

ORDINANCE NO. 04-63

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, PERTAINING TO THE LAND DEVELOPMENT CODE; AMENDING ARTICLE 5, ALLOWABLE ENCROACHMENTS INTO THE REQUIRED YARDS AND EXCEPTIONS TO THE MAXIMUM PERMITTED HEIGHTS IN ALL ZONING DISTRICTS; ADDING PROVISIONS FOR DECKS AND WALKWAYS; DRIVEWAYS AND PARKING SPACES; FENCES, WALLS AND GATES; HEDGES; PROJECTIONS AND OVERHANGS INTO THE REQUIRED YARDS; ANTENNAS AND SATELLITE DISHES; SWIMMING POOLS, HOT TUBS, SCREEN ENCLOSURES AND POOL DECKS; TENNIS COURTS; AND EXCEPTIONS TO HEIGHT RESTRICTIONS, ALL AS INCLUDED IN EXHIBIT "A" HEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") upon incorporation adopted Chapter 33 "Zoning" of the Code of Miami-Dade County to serve as the Town's Land Development Code; and

WHEREAS, the Town desires to update and streamline the existing Town Land Development Code and to tailor it to the Town's particular needs and community vision; and

WHEREAS, the Town has undertaken a comprehensive rewriting of the Land Development Code, after having conducted workshops and public hearings regarding the Code, and having adopting its Comprehensive Plan pursuant to state statutes; and

WHEREAS, the Town previously adopted Ordinance No. 04-57 creating Article 5; and

WHEREAS, the Town desires to amend Article 5 to address allowable encroachments into the required yards and exceptions to the maximum permitted heights in all zoning districts; adding provisions for decks and walkways, driveways and parking spaces, fences, walls and gates, hedges, projections and overhangs into the required yards, antennas and satellite dishes,

swimming pools, hot tubs, screen enclosures and pool decks, tennis courts, and exceptions to height restrictions, all as included in Exhibit “A” hereto; and

WHEREAS, after conducting a properly noticed public hearing the Town Local Planning Agency has recommended that the referenced regulations are consistent with the Town Comprehensive Plan; and

WHEREAS, after conducting a properly noticed hearing and considering the recommendations of the public, the Local Planning Agency and the Town staff, the Town Council wishes to adopt the regulations for including in the Land Development Code as attached hereto as Exhibit “A.”

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Adoption of Regulations for Allowable Encroachments Into Required Yards. The Town Council hereby amends Article 5 of the Town’s Land Development Regulations providing for allowable encroachments into the required yards and exceptions to the maximum permitted heights in all zoning districts; adding provisions for decks and walkways, driveways and parking spaces, fences, walls and gates, hedges, projections and overhangs into the required yards, antennas and satellite dishes, swimming pools, hot tubs, screen enclosures and pool decks, tennis courts, and exceptions to height restrictions for inclusion in the Town Land Development Code, which are attached as Exhibit “A” hereto and are incorporated herein.

Section 2. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Miami Lakes, Florida Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on first reading. The motion was seconded by Simon and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador, II	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember Peter Thomson	<u>yes</u>
Vice Mayor Roberto Alonso	<u>yes</u>
Mayor Wayne Slaton	<u>yes</u>

PASSED AND ADOPTED on first reading this 16th day of December, 2004.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Thomson, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador, II	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember Peter Thomson	<u>yes</u>
Vice Mayor Roberto Alonso	<u>yes</u>
Mayor Wayne Slaton	<u>yes</u>

PASSED AND ADOPTED on second reading this 18th day of January, 2004.5

Wayne Slaton
Wayne Slaton
MAYOR

ATTEST:

Sheila Pizzi
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:

RAM
Weiss, Serota, Helfman, Pastoriza, Guedes
Cole & Boniske, P.A.
TOWN ATTORNEY

ARTICLE 5 ALLOWABLE ENCROACHMENTS INTO THE REQUIRED YARDS AND EXCEPTIONS TO THE MAXIMUM PERMITTED HEIGHTS

Division 5.1 Generally

In all districts, every part of a required yard shall be landscaped and remain open to the sky and free of all structures and paving except as authorized by these land development regulations. The following items are permitted to be constructed, placed or encroach into the required yards or to exceed the height requirements of a district.

