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ORDINANCE NO. F-1087

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE X, OF THE
CODE OF ORDINANCES OF THE CITY OF WHEATON: FENCES AND FLAG POLES

WHEREAS, the City of Wheaton, Illinois, ("City") is an Illinois home rule municipality having those powers provided by State Law; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the City has completed a comprehensive evaluation of the construction and appearance of fences and flag poles within the City; and

WHEREAS, the City has concluded that certain changes be made to types and sizes of fences allowed in certain circumstances due to esthetic and privacy desires by residents.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1. That Wheaton City Code text is amended by deleting and replacing Chapter 22, Article X, "Fences and flag poles," in its entirety and replacing it with new Article X, as follows:

"ARTICLE X, FENCES AND FLAGPOLES

Sec. 22-150. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Corner lot is defined as a lot which adjoins two (or more) intersecting streets.

Decorative fence shall mean an open fence constructed of wrought iron or similar material, split rails or pickets, and not a shadow box, "board on board" type fence.

Double frontage lot shall mean a lot having two street lines parallel to and opposite each other forming the boundaries of the lot. Such lots shall be considered to have only one front yard and it shall be determined by the location of the front door and/or address of the property.

Fence means a structure forming a barrier between lots, between a lot and a street or any alley, public or private, or between portions of a lot or lots, such structures being independent of any other.

Front of the house shall be determined by the location of the main entrance of the building upon which the address is based.

Front yard shall mean the yard between the principal building and the front lot line, with a line running generally perpendicular to that line from the front corners of the building to the closest side lot line.

High volume streets have a 24 hour traffic volume of 3,000 or more vehicles.

Lot line shall mean as defined in the Wheaton Zoning Ordinance, Article II, Definitions.

Open fence shall mean one constructed so that at least 40 percent of the superficial area thereof consists of apertures.

Shadow box or board on board fence is a fence that is the same on both sides when mounted or installed between the vertical fence posts. A shadow box fence shall be considered open when such fence has boards installed on alternating sides of horizontal members so that when viewed perpendicular there is a one-quarter inch or greater separation between the alternating vertical boards.

Side yard adjoining a street. On a corner lot where the side yard adjoins the street, the side yard shall be considered that portion of the lot between the principal building with a line running perpendicular with the side lot line and this line shall extend from the front yard to the rear property line. Notwithstanding the forgoing, the depth of the side yard adjoining a public street shall be no more than 20 feet.

Split rail fence shall mean an underdressed fence rail split lengthwise from a log and set at either end into an upright post, not exceeding a height of four feet above grade.

Yard shall be defined as that portion of the lot which is not included within the front yard or side yard adjoining a street as defined by this article.

(Code 1968, § 8-74; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-331)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 22-151. Nonconforming fences.

Any and all fences erected, installed or maintained in violation of this article, which existed lawfully at the time of adoption of this article [Oct. 15, 2001] or amendments thereto, shall become nonconforming upon the adoption of this article or any amendment thereto and may continue only in accordance with the following regulations:

(1) A nonconforming fence which is destroyed by fire or other casualty or act of God or deteriorates to the extent that the restoration to the condition in which it was before the occurrence involves restoration of greater than 25 percent of the nonconforming fence, shall not be restored unless said fence shall conform to all regulations of this article. In the event that such damage or destruction is less than 25 percent of the nonconforming fence, no repairs or reconstruction shall be made unless such restoration is started within 90 days from the date of the partial destruction and is diligently prosecuted to completion.

(2) Any fence erected prior to the effective date hereof which is in violation of any provision of this article shall be removed or brought into compliance with all provisions of this article not later than October 15, 2021.

(3) Notwithstanding the foregoing, each strip or slat between and among the links of a chain link fence shall be maintained in good repair. Should more than five percent of the strips or slats at any given time need repair, all of the strips or slats shall be removed from the links of a chain link fence and not replaced.

(Code 1968, § 8-75; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-332)

Sec. 22-152. Supervision, inspection of fences.

