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CHAPTER 20: FENCE CODE

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20-1-1 PURPOSES OF FENCING.

The purpose of a fence is to provide privacy, security, weather control, aesthetic appearance, boundary definitions, utility (snow fences), and the like for residential, commercial, industrial, public and quasi-public land uses within the corporate area of the village.

20-1-2 INTERPRETATION.

- (A) In the interpretation of this Chapter, the rules and definitions contained in this Chapter shall be observed and applied, except when the context clearly indicates otherwise.
- (B) All provisions contained herein shall relate only to those areas within the applicant's property.

20-1-3 RULES OF CONSTRUCTION.

The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- (A) Words used in the present tense shall include the future.
- (B) Words in the singular number include the plural number, and words in the plural number include the singular number.

- (C) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (D) The word "shall" is mandatory.
- (E) The word "may" is permissive.
- (F) The words "yard" or "yards" when used in this Chapter shall refer to those yard requirements as are set forth in the Village Zoning Ordinance now in effect or as hereafter amended.

20-1-4 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Fence, Decorative. That type of fence which is essentially for decorative purposes only and is not intended in any way to be used as an enclosure, barrier, or means of protection or confinement. Such decorative fences shall be not more than 48 inches in height and shall in no way interfere with vision. No permit shall be required for such fences.

Fence, Dog Run. An area enclosed on all sides made of wood or metal for the exclusive use of a dog. The ground in the enclosed area may be paved.

Fence, Natural. That type of fence which consists of natural growth, such as shrubs, hedges, evergreens, and the like, which are (thirty) 30 inches in height or more and/or spaced less than ten feet apart. No permit shall be required for such fences.

Fence, Privacy. A structural fence constructed to screen a patio or deck which does not extend more than five (5) feet beyond the perimeter of the patio or deck. The area enclosed by the privacy fence shall be included in the maximum lot coverage as regulated in the Zoning Ordinance. An enclosure that permits light and air to pass through more than sixty percent (60%) of its surface such as lattice or railings shall not be considered a privacy fence.

Fence, Split Rail. An undressed fence rail split lengthwise from a log and set at either end into an upright post.

Fence, Structural. A structure which is a barrier and is used as a means of protection or confinement, which is made of manufactured material, such as, but not limited to, wire mesh, chain link, wood or stone material. This definition shall not include dog runs. All types of fences except natural and decorative shall be considered a structural fence.

First Floor Deck. A deck or platform that is no higher than six (6) feet above the top of the foundation of that section of the wall that the deck is being attached to.

- (1) Wood, chemically treated or naturally resistant to decay.
 - (2) Metal, not less than 11 gauge.
 - (3) Concrete.
 - (4) Masonry.
 - (5) Use of any other materials must be as approved by the Plan Commission and Village Board.
- (D) Fences shall be designed and constructed to resist a horizontal wind pressure of not less than 35 pounds per square foot, in addition to all other forces to which they may be subjected.
- (E) Fences must be erected so that the posts and all other supporting members face to the owner's side. The rough part of a fence shall face the owner's property. This restriction shall not apply in the case of a fence erected by a residence abutting a commercial or industrial lot.
- (F) Fire hydrants shall not be blocked by any fence or bushes.
- (G) The use of barbed wire is prohibited except under the following conditions:
- (1) In the business and industrial district, but at a height of not less than six (6) feet above ground level.
 - (2) In other districts by variation in accordance with the Village Zoning Ordinance, if the Board finds that such type of protective barrier is required for the health, safety and welfare of the residents of the Village.
- (H) The use of electrically-charged fences is prohibited in all areas not zoned Agricultural. The use of underground electrical fences and devices shall not be prohibited in Residential areas.

20-1-9 HEIGHT OF STRUCTURAL FENCES IN RESIDENTIAL ZONES.

- (A) The height of a structural fence shall be measured from the average ground level of both sides of the fence.
- (B) The height of a structural fence shall not exceed five (5) feet except as permitted under divisions (C), (D), (E) and (F) herein.
- (C) A privacy fence around a patio or first floor deck shall be permitted to a height of six (6) feet as measured from the top of the patio or deck. A privacy fence around

any deck other than a first floor deck shall be permitted a height of five (5) feet as measured from the top of the deck.

(D) A structural fence may be erected to a height not exceeding seven (7) feet in the following instances:

- (1) Along the lot line of residential property which separates such property from any business or from any property being used for a nonconforming use which is permitted in only a business or industrial district.
- (2) Along a railroad right-of-way.

(E) A structural fence may be erected within side and rear yards adjoining a street under the following conditions:

(1) Along a rear or side yard lot line adjacent and parallel to a street which has been designated as an arterial street in the ordinances of the village, to a height not exceeding six (6) feet; or

(2) Along a rear lot line adjacent and parallel to any street, to a height not exceeding five (5) feet, provided that such fence shall not extend into a side yard adjoining a street unless it is allowable pursuant to 20-1-9(E).