Division 5.2 Accessory Buildings

- A. One story accessory buildings shall be permitted within the required rear yard of single family or duplex residences if they comply with the following:
1. Each accessory building shall not exceed 150 sq. ft. (75 sq. ft. in the zero lot line developments) of roofed area (including roof overhangs) and enclosed storage areas in each individual accessory building shall not exceed 60 sq. ft (30 sq. ft. in the zero lot line developments).
 2. The total lot coverage of all accessory buildings in the required rear yard shall not exceed more than 20% of the area of the required rear yard.
 3. Accessory buildings shall be setback a minimum of five (5) feet from a rear or interior side property line or for corner lots shall comply with the side street setbacks for the main structure. Roof overhangs shall be permitted to project a maximum of twelve (12) inches into the required 5' side and rear setbacks.
 4. Accessory buildings shall be detached a minimum of 10' from the residence and a minimum of 6' from roof overhangs (detached 5' from the main residence and 3' from any roof overhangs in the zero lot line developments). Accessory buildings shall be spaced apart from each other the same distance requirements as from the main residence.
 5. Accessory buildings shall be limited to one story with a maximum height of 15'.
 6. Allowable accessory buildings, with the exception of chickee huts as defined in this code, shall be constructed and finished to match the existing residence (including roofing material) or designed in an architectural style complimentary to the existing residence.
 7. Accessory buildings shall be limited to uses that are accessory to the main use, including but not limited to garages, carports, pergolas, cabanas, gazebos etc. Sleeping or guest rooms shall not be permitted in detached accessory buildings.

8. Accessory buildings may contain heating and air conditioning, washers and dryers, toilets, bar sinks and showers. An outdoor built-in barbecue grill or similar cooking equipment shall be allowed as an accessory structure.
9. No permit shall be issued for an accessory building for any use unless the principal building exists on the lot, or unless a permit is obtained simultaneously for both buildings and construction progresses concurrently.

Division 5.3 Accessory Structures

A. Accessory structures associated with single family and two family residences shall comply with the following:

1. Accessory structures such as barbecue grills, play equipment, tents, detached canopies, trellises, etc. whether or not permanently attached to the ground, shall only be permitted in the rear or side yards and must comply with the same height and setback regulations from adjoining properties as accessory buildings.

Above-ground swimming pools and hot tubs shall comply with the same setbacks as swimming pools in Section 5.13.

Accessory structures not permanently attached to the ground, including temporary play equipment, 5' high or less, shall only be permitted in the rear or side yards and may be located 2' from a rear or interior side property line and for corner lots shall comply with the side street setbacks for the main structure.

Ornamental landscape features such as statues or fountains less than four (4) feet high and decorative ponds less than 24 inches deep are permitted as accessory structures within any required yard.

2. Accessory storage sheds which are no larger than 30 sq. ft. and 5' high or less and not visible from the street or adjoining properties, may be located 2' from a rear or interior side property line and for corner lots shall comply with the side street setbacks for the main structure and are not required to match the architectural style and construction materials of the main residence.
Storage sheds larger than 30 sq. ft. and or higher than 5' are not permitted.

Division 5.4 Air Conditioning or other Mechanical Equipment

A. Single Family and Two Family Residences:

1. Central Air-Conditioning or mechanical equipment shall not be located along the front façade of any single family or two family residences. Central Air-conditioning or mechanical equipment shall be located as close to the main residence as possible in order to minimize noise to the adjacent properties. In addition to the above requirement, the equipment may not be located less than 3'

from an interior side or rear property line and no less than 10' from a side facing a street. Legally existing central air-conditioning or mechanical equipment that does not meet the above setbacks may be replaced in the existing locations provided that the setback is not reduced. All air-conditioning equipment shall be substantially screened, by landscaping, wall or similar device from view at eye level (5' – 6" above grade) from the front of the property or side facing a street.

