

1st reading 10-28-19
2nd reading 11-11-19
Public Hearing 11-25-19

ORDINANCE NO. 2019-56
INTRODUCED BY: MS. ROGOFF

4215

**AN ORDINANCE
AMENDING THE PLANNING AND ZONING CODE OF
THE VILLAGE OF CHAGRIN FALLS AND REPEALING
SECTION 1113.04(b), AND RE-LETTERING SECTION
1113.04(c) AS 1113.04(b) AND AMENDING SECTIONS
1148.05(d)(1) AND 1148.06(d)(1).**

WHEREAS, the Council adopted comprehensive changes to the Planning and Zoning Code for the Village of Chagrin Falls and directed the Planning and Zoning Commission to reconcile certain errors and minor changes that needed to be made to the Planning and Zoning Code; and

WHEREAS, the Planning and Zoning Commission, at their August 19, 2019 meeting recommended to Council that they repeal Planning and Zoning Code Section 1113.04(b) and amend Planning and Zoning Code Sections 1148.05(d)(1) and 1148.06(d)(1); and

WHEREAS, Council has held a public hearing on November 25th, 2019 on this ordinance; and

WHEREAS, Council desires to enact the foregoing amendments to the Planning and Zoning Code repealing Section 1113.04(b), and re-lettering Section 113.04(c) as 1113.04(b) and amending Sections 1148.05(d) and 1148.06(d)(1) based, in part, upon the recommendations of the Planning and Zoning Commission.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:**

SECTION 1. Planning and Zoning Code Section 1113.04(b), the full text of which follows is hereby repealed:

(b) If a map amendment proposes to rezone or redistrict ten parcels or less, notice of the hearing shall be made in accordance with Section 1109.09 of this Planning and Zoning Code.

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SECTION 2. Section 1113.04(c) of the Planning and Zoning Code is hereby re-lettered to be subsection (b).

SECTION 3. Planning and Zoning Code Section 1148.05(d)(1) is hereby amended in its entirety to read as follows:

(d) Recreational Uses.

(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than four (4) feet in height. Such fence shall be constructed so that the horizontal members are on the pool side of the enclosure and vertical members shall not be spaced more than four (4) inches apart. The bottom horizontal member shall be four (4) inches or less from the ground. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least four (4) feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended.

Current Section 1148.05(d)(1), the full text of which follows is hereby repealed:

(d) Recreational Uses.

(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than six feet in height. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least five feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended. In no case shall a fence include design features that would facilitate its ascent or permit the passage of a child's body as determined by the Administrator.

SECTION 4. Planning and Zoning Code Section 1148.06(d)(1) is hereby amended in its entirety to read as follows:

(d) Recreational Uses.

(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than six feet in height. Such fence shall be constructed so that the horizontal members are on the pool side of the enclosure and vertical members shall not be spaced more than four (4) inches apart.

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The bottom horizontal member shall be four (4) inches or less from the ground. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least four (4) feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended.

Current Section 1148.06(d)(1), the full text of which follows is hereby repealed:

(d) Recreational Uses.

(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than six feet in height. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least five feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended. In no case shall a fence include design features that would facilitate its ascent or permit the passage of a child's body as determined by the Administrator.

SECTION 5. As amended Sections 1113.04(b), 1148.05(d)(1), and 1148.06(d)(1) with strikeouts for deletions and underlining for additions read in their entirety as follows:

1113.04 ACTION BY COUNCIL

~~(b) If a Map amendment proposes to rezone or redistrict ten parcels or less, notice of the hearing shall be made in accordance with Section 1109.09 of this Planning and Zoning Code.~~

(b) After the public hearing, Council may adopt the proposal whether it is recommended or not recommended by the Commission by majority vote of those elected to Council. If Council modifies the proposal, it may resubmit the proposed modification to the Commission for further consideration. The Clerk of Council shall submit to the Commission a copy of any action taken by Council in regard to the Planning and Zoning Code. (Ord. 2014-37. Passed 8-25-14.)

**1148.05 FENCES, WALLS, AND HEDGES PERMITTED:
RESIDENTIAL DISTRICTS.**

(d) Recreational Uses.

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(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than ~~four (4)~~ six feet in height. Such fence shall be constructed so that the horizontal members are on the pool side of the enclosure and vertical members shall not be spaced more than four (4) inches apart. The bottom horizontal member shall be four (4) inches or less from the ground. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least ~~four (4)~~ five feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended. ~~In no case shall a fence include design features that would facilitate its ascent or permit the passage of a child's body as determined by the Administrator.~~

**1148.06 FENCES, WALLS, AND HEDGES PERMITTED:
NON-RESIDENTIAL DISTRICTS.**

(d) Recreational Uses.

(1) Swimming pools. Any swimming pool in which water may collect to a depth in excess of one and one-half feet shall be enclosed by a wall or fence not less than six feet in height. Such fence shall be constructed so that the horizontal members are on the pool side of the enclosure and vertical members shall not be spaced more than four (4) inches apart. The bottom horizontal member shall be four (4) inches or less from the ground. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least ~~four (4)~~ five feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended. ~~In no case shall a fence include design features that would facilitate its ascent or permit the passage of a child's body as determined by the Administrator.~~

SECTION 6. The existing Sections 1113.04(b), 1148.05(d)(1), and 1148.06(d)(1) to the extent inconsistent with the newly enacted provisions herein and any other Ordinance in conflict with this Ordinance are hereby repealed, except to the extent such code sections are the subject of an enforcement action they shall be considered effective for the purposes of enforcement for any violations that occurred prior to repeal.

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SECTION 7. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 8. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 9. That this Ordinance shall take effect and be in force after the earliest period allowed by law.

PASSED: November 25, 2019



Nancy Rogoff, Council President

Submitted to the Mayor for
his approval on this

26th day of November, 2019

Approved by the Mayor

November 26, 2019



Mayor William Tomko

I hereby certify that Ordinance No. 2019-56 was duly enacted on the 25th day of November, 2019, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council