(3) On a corner lot which has a side yard adjoining a street which abuts rear yards of interior lots, a five (5) foot fence may be erected in the side yard adjoining a street within the area between the rear property line and the rear of the dwelling unit except where the only rear access door to the house is located on this side yard adjoining a street, then the fence may extend along the side of the house to a point not more than three (3) feet past the access door.

(4) For two corner lots which have their rear yards abutting, a five (5) foot fence may be erected in the side yard adjoining a street within the area between the rear property line and the rear of the dwelling unit, provided the fence is placed a minimum of three (3) feet from an existing or proposed sidewalk. Where the only rear access door to the house is located on this side yard adjoining a street, the fence may extend along the side of the house to a point not more than three (3) feet past the access door.

(5) For a corner lot which abuts any lot or public or private land except the front yard of a residence, a five foot fence may be erected in the side yard adjoining a street within the area between the rear property line and the rear of the dwelling unit, provided that the fence is placed a minimum of five feet from right of way/property line. Where the only rear access door to the house is located on this side yard adjoining a street, the fence may

extend along the side of the house to a point not more than three (3) feet past the access door.

(F) Structural fences higher than six (6) feet in residential districts:

- (1) A structural fence may be erected to a height of six (6) feet along a rear or side yard lot line of a single family residential district which abuts a multi-family district property line. Attached single family units are not multi-family.
- (2) A structural fence may be erected to a height of six (6) feet along a rear or side yard lot line of a single family residential district which abuts a lot line of a parcel of property improved with a major utility structure and is not used for dwelling purposes.
- (3) A structural fence may be erected to a height of six (6) feet along a rear or side yard lot line of a single family residential district which abuts a lot line of a parcel of property improved with an inhabitable building or structure that is not used for dwelling purposes (such as schools, churches, community centers, public buildings, etc.)
- (4) A structural fence may be erected to a height of six (6) feet along a rear or side yard line of a single family residential district which abuts a lot line of a parcel of property that is not used for dwelling purposes and which is improved with, and has a principal use of, a swimming pool, tennis courts, basketball courts, golf course, driving range, or mini-golf or other recreational facility.
- (5) A structural fence may be erected to a height of six feet along a rear or side yard lot line of a single family residential district which abuts a lot line of a parcel of property at least five (5) acres in size that is not used for dwelling purposes and is specifically dedicated for park uses or storm water detention/retention use, or a combination thereof. This shall not include land used solely for pathways, sidewalks or other pedestrian or bicycle paths.

(G) Enclosures for swimming pools and athletic facilities:

- (1) *Swimming pools.* All swimming pools shall be completely enclosed by a fence surrounding either the rear yard or the immediate pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than five (5) feet above the underlying ground. All gates must be self-latching with latches placed at least four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children. A natural barrier, hedge, pool cover or other protective device approved in writing by the Village

Board may be used so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described herein. Where an aboveground pool is equipped with a self-contained fence around the entire top of the pool area and the top of this fence is at least five (5) feet or more in height above grade, the intent of this section shall be met. Access to such pool shall be made by a removable, raisable or retractable ladder.

- (2) *Athletic facilities.* All fence-type enclosures for athletic facilities shall be approved by the Plan Commission, after a review of a site plan of the proposed improvement and the surrounding area.

20-1-10 HEIGHT OF FENCES IN BUSINESS ZONES.

- (A) The height of a fence shall be measured from the average ground level of both sides of the fence.
- (B) The height of a fence in business zones shall not exceed six (6) feet.

20-1-11 HEIGHT OF FENCES IN INDUSTRIAL ZONES.

- (A) The height of a structural fence shall be measured from the average ground level of both sides of the fence.
- (B) The height of a fence in industrial zones shall not exceed eight (8) feet in any instance.

20-1-12 DOG RUNS.

- (A) Any dog run with any type of a cover over the top shall be a maximum of 100 square feet. A dog run constructed higher than five feet in accordance with division (D) of this section shall be a maximum of 100 square feet.
- (B) Dog runs shall be permitted in a rear yard only with the approval of the Plan Commission and Village Board. The Plan Commission shall review the proposed location of the dog run with respect to its effect on surrounding residences.
- (C) Dog runs shall not be permitted in any side yard or front yard.
- (D) The height of a dog run shall be as permitted within the zoning district unless it is constructed entirely of chain link, which may be eight (8) feet high.

- (E) Dog runs shall follow the other applicable regulations for fences within the Village.

20-1-13 NONCONFORMING FENCES.

All permanent fences which are in existence at the time of passage of this Chapter, but which do not conform to one or more applicable provisions of this Chapter, shall be allowed to remain until such time as they are damaged or removed. If repaired or replaced, that portion or portions shall be made to comply with the requirements of this Chapter.

20-1-14 VARIANCES AND APPEALS.

Variances and appeals shall be governed and determined in accordance with the Village Zoning Ordinance, or in the absence thereof, state law.