2. Wall or window air conditioning units shall not be visible from a front or side street and may project into a required yard for a distance not to exceed 40% of the required setback.
3. Central air-conditioning or mechanical equipment located on the roof shall also be substantially screened from view at eye level (5' – 6" above grade) from adjoining properties. Roof mounted solar powered water heaters, if possible, shall be installed so that they are not visible at eye level from the front or side streets.

Division 5.5 Awnings

A. Single Family and Two Family Residences:

1. Awnings may only be installed over doors, windows or other openings and shall be permitted to project into any required setback as follows:

Maximum projection into front setback: 5'

Maximum projection into interior or street side setback: 3'; 5' for zero lot line developments

Maximum projection into rear setback: 7'

In no instance shall an awning project any closer than 3' to a property line.

2. An awning projecting into the rear setback of single family and two family residences may be installed along the rear façade regardless of whether there are doors, windows or other openings. However, the awning shall not cover more than 70% of the width of the rear façade of the residence.
3. All awnings affixed to a particular residence shall be of the same color scheme.
4. The area covered by awnings shall not be included in the lot coverage calculations.

Division 5.6 Canopies

A. Single Family and Two Family Residences:

1. Required Front and Side Yard:
Detached or attached canopies are not permitted within the required front and side yards.

2. Required Rear Yard:

Canopies attached to the main residence and open on two sides shall not be included in the lot coverage calculations but must comply with the required rear and side setbacks for the main residence.

Detached Canopies in the rear yards shall comply with the setback and lot coverage restrictions for accessory buildings and with the exception of chickee huts as defined in this code may only be constructed of canvas, fabric or vinyl and pipe or CBS construction to match the residence.

Division 5.7 Decks and Walkways

A. Single Family and Two Family Residential lots or parcels shall comply with the following for at-grade decks. At-grade decks and walkways are defined as decks or walkways that are not more than six (6) inches above the established grade. Decks or walkways higher than six (6) inches above the established grade shall be considered accessory structures and must comply with the setback and lot coverage restrictions for accessory structures elsewhere in this code:

1. Required Front Yard:

At-grade decks shall be permitted to project a maximum five of (5') feet into the required front yard.

One walkway with a maximum width of six (6) feet shall be permitted from the entrance of the residence to the front property line.

2. Required Side Yards:

Decks shall not be permitted within the required side yards.

Three (3') feet wide walkways, steps or entrance stoops shall be permitted within the required side yards.

3. Required Rear Yard:

At grade decks or walkways constructed of wood, concrete, brick pavers set in sand or of similar impervious materials shall be setback a minimum of 5' from the rear and interior side property lines. For zero lot line developments the decks or walkways shall be setback three (3) feet from the rear property line, zero (0') feet from the zero lot line side and four (4) feet from the other interior side property line. For all corner lots the decks shall comply with the required street side setbacks for the main structure.

4. The maximum permitted impervious area for driveways, walkways, porches, decks, etc. (including brick pavers set in sand) in the required front yard or a required side yard facing a street shall be 60%.

5. In no instance shall the total impervious areas (including brick pavers set in sand) of all the required yards on a lot or parcel exceed 50%.

Division 5.8 Driveways and Parking Spaces

A. Single Family and Two Family Residences

1. Driveways and parking spaces shall be graveled or hard-surfaced. Parking shall not be permitted on sand, lawns, common access areas, right-of-ways, across sidewalks, center islands of cul-de-sacs and other non-paved areas not approved for parking. Overnight parking shall not be permitted on swale areas, however overnight parking shall be permitted on driveway approach areas if the vehicle does not block the sidewalk. Unlicensed vehicles and inoperable vehicles may only be placed and kept on a lot in a closed garage.
2. Driveways and parking spaces in the front yard shall be set back a minimum of five (5) feet from an interior side property line. For zero lot line developments the driveways and parking spaces shall be setback back a minimum of zero (0') feet from the zero lot line side and a minimum of four (4) feet from the opposite side property line. For all corner lots, the driveways and parking spaces located in the front yard shall comply with the required street side setbacks for the main structure.
3. On corner properties when a driveway is located perpendicular to a side facing the street, the driveway or parking space shall be setback twenty (25) feet from the rear property line and twenty (25) feet from the front property line.
4. Driveways and parking spaces parallel to a front property line or side property line facing a street shall be set back five (5) feet from the front or side street property line.
5. The maximum permitted impervious area permitted for driveways, walkways, porches, decks, etc. (including brick pavers set in sand) in the required front yard or the required side yard facing a street shall be 60% for each yard.

