

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1948**

**ORDINANCE OF THE TOWNSHIP OF MAHWAH, COUNTY OF
BERGEN, STATE OF NEW JERSEY, AMENDING SECTION 24-3.6,
ACCESSORY STRUCTURES AND USES, OF THE TOWNSHIP CODE
TO CLARIFY ZONING REQUIREMENTS REGARDING CONNECTED
STRUCTURES**

WHEREAS, the Ordinance Committee has reviewed the Township's zoning requirements regarding accessory structures and uses, and has recommended certain amendments to clarify the requirements regarding attached and detached accessory structures.

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, as follows:

SECTION 1. Chapter 24, Zoning, § 24-3.6, Accessory Structures and Uses, is hereby amended to read as follows in its entirety:

§ 24-3.6 Accessory Structures and Uses.

a. General.

1. Attached Accessory Structures in Residential Districts. When an accessory structure is fully integrated with and subsumed by the principal building by way of a separately approved addition, it shall comply in all respects with the requirements of this chapter applicable to the principal building, including all setback requirements applicable to principal buildings. In all other circumstances, accessory structure(s) shall be in full compliance with the provisions set forth herein, including, but not limited to, whenever an accessory structure is connected or attached to a principal building by way of a partially enclosed or covered walkway (referred to herein as a "breezeway"), or fully enclosed hallway or corridor.
2. No portion of an accessory structure shall be used for living quarters, except where permitted as accessory apartments under § 24-3.8h.
3. Agricultural or Horticultural Purposes. Notwithstanding any other regulations, accessory structures located on properties actually used for agricultural or horticultural purposes shall be subject to the following requirements.
 - (a) The requirements of §§ 24-3.6b1, b2, b3, b4, b7 and 24-3.6a2 apply.
 - (b) The maximum area of an agricultural or horticultural accessory structure shall be five percent (5%) of the lot upon which the structure is located.
 - (c) The maximum height of the structure shall be the same as the maximum height for a principal residential structure.
4. Permanent and Portable Swimming Pools.
 - (a) Permanent and portable swimming pools accessory to a residential use shall be erected on the same zone lot as the principal structure. The pool

may be erected in the side or rear yard of the zone lot. The wall of the swimming pool shall be located no closer than ten feet (10') to a side or rear yard line. All such pools shall be suitably fenced in accordance with Township requirements.

- (b) These regulations shall not apply to portable swimming pools which are less than two feet (2') in height.
 - (c) Pools and spas/Jacuzzis shall be considered accessory structures; however, shall not be counted toward the maximum number of accessory structures of a residential lot, see § 24-3.6b6.
5. Outdoor Storage Areas. Such uses, where permitted, shall not abut existing residential development or use, a residential street or any R District, and the operation thereof shall be governed by the following provisions:
- (a) Flammable and Explosive Liquids. All flammable or explosive liquids, solids or gases shall be stored in appropriate containers as regulated in the Fire Prevention Code.
 - (b) Fencing and Setbacks. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property and shall be subject to the provisions of § 24-5.6.
 - (c) Deposit of Wastes. No material or wastes which might cause fumes or dust or which might constitute a fire hazard or which may be edible by or otherwise attractive to animals or insects shall be stored outdoors unless in closed containers.
6. Helistops and Helipads.
- (a) Where permitted as accessory uses, helistops and helipads shall be subject to approval of the New Jersey Department of Transportation and the Federal Aviation Administration where applicable.
 - (b) Roof top heliports and helipads shall be prohibited.
 - (c) The location of landing sites and the regulation of helicopter operations shall reflect the following:
 - (1) Good locations to best serve present and potential helicopter traffic;
 - (2) Minimum obstructions in the approach and departure path;
 - (3) Minimum disturbances to the public from noise and dust; and
 - (4) Easy access to surface transportation.
 - (5) The Federal design guides, prepared by the F.A.A. (Heliport Design Guide, November 1964 as amended) shall be used as guidelines concerning heliport layout, approach and departure paths, obstruction clearances as well as the construction of heliport surfaces, landing and takeoff area, structural design, impact load, landing surface, turbulence and visibility.
7. Personal Recreation Facilities. Where permitted as accessory uses, personal tennis and sports courts shall conform to the following requirements:

- (a) The improved lot coverage does not exceed that permitted by the schedule of District Area, Yard, and Bulk requirements.
 - (b) The sports court shall not be located closer than forty feet (40') to any side lot line and not closer than fifty feet (50') from any rear lot line.
 - (c) The sports court can only be located in the rear yard portion of the premises.
 - (d) A fence with a maximum height of ten feet (10') shall be permitted incidental to the sports court.
 - (e) Lighting designed for illumination of the sports court for night use is prohibited.
 - (f) The sports court may be used only by the residents of the premises and their guests.
8. Home Occupations. Home occupation uses are permitted as accessory uses in all residential zones in a manner that will not impact upon adjacent properties and shall conform with the following standards.
- (a) A home occupation shall be subordinate to the principal use of a dwelling unit for residential purposes. The area set aside for home occupations and/or for storage purposes in connection with a home occupation shall not exceed thirty percent (30%) of the gross floor area (G.F.A.) of such residence, excluding the area of garages, basements and attics in calculation of G.F.A. even though such garage, basement and attic areas may be used for home occupation and/or storage purposes.
 - (b) There shall be no outdoor storage or outdoor display of materials or equipment.
 - (c) Any alteration to the dwelling for the home occupation shall not substantially alter or change the character of the premises or give an appearance that the premises are being used for other than residential occupancy. No advertising displays or signs shall be permitted, except as permitted in § 24-6.
 - (d) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises or causes fluctuations in the line voltage off the premises. No hazardous or toxic materials as defined by State or local codes shall be stored on the premises.
 - (e) The home occupation must be conducted by a person who occupies the premises as his or her principal residence.
 - (f) All parking of motor vehicles for the persons engaged in the home occupation and for business visitors shall be provided on the premises. On-street parking for business visitors is prohibited.
 - (g) Not more than one (1) nonresident shall be engaged in the home occupation on the premises at any time.

- (h) Not more than two (2) clients, customers, patients or students shall be permitted on the premises at any time.
 - (i) Home occupations shall be limited to lots which abut a County or State road.
 - (j) The occupant who conducts the home occupation must apply for and obtain a zoning permit prior to commencement of the home occupation.
 - (k) Parking of commercial vehicles shall be in accordance with the off-street parking requirements in residential zones, per § 24-3.7.
 - (l) No goods, chattels, materials, supplies or items of any kind shall be delivered either to or from the premises in connection with a home occupation except in passenger automobiles or vans with a maximum length of twenty feet (20').
 - (m) No more than two additional off-street parking spaces may be created on the premises for home occupations. Such additional parking spaces shall be located behind the dwelling unit and effectively screened from view by neighbors and shall be approachable via existing driveways. Paving of front or side yard setbacks for additional parking spaces for home occupations shall be considered obtrusive and damaging to the character of the neighborhood and is not permitted.
 - (n) Signage for home occupations shall be in accordance with § 24-6.
9. Home Offices. Home offices are permitted as accessory uses in all residential zones subject to the following standards:
- (a) The office area shall not occupy more than five hundred (500) square feet nor more than twelve and one-half percent (12.5%) of the gross floor area (G.F.A.) of the dwelling unit, whichever is less, excluding the area of garages, basements and attics in the calculation of gross floor area;
 - (b) The office area shall not have direct access to the outside via a door, but shall be an existing room or area within dwelling unit which is integrated within the overall floor plan of the dwelling;
 - (c) The office area shall not contain any kitchen or bathroom facilities which are separate from the remainder of the detached dwelling unit;
 - (d) The office area shall have only typical office equipment limited to computers, telefax machines, telephones, copying machines and similar office equipment;
 - (e) No supplies or furnishings shall be permitted other than typical office supplies and furnishings;
 - (f) No signs or other evidence of the office area shall be shown to the outside of the dwelling unit;
 - (g) No persons shall be permitted on the property regarding the office area other than people making deliveries or service calls as otherwise might occur on the property regarding the dwelling unit.
 - (h) A zoning permit is not required for a home office.

10. Electric Vehicle Charging Station.
 - (a) An electric vehicle charging station is permitted as an accessory use to any principal use in nonresidential zones and multifamily zones.
 - (b) An electric vehicle charging station space may be included in the calculation for minimum required parking spaces required in accordance with § 22-6.2.
 - (c) Lighting of electric vehicle charging stations shall be done in accordance with Chapter 22, Site Plan Review.
 - (d) Charging stations shall be designed to current industry standards, including the provision of adequate protection to charging equipment.

11. Leasing or Renting of Vehicles.

- (a) The leasing or renting of vehicles shall not occupy more than ten percent (10%) of the total area of the site.
- (b) Off-street parking in accordance with the requirements of Chapter 22, Site Plan Review, shall not be used for the parking or storage of inventory related to the leasing or renting operation.

