials shall not be utilized.
  - (6) Portable pools may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Zoning Administrator.
  - (7) No zoning permit shall be required for a portable pool.
- (I) Swimming Pools Located on Peninsula Lots. A swimming pool may be located on a single family peninsula lot bordered on three sides by dedicated public rights-of-way and subject to the following standards:
- (1) An individual may apply for a permit to allow the placement of a swimming pool located on a peninsula lot when one of the following exists:
    - (a) The lot is zoned for a residential use; or
    - (b) The lot is zoned for a non-residential use and the primary use on the lot is residential at the time of application.
  - (2) The Planning Commission must review and approve or deny all requests for swimming pools proposed on a peninsula lot as authorized under Section 102.03(H).
  - (3) The fenced swimming pool area shall not be located closer than ten feet (10') from any lot line or public right-of-way easement.
  - (4) Planning Commission must approve the application for a swimming pool located on a peninsula lot as provided under Section 102.03(H). Each such application shall contain the following items:
    - (a) Completed application form as provided by the City.

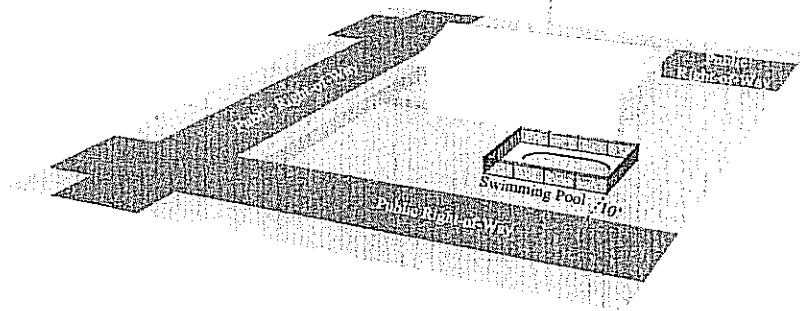
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- (b) Sketch of the applicant property identifying the location of the residential structure and proposed swimming pool area to include the proposed setback distances from the swimming pool area to the adjoining lot lines or right-of-way easement lines. An example of a possible sketch is shown below.



- (5) The Planning Commission may approve the location of the proposed swimming pool located within a required front or side yard upon making findings that locating the pool in a front or side yard is the most practical location for it on that particular lot, that the public safety will not be impacted by the location of the pool and that the neighboring properties will not be adversely affected by the location of the pool.

**SECTION 4.** That Chapter 400, Definitions, of Article IV, Zoning Definitions, in the Zoning Code of the City of Berea, shall be amended to include the following:

**LOT, PENINSULA.** A lot having frontage on three public (dedicated) roads, streets or alleys resulting in a lot containing three front yard areas and one side yard area.

**SECTION 5.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**SECTION 6.** That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: March 2, 2015

ATTEST: [Signature]  
Clerk of Council

APPROVED AS TO FORM:

[Signature]  
Director of Law

[Signature]  
President of Council

APPROVED: March 5, 2015  
[Signature]  
Mayor