

Section 4.38 - FENCES.

A. Enforcement.

1. **Application.** An application for a fence permit shall be submitted on forms provided by the Building Official. The application shall be accompanied by a site plan, drawn to scale, which shall be prepared by a registered surveyor. The plan shall be dimensioned and show the location of the proposed fence. In addition, stakes shall be in place on the property to designate property lines. The application shall be accompanied by payment of a fee, the amount of which shall be established from time to time by the City Council.
2. **Review of Application.** The Building Official shall review the application for a fence proposal to determine compliance with the zoning ordinance and applicable City Codes.
3. **Permit.** Following review and approval of a fence application, the Building Official shall have the authority to issue a fence permit.
4. **Existing Fences.** An existing fence shall not be altered or relocated except in conformity with the provisions of this ordinance and subject to a permit being issued. However, a permit shall not be required for ordinary servicing or repainting of an existing fence.

B. General Requirements.

1. **Applicable Codes.** All fences constructed in the City of Orchard Lake Village shall be constructed in accordance with the requirements of the State of Michigan Residential Code and/or the Michigan Building Code.
2. **Fence Materials.** Fences that carry electric current are prohibited. Fences containing exposed nails, spikes, broken glass or barbed wire are also prohibited.
3. **Obstruction to Use of Adjoining Property.** A fence shall not be erected where it would prevent or unreasonably obstruct the use of an adjacent property, nor shall a fence be erected where it would obstruct or prevent the safe use of an existing driveway that provides access to the adjacent property. In enforcing this requirement, the Building Official may require a fence to be set back a minimum distance from a driveway or property line.
4. **Obstruction of Sight.** No fence shall be erected that would obstruct the view while approaching an intersection of two roads or the intersection of a road and a driveway.
5. **Fence Maintenance.** Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed, and surfaces shall be painted, stained or similarly treated.
6. **Fences Enclosing Utility Facilities.** In the interest of public safety, it is necessary to control entry into facilities, stations, and yards housing utilities and to protect resources that are vital to the well-being of the general public. Therefore, utilities are permitted to fence their facilities as necessary, regardless of the zoning district in which they are located, subject to review and approval by the Building Official.

C. Fences in Residential Districts

1. **Location.** Permitted fence locations are noted in the following chart:

| Location | Permitted? |
|----------------------------|------------|
| Front Yard | No |
| Side Yard, not on a corner | Yes |

| | |
|---------------------------|--|
| Side Yard, corner lot, on | No the side facing the street |
| Rear Yard | Yes |
| Lakefront | Fence may be no closer to the lake than any portion of the residence |

Fences shall be located on the parcel of land owned by the person constructing the fence. However, a fence may be constructed on the property line if agreed to in writing by the adjoining property owner.

2. **Height.** Fences shall not exceed four (4) feet in height above grade in residential districts.
3. **Fences Enclosing Public Areas.** Fences that enclose parks, playgrounds, and similar public areas located within developed residential areas shall not exceed six (6) feet in height.
4. **Entrance Gates.** An entrance gate may be permitted within the required front setback to control driveway ingress and egress onto a parcel of property, subject to the following conditions:
 - a. **Front Setback.** Entrance gates may be permitted in the front setback only on residentially-zoned properties that abut Commerce Road or Pontiac Trail. Such gates shall be set back at least twenty-five (25) feet from the nearest edge of road pavement, provided that any such gate shall be located entirely on private property, outside of the road right-of-way. Entrance gates on roads other than Commerce Road and Pontiac Trail shall comply with the minimum front yard setback requirements for the district in which they are located or the Established Residential Building Pattern (ERBP), whichever is greater.
 - b. **Side Setback.** Entrance gates and pillars shall be set back a minimum of one (1) foot from any side property line, provided that a certified property line survey shall be required if an entrance gate is proposed within five (5) feet of a side property line.
 - c. **Materials.** Entrance gates shall be constructed of wrought iron or shall have the appearance of wrought iron. The gates shall be anchored on each side of the driveway to a pillar, which shall be constructed of stone, brick, or similar masonry materials, but not including exposed concrete block.
 - d. **Dimensions.** Gates and pillars shall not exceed a height of six (6) feet. The footprint of any pillar shall not exceed fifteen (15) square feet. Entrance gates shall have vertical pickets no wider than one (1) inch, and pickets shall be spaced a minimum of four (4) inches apart. The horizontal support rails shall be no wider than four (4) inches. Pillars shall be located a sufficient distance apart to provide a minimum opening of fifteen (15) feet when the gates are open.
 - e. **Opacity.** Gates shall have maximum opacity of twenty percent (20%), i.e., the gate shall not obstruct vision to a greater extent than 20% of its total area.
 - f. **Colors.** Gates shall be black in color. Street numbers attached to a gate or pillar may be any color desired, but must comply with the adopted Building Code and or adopted Property Maintenance Code.

