

ORDINANCE NO. F-2045

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 an evaluation of the construction and appearance of fences 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 the Wheaton City Code is hereby amended by repealing and replacing Section 22-150 "*Definitions*" of Chapter 22, Article XII with a new Section 22-150 of Chapter 22, Article XII "*Definitions*" which shall read as follows:

"ARTICLE XII. - 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 means 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 means 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.

Front yard means the yard between the front lot line and the principal building with a line running generally parallel to the front lot line from the corner of the front elevation foundation closest to the side lot line. On corner lots, where the front of the house faces the side lot line, the front yard shall also include the area between the front of the house and the side lot line. For

purposes of clarity, only a decorative type of fence shall be installed in the front yard between the principle building and the adjacent street(s).

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

Lot line shall mean as defined in the city zoning ordinance, article II, definitions.

Open fence means 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 the side yard shall be considered that portion of the lot not included in the front yard and shall extend from the front yard to the rear property line. Notwithstanding the foregoing, the depth of the side yard adjoining a public street shall be the lesser of 20 feet or the distance from the side lot line to the front of house.

Split rail fence means 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.”

Section 2. That the Wheaton City Code is hereby amended by repealing and replacing Section 22-151 “*Non-conforming Fences*” of Chapter 22, Article XII in its entirety and replacing it with a new Section 22-151 of Chapter 22, Article XII “*Non-conforming Fences*” which shall read as follows:

“Sec. 22-151. - Nonconforming fences.

Any and all fences erected, installed or maintained in violation of this Chapter 22, Article XII, which existed lawfully and have been made nonconforming by any and all amendments to the article may continue as nonconforming only in accordance with the following regulations:

(1) A nonconforming fence, which is in need of repairs to or replacement of twenty-five percent (25%) *or less* of its total lineal footage due to deterioration or as a result of a casualty event, including, but not limited to, a fire, vehicle collision or an act of God shall either have:

(a) the affected portion repaired or replaced, and it may continue to exist so long as restorative repairs are started within thirty (30) days of notification to the property owner from the City that the fence violates City Code and such repairs are diligently prosecuted to completion, or within such additional period of time agreed to by the City;

(b) the entire fence removed or replaced with a fence which complies with all provisions of this article.

- (2) A nonconforming fence, which is in need of repairs to or replacement of *more* than twenty-five percent (25%) of its total lineal footage due to deterioration or as a result of a casualty event, including, but not limited to, a fire, vehicle collision or an act of God, shall have the entire fence removed or replaced with a fence which complies with all provisions of this article.
- (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.”

Section 3. That the Wheaton City Code is hereby amended by repealing and replacing Section 22-157 “*Maximum Fence Heights*” of Chapter 22, Article XII in its entirety and replacing it with a new Section 22-157 of Chapter 22, Article XII “*Maximum Fence Heights*” which shall read as follows:

“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 a front yard as defined by this article except when the front yard is adjacent to a rear or side yard of an adjoining property, in which case the front yard fence along the shared lot line may be constructed in conformance with the standards for the rear or side yard fencing of the adjacent lot.
- (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"):

22 nd Street	Lorraine Road
Adare Drive	Main Street (north of Roosevelt)
Blanchard Street (south of Roosevelt)	Manchester Road
Briarcliffe Boulevard	Naperville Road
Brighton Drive	Orchard Road (south of Wiesbrook)
Butterfield Road	Plamondon Road

College Avenue (Washington to Hill)	President Street
County Farm Road	Roosevelt Road
Creekside Drive (east of Stonebridge)	Seminary Avenue (east of Main)
Danada Drive (Brighton to Naperville)	Shaffner Road
East Loop Road	Stonebridge Trail (north of Wiesbrook)
Ellis Avenue	Warrenville Road
Gables Boulevard (north of Childs)	Washington Street (Roosevelt to College)
Gary Avenue	Wesley Street
Geneva Road	West Loop Road
Harrison Avenue	West Street (Roosevelt to Harrison)
Jewell Road	Wiesbrook Road
Leask Lane	

- (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, multifamily (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.”

Section 4. 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 5. 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 6. This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Attest:

Mayor

City Clerk

Ayes:

Roll Call Vote:

Councilman Rutledge

Councilman Scalzo

Councilman Suess

Councilman Barbier

Councilwoman Fitch

Councilman Prendiville

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: November 20, 2017

Published: November 21, 2017