Division 5.9 Fence, Walls and Gates

A. All Districts

1. Appearance:
 - a. The frame work or structural supports for any permitted fence, wall or enclosure shall face the interior of the lot; or in the case of a double faced fence, wall or enclosure, it shall have an identical design on both sides, so that the exterior of such improvement shall have a finished appearance. Each side of a CBS wall shall be completely finished with stucco and paint. Each side of a decorative masonry wall shall be completely painted. Chain link fences must be either vinyl coated or covered by a hedge. Slats of vinyl, plastic or

similar material shall not be permitted to be inserted or weaved into the chain link fences.

- b. If a wall or fence is to be placed on a shared property line, consent for access must be obtained from the adjoining property owner(s) prior to finishing the opposite side of the wall. If such consent cannot be obtained, the property owner erecting the wall must present proof that a request for access approval was mailed to every adjacent property owner, by certified mail, return receipt requested, to the mailing address(es) as listed in the most current Miami-Dade County tax roll, and the mailing was returned undeliverable or the adjacent property owner(s) failed to respond to the request within thirty (30) days after receipt. Upon such a showing, the property owner erecting the wall shall not be required to finish the opposite side of the wall.
- c. Barbed wire fences and barbed wire topped fences or walls shall be permitted only in the AU and IU Zoning Districts. When mounted on top of fences or walls such barbed wire must be placed on an angle extension of not more than sixteen (16) inches on top of walls or fences at least eight (8) feet in height. This extension shall contain no more than three (3) strands of barbed wire and shall not extend over official rights-of-way or over property under different ownership. Fences charged with electricity shall not be permitted within the Town limits. Neither shall any wall, fence or similar structure erected in any district contain material or substance such as broken glass, spikes, nails, barbs or similar materials designed to inflict pain or injury on any person or animal.

2. Measurement of Height:

- a. The height of a wall or fence shall be the vertical distance measured from the elevation of the property where the wall or fence is located to the top of the wall or fence. The maximum permitted height of a wall or fence on a property shall be measured from the natural height and contours of the land. Virgin land may not be increased or decreased in elevation to affect the permitted (or required) height of a wall, hedge or fence. A fence or wall shall not exceed the maximum permitted height when measured from the adjoining property.
- b. Fences, walls, gates or columns not located within the required yards may be constructed up to the maximum permitted height for the primary structures of the zoning district in which the property is located.

3. Corner Visibility:

No structure, hedge, shrub or planting which obstructs sight lines at elevations between two and a half (2.5) and eight (8) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the outer edge of the paved streets extended and a line connecting them at points twenty-five (25) feet from the intersection of the extended street lines. The same height sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a driveway pavement.

No tree shall be permitted to remain within such distances or such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines. Waivers of the corner visibility requirements may be administratively approved by the Public Works Director.

4. Perimeter Walls Surrounding Subdivisions:

- a. Walls surrounding subdivisions and abutting zoned or dedicated right-of-ways shall comply with the Plats Section, 3.8B.16. of this code.
- b. No changes, alterations, or modifications of any kind shall be made to the perimeter wall surrounding a subdivision without the prior written approval of the Town. Exterior surfaces of perimeter walls shall be of uniform colors to be determined by the homeowners association, or by the Town pursuant to color guidelines to be adopted by the Town council, and the perimeter walls shall be maintained by the homeowners association or property owner(s) if an association does not exist.

B. Single Family and Two Family Residences:

1. Location Restrictions:

- a. No fences, walls or gates shall be permitted within a required front yard or side yard facing a street. However, perimeter walls surrounding subdivisions which are approved through the site plan review process are permitted along sides facing a street or rear yards facing a street.
- b. On properties abutting lakefronts, fences or walls are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.