It is hereby made the duty of the director of building and code enforcement to exercise supervision over all fences erected, altered, constructed or maintained in the city, and to cause inspection to be made whenever it shall appear to the director that any such fence, or any part thereof, has been erected in violation of the provisions of this article or any ordinance of the city or is in an unsafe condition or has become unstable or insecure or is in such condition as to be a menace to the safety or health of the public.

(Code 1968, § 8-76; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-333)

Sec. 22-153. Notice of article violation.

Should the director of building and code enforcement, upon examination and inspection of any fence, find any of the conditions enumerated in section 22-152 to exist, he shall thereupon issue or cause to be issued a notice in writing to the owner of the property upon which the fence is placed, informing such person of the violation of this article and the dangerous condition of such fence, and directing him to make such fence comply with the requirements of this article, within such reasonable time as may be stated in such notice.

(Code 1968, § 8-77; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-334)

Sec. 22-154. Permits for erection, alteration of fences.

Before the erection or enlargement of any fence, or the structural alteration of a fence, a permit shall be obtained by the owner, or his agent, from the director of building and code enforcement; and it shall be unlawful to proceed with any such work unless such permit shall first have been obtained. Plans to scale, plat of survey and specifications showing work to be done and location of proposed fence on the owner's premises must be submitted with each application for a building permit.

(Code 1968, § 8-78; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-335)

Sec. 22-155. Classification of fences.

Fences shall be classified as either solid or open type.

(Code 1968, § 8-79; Ord. No. F-0238, § 1, 5-4-98; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-336)

Sec. 22-156. Fence construction, location standards.

(a) Fences shall be designed and constructed to resist a horizontal wind pressure of not less than 30 pounds per square foot in addition to all other forces to which they may be subjected.

(b) A fence, including all posts, bases and other structural parts thereof, shall be located completely within the boundaries of the lot on which it is located. No fence shall be located closer than 12 inches to a public sidewalk.

(c) All chain link fences must be constructed so that twists (barbed ends) are to the ground. The tops of all chain link fences shall be a knuckle edge.

(d) Fences shall be located so that accesses to property owned by the property owner, or adjacent parkways or alleyways are able to be maintained. Access must also be maintained to utilities such as but not limited to "utility boxes" sewer catch basins and water valves.

(e) Fences must maintain a continuous line, without missing sections.

(Code 1968, § 8-80; Ord. No. F-0238, § 2, 5-4-98; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-337)

Sec. 22-157. Maximum fence heights.

(a) No fence may be erected to a height of more than six feet above grade except as permitted under subsection (f) of this section. Such fence may be either an open type or solid type fence.

(b) No fence may be erected to a height of more than three feet above grade within 30 feet of the intersection of the lot lines at the intersection of any street with any other street or alley or of the intersection of alleys. Such fence shall only be a decorative fence.

(c) No fence may be erected to a height of more than three feet above grade within the front yard as defined by this article. Such fence shall only be a decorative type fence.

(d) No fence may be erected to a height of more than four feet above grade within the side yard adjoining a street, as defined by this article. Such fence shall only be an open type fence.

(e) Fences installed within the side yard adjoining a street, as defined in this article, may be erected to a height of six feet above grade when such side yard adjoins the following high volume streets: (see definitions for "high volume")

Blanchard Street (south of Roosevelt Rd)	Manchester Road
Briarcliffe Boulevard	Naperville Road
Brighton Drive	Orchard Road
Butterfield Road	Plamondon Road
County Farm Road	President Street
Cromwell Drive	Roosevelt Road
East Loop Road	Seminary Avenue (east of Main St)
Elm Street (Warrenville Rd to Naperville Rd)	Shaffner Road
Gary Avenue	22nd Street
Geneva Road	Warrenville Road
Harrison Avenue	Washington Street (Roosevelt to Seminary)
Jewell Road	Wesley Street
Leask Lane	West Loop Road
Lorraine Road	West Street (Roosevelt Rd to Harrison St)
Main Street	Wiesbrook Road

(f) An open type or solid type fence may be erected to a height not exceeding eight feet above grade in any of the following instances:

(1) Along a railroad right-of-way.