- b. Accessory Structures in Residential Districts. Accessory structures which are not fully integrated with and subsumed by a principal structure as part of a separately approved addition to the principal structure, , may be erected on a residential lot provided that:

1. Accessory structures, except for private storage sheds in compliance with § 24-3.6b3 shall comply in all respects with the setback requirements applicable to the principal building on the lot except when located in any side and/or rear yard(s).
2. No accessory structure is located closer to the street right-of-way line than the required front yard setback of the principal structure, except as provided by § 24-3.4d and § 24-5.6b for fencing. Sections 24-3.2c and 24-3.4b shall also apply to all accessory structures hereunder.
3. Private storage sheds shall be permitted accessory uses within all residential zones. A private storage shed is a structure used for storage subordinate, incidental and customary to the principal dwelling and permitted residential use within all residential zones. The maximum area of a private storage shed in a residential zone shall not exceed one hundred twenty (120) square feet and the maximum height shall not exceed ten feet (10'). No private storage shed can be located closer to any lot line than five feet (5'). No private storage shed can be located closer to the street right-of-way line than the required front yard setback for the principal structure. Subsections 24-3.2c and 24-4.3b shall also apply to all private storage sheds in residential zones.
4. In all districts, accessory structures shall not be located less than ten feet (10') from the side wall or rear wall of the principal structure. Attached decks and balconies which do not comply with this provision, shall be considered part of the principal structure and the entire structure shall be required to comply with the provisions of the regulations governing structures in that district and not the

regulations for accessory structures. HVAC units and generators shall be located within ten feet (10') from the side wall or rear wall of the principal structure.

5. The maximum area of any accessory structure in a residential zone, except for private storage sheds, shall be one thousand (1,000) square feet. The maximum height of any accessory structure other than a private storage shed shall be twenty feet (20') and shall not exceed the height of the principal structure. These standards shall not apply to the MUD-2 District.
6. The maximum number of accessory structures, excluding private storage sheds, pools, children's play structures, tree houses, decorative fountains, decks, sports courts, pool equipment, HVAC units and generators, and solar energy systems, on a single lot shall be one (1). Nothing herein shall be construed to authorize an addition or expansion of a principal structure by connecting a principal structure to an accessory structure by way of a breezeway (partially enclosed or covered walkway) or fully enclosed hallway to circumvent the numerical limits of accessory structures in Residential Districts.
7. Except for lots located in a zone district that is/are subject to side yard requirements that are not equal on each side, an accessory structure located in any side and/or rear yard(s) may be erected in one-half (1/2) of the required side yard and rear-yard setback of the principal structure with a minimum of five feet (5') for the side yard, if otherwise permitted in the particular zone. Any lot located in a zone district that is/are subject to side yard requirements that are not equal on each side (e.g. R15, R10, R5, R11), the greater dimension must be met. HVAC units, propane and oil tanks, and generators shall be located in the side or rear yard, provided that such structures are located no closer than five feet (5') from any property line and shall be screened from view of any adjacent property and public right-of-way.
8. Pool cabanas shall not exceed one (1) story.
9. Detached private residential garages and carports shall be considered accessory structures, and shall meet the requirements governing same.
10. Carports shall be properly anchored to a permanent solid base to prevent movement or upheaval from wind forces.

c. Accessory Structures in Other Districts.

1. In any nonresidential district, no accessory structure or use shall be located closer to any lot line than five feet (5'). The requirements shall not apply to retaining and decorative walls and fences, provided same do not exceed four feet (4') in height and are otherwise in full compliance with the provisions of §§ 24-3.4d3 and 24-5.6b, as applicable
2. In any nonresidential district, the aggregate area covered by accessory structures shall not exceed twenty-five percent (25%) of the rear yard.

3. In any nonresidential district, all accessory structures shall be located no less than twenty feet (20') from the side or rear of the principal or main building.
4. In any nonresidential district, no accessory structure shall be located closer to the street right-of-way line than the required front yard setback of the principal structure, except where specified. Sections § 24-3.2c and § 24-3.2b shall also apply to all accessory structures hereunder.

SECTION 2. All ordinances of the Township of Mahwah that are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

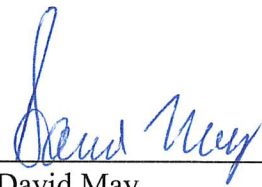
SECTION 4. This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

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Dated: 1/12/22

Attest



David May
Council President



Kathrine G. Coviello
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 7th day of October, 2021.



Kathrine G. Coviello, RMC/CMC/MMC
Municipal Clerk