- g. **Lighting.** A light fixture may be attached to the top of any pillar, provided that the fixture height is not greater than two (2) feet, and provided further that the fixture complies with the Illumination Control Ordinance, General Ordinance, Chapter 18, Article VI.
- h. **Permit Required.** Prior to construction of an entrance gate and pillar, plans shall be submitted to the Building Official for review and to obtain proper permits. Details concerning proposed footing and/or foundation shall be provided to demonstrate that the pillars will be structurally stable, giving consideration to the weight of the gates, depth of the frost line, character of the soils, and other pertinent structural concerns.
- i. **Security Devices.** Any security entrance gate shall comply with the following requirements:
 - i. Security entrance gates that are locked shall have coded electronic touch pad controls.
 - ii. Codes for such touch pad controls shall be filed with the City of Orchard Lake Police Department, and the owner, possessor, or occupant of the property in question shall insure that the Police Department has the current code at all times.
 - iii. The touch pad control system shall provide a method of preventing the gate from closing during the utilization by emergency providers, police or fire agencies.
 - iv. The touch pad control system shall have a battery back up to insure the gate can be operational during power outages.

- 5. **Swimming Pool Fences.** Fences surrounding swimming pools shall be subject to the requirements in the adopted Building Code.

D. Fences in Non-Residential Districts.

- 1. **Location.** Fences shall be permitted in the side or rear yards of non-residential districts, provided that no fence shall extend toward the front of the lot any further than any portion of the principal structure.
- 2. **Height.** Fences in non-residential districts shall not exceed six (6) feet in height.

E. Natural Fences and Natural Barriers. The purposes of the regulations in this sub-section are to permit use of trees, shrubs, and other plant materials to enclose or screen areas, without impeding scenic views of public lands or waterways from adjacent properties. Natural fences and barriers shall comply with applicable regulations in the Landscaping Ordinance, General Ordinance Chapter 18, Article X.

- 1. **Natural Fences and Barriers in the Waterfront Yard.** Natural fences and barriers shall be permitted in the area between a dwelling unit and the water's edge, subject to the following:
 - a. Natural fences shall be allowed to grow no higher than thirty (30") inches and shall not be planted closer than thirty-five (35') feet to the water's edge.
 - b. Subject to the provisions in the following subsection 2.a., natural barriers shall not extend closer than thirty-five (35) feet to the water's edge, except that replacement of plantings within an existing natural barrier shall be permitted regardless of the setback from the water's edge.
- 2. **Natural Fences and Barriers in the Side Yard on Waterfront Property.** Natural fences and barriers may be permitted in the side yard of waterfront parcels, subject to the following conditions:
 - a. Where there are dwelling units on adjacent parcels, such fence or barrier may extend from the corner, as projected perpendicular to the property of the dwelling that is closest to the road, to the corner as projected perpendicular to the property line of the dwelling unit that is closest to the water.

- b. Such fence or barrier shall be permitted without restriction on height.
- c. Such fence or barrier shall be located totally on the parcel of land owned by the person responsible for the planting. However, such fence or barrier may be planted on the property line if agreed to in writing by adjoining property owners.
- d. Such fence or barrier shall be maintained in a neat and orderly appearance on both sides by the person responsible for the plantings, unless the owner of the adjacent property agrees to share the maintenance responsibility.

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