(2) Along the lot line of residential property (R1, R2, R3, R4, and R5) which separates such property from any business, multi family (R6 and R7) or industrial

district, or from any property being used for a nonconforming use which is permitted only in a business or industrial district.

(3) Along the lot line of property used as a private or public utility substation.

(g) If a topographical difference exists between the level of the street or pedestrian way and the abutting side or rear yard which results in the level of the street, Prairie Path or pedestrian way being higher than the level of the abutting property as measured from the centerline of the street, Prairie Path or pedestrian way to the property line of the abutting property, then for each one-half foot of grade differential between the level of the street, Prairie Path or pedestrian way and the abutting property line, the fence may be increased in height one-half foot up to a maximum of eight feet.

(h) Structural elements of the fence may exceed the maximum height restrictions by no more than six inches. Fences must be installed so that the bottom of the fence is generally no more than two inches above existing grade.

(i) A dog enclosure or run shall not exceed six feet in height, or enclose an area greater than 20 percent of the rear yard and set back five feet from all property lines. A dog enclosure or run shall not be permitted in the front or side yard abutting a street.

(Code 1968, § 8-81; Ord. No. F-0238, § 3, 5-4-98; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-338)

Sec. 22-158. Construction of fences adjacent to right-of-way.

Every fence constructed along the rear lot line of a property which is adjacent to an existing or proposed road right-of-way, except for corner lots, must include a gate providing access to the right-of-way, in order to allow the adjoining property owner access to maintain such right-of-way.

(Code 1968, § 8-82; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-339)

Sec. 22-159. Electrically charged fences.

The use of electrically charged fences is prohibited.

(Code 1968, § 8-83; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-340)

Sec. 22-160. Use of barbed wire.

The use of barbed wire is prohibited except under the following conditions:

(1) In the industrial district, but at a height of not less than seven feet above ground level.

(2) In other districts by special permit from the city council when in its opinion such type protective barrier is required for the protection of the health, safety, and welfare of the residents of the city.

(Code 1968, § 8-84; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-341)

Sec. 22-161. Finished side to face outward.

All fences shall be erected so that the finished side of the fence shall face outward from the property on which it is erected.

(Code 1968, § 8-85; Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-342)

Sec. 22-162. Number of fences along property line.

No more than one fence shall be permitted along the lot line of a parcel.

(Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-343)

Sec. 22-163. Certain fence prohibitions; special permits.

(a) No chain link fence shall be permitted in any front yard or side yard adjoining a street or, in the case of double frontage lots, the lot line adjacent to a high volume street.

(b) No chain link fence shall contain strips or slats of any kind between or among the links.

(c) Any school, church, governmental entity, private utility or public utility may petition the city council for a permit to construct a protective fence that would not conform to the requirements of this section. The city council shall approve such petition only upon finding that the proposed fence would:

- (1) Not alter the essential character of an area.
- (2) Be in harmony with the general intent and purpose of this section.
- (3) Not set any unfavorable precedent either to the locality or the city as a whole.
- (4) Not adversely affect the public safety and general welfare.

(d) No gate or fence is permitted across a driveway within the front or side yard abutting a street in a residential district.

(Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-344)

Sec. 22-163. Flagpoles to resist wind pressure.

Any flagpoles shall be designed to resist a wind pressure of one and one-half pounds per square foot of flag area applied at the top of the pole and an additional pressure of 50 pounds per square foot of pole area on the vertical projection of the pole.

(Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-345)

Sec. 22-164. Maximum height for flagpoles.

No flagpoles may exceed the height permitted for structures by the zoning ordinance of the city in the district in which such flagpole is erected and maintained.

(Ord. No. F-0640, § 1, 10-15-01 Code 1996, § 22-346)"

Section 2. All ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

Section 3. That if any part or portion of this ordinance shall be declared invalid by court of competent jurisdiction, such invalidity shall not affect the remainder of this ordinance.

Section 4. This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

Attest:



City Clerk

Ayes:

Roll Call Vote:

Councilman Mouhelis
Councilman Suess
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine

Nays:

None

Absent:

Councilman Bolds

Motion Carried Unanimously

Passed: October 17, 2005
Published: October 18, 2005