

Terms 144-5

Yard, Front

A yard extending the full width of a lot and situated between the street line and the front line of the principal building projecting to the side line of the lot. The depth of the "Front Yard" shall be measured between the front line of the building and the street line. Covered Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into the required side yard. Corner lots are considered to have two front yards and the depth of the second Front Yard shall be determined as per the Town of Orchard Park Schedule of Height, lot, and Yard and Bulk regulations.

144-22 Yard Regulations

A. Residential districts. A fence or wall may be erected in any residentially zoned district (R-1, R-2, R-3 & R-4), after securing a permit.

(1) In any rear yard or interior side yard, provided that the fence, wall or hedge does not exceed six feet in height.

(2) In any front yard, as follows:

(a) A fence or wall intended for decorative purposes may be erected as part of a landscape plan in a front yard, along, next to or in connection with an entrance to a residence or along or next to a driveway or corner of a front yard or at the juncture of a driveway and a public sidewalk.

(b) Such fence or wall shall be erected wholly within the lot line of the property and at least three feet inside of the interior edge of the public sidewalk.

(c) Such fence or wall or hedge shall in no event enclose a front yard; nor shall it exceed four feet in height. A fence shall be of open, decorative design and permit clear visibility through at least 80% of its vertical area.

(d) On any lot fronting two or more public streets, each and every yard fronting such street shall be considered a front yard for the purposes of this section.

(3) Enclosing a tennis court, provided that the fence does not exceed 12 feet in height.

(4) Enclosing a swimming pool, subject to the requirements of the New York State Uniform Code.

(5) A hedge planted in a district zoned residential shall, if planted in an interior side yard or rear yard, an exterior side yard or any front yard, be subject to the same limitations and restrictions, including height, as a fence or wall if the hedge is planted at or near the property line and is designed to serve the function of a fence or wall but shall not require a permit.

- (6) For a lot whose rear lot line abuts the New York State Thruway, fences and walls in a rear yard shall be permitted to be erected to a height of 8 feet.

B. Nonresidential districts.

- (1) No fence, wall or hedge shall be erected on any premises zoned other than residential until a permit has been issued by the Code Enforcement Officer after approval by the Planning Board. The Planning Board shall grant approval only after a determination that the proposed fence, wall or hedge will afford adjoining premises an environment reasonably free of offensive noise, smell, dust and debris and will be of quality design and construction.
- (2) No permit shall be issued for the erection of a fence, wall or hedge on premises abutting a residentially zoned property where the proposed fence, wall or hedge exceeds eight feet in height.

C. Visibility at intersections. Nothing herein shall be construed to limit or modify in any way the existing sections Town of Orchard Park Code relating to visibility at intersections.

D. Prohibited fences, walls and hedges. The following types of fences, walls and hedges are specifically prohibited anywhere in the Town of Orchard Park:

- (1) Barbed wire.
- (2) Short, pointed fences.
- (3) Electrically charged fences or walls. (except for agricultural Use)
- (4) Chain link fences in a front yard.
- (5) Canvas or cloth fences.
- (6) Cinderblock walls.
- (7) A fence, wall or hedge constructed within the right-of-way of any public street.

E. Miscellaneous provisions.

- (1) A fence, whether of wood, chain link, stockade or any other type, shall be erected so that the smooth or finished side shall face to the outside of premises. All fence posts shall be placed on the inside of the fence.
- (2) Painted fences and walls shall be of one color only.
- (3) No fence or wall shall be erected in such manner as to inhibit or divert the natural drainage flow or to cause the blockage or damming of surface water, creating ponding.

- (4) No fence or wall shall be erected which may create a fire hazard or other dangerous condition or which may result in obstruction to the effective combat of fire.
 - (5) All existing fences, walls, hedges and other barriers which do not conform to the provisions of this chapter may be continued as they presently exist, as long as the same not altered or modified.
- F. Lot frontage on street. No dwelling shall be erected on any lot which does not have immediate exclusive access measuring a minimum of 30 feet along and contiguous with a dedicated street or highway length; and provided further that said access shall be in accordance with § 280-a of the Town Law. For purposes of this subsection, the stub end of the street shall not be considered a portion of the street or highway length. Two lots with minimum street access shall not be contiguous. **[Amended 10-7-1992 by L.L. No. 4-1992;¹ 8-6-1997]**
- G. Front yard and yard abutting on a street. Where a widening or extension of an existing street or highway right-of-way or the establishment of a new street or highway is indicated on the Zoning Map or on an official map adopted by the Town Board, any front yard or building setback required by this chapter shall be measured from such widened, extended or new right-of-way. Unless otherwise indicated on the map, any widened right-of-way shall be assumed to be centered on the former street or highway center line.
- H. Side yard of corner lot. The side yard of any corner lot of record at the time of adoption of this chapter shall have a width equal to the required minimum front yard setback of any adjoining lot fronting on the side street; provided, however, that the side yard of any corner lot in a B-1 or B-2 Commercial District shall have a minimum width of 10 feet where the front of the building on said lot is set back at least 300 feet from the intersecting or intercepting streets. **[Amended 10-1-1986]**
- I. Transition yard requirements. **[Amended 8-16-2017 by L.L. No. 7-2017]**
- (1) Where a residence district abuts a non-residence district on a street line, there shall be provided in the non-residence district for a distance of 50 feet from the district boundary line a landscaped front yard at least equal in depth to that required in the residence district.
 - (2) Where the side or rear yard in a residence district abuts a side or rear yard in a nonresidential district, there shall be provided along such abutting line or lines a side or rear landscaped yard at least equal in depth to that required in the residence district. In no case, however, shall the abutting side yard be less than 20 feet nor the abutting rear yard be less than 20 feet.
- J. Rear yard depth variation. In any R District where the lot is wider than the stipulated minimum width, the depth of the rear yard (measured from the main building) may be reduced by 1 1/2 times the excess of the actual width over the minimum width. In no case, however, may the rear yard be less than 30 feet in depth. The stipulated minimum distance from any accessory building to the rear lot line must be maintained in every case.

1. **Editor's Note: This local law also provided as follows: "To the extent that this local law conflicts with § 280-a of the Town law, § 280-a is specifically superseded.**

- K. A driveway to any structure or any hard surface other than natural vegetation shall be located no closer than five feet to the lot line. This section shall apply to all lots in the business zones and the industrial zones. This section shall apply to any subdivision lot which has not received concept approval on or before January 1, 1990, and to any newly created lot which is filed in the Erie County Clerk's office subsequent to January 1, 1990. **[Added 12-6-1989; amended 5-2-1990]**

- L. The height, yard, lot and bulk regulations applicable to front yards shall apply to the front yard and rear yard of any through lot. **[Added 4-17-1991]**