2. Height:

- a. Where permitted, the maximum height of all fences, walls or decorative columns located within a required yard shall be 6'. Decorative open see-through type gates and decorative columns that are not more than sixteen (16) inches wide and spaced a minimum of 8' apart, shall be permitted to exceed the maximum permitted height of the wall by 18".
- b. Height between different districts. Where an RU District abuts another district, a fence, wall or hedge on the RU property may be erected or maintained on the common property line of the height permitted in the abutting district.

Division 5.10 Hedges

A. Single Family and Two Family Residences

1. Hedges shall not be permitted parallel to the front or side street property line within the required front or side street required yards.
2. The maximum height of hedges located within a required yard shall not exceed six (6) feet with the following exceptions:
 - a. For waterfront properties, hedges located waterward of the top of the slope or tie line shall not exceed a height of two and one half (2 ½) feet.
 - b. Hedges facing arterial or collector roadways shall have a maximum height of ten (10) feet. Hedges facing state roadways shall not have a height limit but must be maintained neat and trimmed.
 - c. Hedges along the side property lines within the required front yard or along the rear property line within the side yard facing a street shall not exceed 2.5' in height.
3. Hedges for waterfront properties
 - a. Hedges along the side property lines shall not be permitted within ten (10) feet of the water's edge. The water's edge is defined as the average high ground water elevation.
 - b. Hedges shall not be permitted to be placed parallel to the waters edge waterward of the top of the slope.
4. All existing hedges that do not comply with the above regulations shall either be removed if no longer permitted or trimmed to comply with the maximum height requirements within one year of the adoption of this ordinance.

Division 5.11 Projections and Overhangs into the Required Yards

A. For all districts:

Every part of a required yard shall be open to the sky, except as authorized by these land development regulations. In addition, the following items may project into a required yard for a distance not to exceed 40% of the required setback up to a maximum of five (5) feet:

1. Chimneys
2. Cornices
3. Unenclosed balconies open on three sides.
4. Roof overhangs
5. Window and wall air-conditioning units.
6. Bay windows, with a maximum width of 6', which do not extend the floor space.
7. Ornamental features that do not extend interior living space.
8. Awnings – see section 5.5

Division 5.12 Antennas and Satellite Dishes (SDA)

A. Television and Radio Antennas

All radio and television antennas shall be placed behind the front elevation or side street elevation and shall not extend more than 5 feet above the highest roof line or 5 feet above the height limit in the district in which it is located. If detached from the residence the antennas shall not be located within the required rear or side yards.

B. Satellite dish antennas (SDA)

The standards of this section pertain to privately owned satellite dish antennas and are intended to enable clear television reception for the private use and enjoyment of the dish owner.

1. **Definition.** A Satellite dish antenna (SDA) shall be defined as a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow parabolic dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations and satellite microwave antennas.
2. **Measuring an SDA.** The diameter of an SDA shall be measured to the outermost part of the SDA. The height of an SDA shall be measured from natural grade to the top of the SDA fastened in a vertical position. The setback of an SDA shall be measured from the property line to the nearest portion of the SDA fastened in a horizontal position.
3. **Permits and exceptions.** Unless preempted by Federal Law, no SDA shall be erected unless a building permit is first obtained from the Building Department. Under current Federal Law no permit is necessary for SDA's measuring less than one (1) meter (39.37 inches) in diameter when placed as an accessory use to any single family residence, duplex or townhouse unit, or less than two (2) meters (78.74 inches) in diameter when placed as an accessory use to any permitted business, industrial, office or multi-family use.
4. **Satellite Dish Antennas (SDA) exempt from permit by Federal Law** shall only be mounted on the side or rear walls of principal buildings or on the roof and shall not extend more than five (5) feet above the highest roof line.
5. **Satellite Dish Antennas (SDA) which are not exempt from permit by Federal Law** shall comply with the following:
 - a. As an accessory use to any single family residence, duplex or townhouse, one (1) ground-mounted detached SDA is permitted per dwelling unit subject to all the location and height requirements of accessory structures

(located in rear yard only, 15' max height, minimum 5' setback from the rear and side property lines).

- b. As an accessory use to any single family residence, duplex or townhouse, one (1) roof-mounted or wall-mounted SDA (a satellite dish that is attached to the side of a building and projects over the roof is considered to be wall mounted or roof mounted) is permitted per dwelling unit in lieu of a ground mounted SDA, subject to all the following conditions:
 - (1) A certified engineer's report reflects that clear reception of all satellite transmissions is not possible with a ground mounted SDA under paragraph (e) above;
 - (2) The SDA shall be mounted on the rear or interior side wall of the principal building or on the roof to the rear of the actual front building line;
 - (3) The SDA shall not exceed ten (10) feet in diameter;
 - (4) The height of the proposed installation shall not exceed the maximum height restriction imposed upon principal uses within the underlying zoning district.

- c. As an accessory use to any business, office or multi-family use, ground-mounted SDA's are permitted subject to all the following conditions:
 - (1) The ground mounted SDA shall not exceed sixteen (16) feet in diameter;
 - (2) All installations shall comply with the principal building setback requirements specified within the underlying zoning district. The ground mounted SDA shall be located behind the actual front and side street building line;
 - (3) No ground mounted SDA shall project beyond the height of the tallest principal building on the lot on which it is erected.

- d. As an accessory use to any business, office or multi-family use, roof or wall-mounted SDA's are permitted, in lieu of ground-mounted antennas, subject to all the following conditions:
 - (1) The SDA shall not exceed sixteen (16) feet in diameter;
 - (2) Each SDA must be mounted on the roof to the rear of the front building line or on the rear or non-street side wall of the principal building;
 - (3) The height of the SDA shall not exceed seventeen (17) feet above the height of the principal building on which it is placed.

- e. SDA's are permitted as an accessory use in any Industrial District (IU) subject to compliance with the principal building setback requirements within the underlying zoning district. In Industrial Districts (IU) abutting or across the street from a residential district, SDA's must also comply with all conditions of sections (c) and (d) above.

- f. Signage of any type other than the manufacturer of the dish is prohibited on SDA's.

- g. Notwithstanding the provisions contained in this Section to the contrary, the Administrative Official shall have the discretion to administratively modify setback requirements when it can be demonstrated through a certified engineer's report that compliance with such setback requirements would hinder clear reception of signals. In such instances, the Administrative Official:
 - (a) May require that the SDA be buffered with landscaping or screened from view, providing such buffering or screening does not interfere with clear reception;
 - (b) Shall ensure that the modification is within the spirit and intent of this section; and
 - (c) To the extent possible shall ensure that the SDA installation is compatible with the appearance and character of the neighborhood.

Division 5.13 Swimming Pools, Hot Tubs, Screen Enclosures and Pool Decks

A. For Single Family and Two Family residences the following regulations shall apply:

- 1. Swimming Pools, Whirlpools, and Hot Tubs including above ground hot tubs may be located within a required side or rear yard with the following setbacks:
 - Rear – 7.5' / (5' for Zero Lot Line Developments)
 - Side – 7.5 / (5' for Zero Lot Line Developments)
 - Side Facing a Street – 15'
- 2. The setbacks for swimming pools shall be measured from the edge of the water; however, for above ground whirlpools, hot tubs or spas the setback shall be measured from the outer edge of the enclosure.
- 3. The edge of the water of swimming pools shall be no closer than eighteen (18) inches to any enclosure, walls and fences.
- 4. Swimming Pool Screen Enclosures and Swimming Pool Decks may be located within a required side or rear yard with the following setbacks:
 - Rear – 5' (3' for Zero Lot Line Developments)
 - Side – 5' (4' for Zero Lot Line Developments)
 - Side Facing a Street – 15'

B. All Other Uses and Districts.

- 1. Swimming Pools, Hot Tubs, Screen Enclosures and Pool Decks shall not be permitted within any required yards.

C. Safety Barrier for Swimming Pools; all districts.

- 1. Required for final inspection of pool. No final inspection and approval for a swimming pool shall be given by the Town, unless there has been erected a safety

barrier as hereinafter provided. No pool shall be filled with water unless a final inspection has been made and approved, except for testing purposes as may be approved by the Administrative Official.

2. Types permitted. The safety barrier shall take the form of a screened-in patio, a wooden fence, a wire fence, a rock wall, a concrete block wall or other materials, so as to enable the owner to blend the same with the style of architecture planned or in existence on the property.
3. Height. The minimum height of the safety barrier shall be not less than four (4) feet.
4. Location of barrier. The safety barrier shall be erected either around the swimming pool or around the premises or a portion thereof on which the swimming pool is erected. In either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Pools located in enclosed structures or on the roofs of buildings shall not require the installation of barriers as required herein.
5. Gates. Gates shall be of the spring lock type, so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the swimming pool is not in use.
6. Permits. Before any work is commenced, permits shall be secured for all swimming pools and for the safety barriers. Plans shall contain all details necessary to show compliance with the terms and conditions of this chapter. No swimming pool permit shall be issued unless simultaneously therewith a permit is secured for the erection of the required safety barrier, provided however, that in lieu of the permit for a safety barrier, a written statement from the owner certifying that he understands and agrees that the pool cannot be used or filled with water until a permit has been obtained for an approved safety barrier and such barrier erected, inspected and approved will be acceptable. This certification, however, will not eliminate the need for obtaining a permit and erecting an approved barrier prior to final inspection and use of the pool. If the premises are already enclosed, as hereinbefore provided, permit for the safety barrier shall not be required, if, upon inspection of the premises, the existing barrier and gates are proven to be satisfactory.
7. Wooden fences. In the wooden type fence, the boards, pickets, louvers, or other such members shall be spaced, constructed, and erected so as to make the fence nonclimbable and impenetrable.
8. Walls. Walls, whether of the rock or block type, shall be so erected to make them nonclimbable.
9. Wire fences (chain link). Wire fences shall be the two (2) inch, either vinyl coated or covered by a hedge, chain link or diamond weave nonclimbable type, or of an approved equal, with top rail. They shall be of a heavy, galvanized material.

10. Refusal of permit. It shall be within the discretion of the Administrative Official to refuse approval of a barrier which, in his opinion, does not furnish the safety requirements of this section, i.e., that is high enough and so constructed to keep the children of preschool age from getting over or through it.
11. Maintenance. It shall be the responsibility of the owner and/or occupant of the premises upon which the swimming pool is hereafter erected to maintain and keep the required safety barrier in proper and safe condition and erected in accordance with this division.
12. In addition, the swimming safety barrier shall comply with the current Building Code regulations.

Division 5.14 Tennis Courts

A. For Single Family residences:

1. Tennis Courts shall not be permitted within the required front yard and shall comply with the setbacks required for accessory structures in a side or rear yard.
2. The maximum height of fences associated with tennis courts shall be ten feet and all chain link fences shall be vinyl coated with black or green material.
3. Landscaping when associated with tennis court fences shall be permitted to equal the height of the fence.
4. The maximum height of light fixtures associated with tennis courts shall be 10' when located within a required side or rear yard; otherwise they may not exceed 20' in height. The lights shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half (1/2) foot-candle (vertical) and shall not exceed one-half (1/2) foot-candle (horizontal) illumination on adjacent properties or structures.

B. For all other districts and uses:

Tennis Courts shall not be permitted within any required yards.

Division 5.15 Exceptions to the Height Regulations

The height regulations as prescribed in these land development regulations shall not apply to the following items when located on the roof of a structure or attached to the main structure:

A. Single Family, Two Family and Townhouse Residences:

1. Chimneys may extend three (3) feet above the height limit in the underlying district.
2. Antennas and Satellite Dishes as per Section 5.12.

B. All other Districts or Uses:

Airplane beacons, belfries, chimneys, church spires/steeple, cooling towers, cupolas, domes, elevator bulkheads and shafts and enclosures for mechanical equipment, fire towers, flag poles, monuments, parapet walls extending not more than five (5) feet above the height of the building on which it rests, radio and television antennas, roof structures used only for ornamental purposes providing they do not exceed ten (10) percent of the roof area on which they stand, smokestacks, stage towers or scenery lofts, water towers, and structures used in connection with screening of Antennas.

C. The above rooftop items, unless specified, may exceed the maximum height of the underlying zoning district in which they are located by a maximum of fifteen (15) feet. When any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district.

D. Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.