

Title 8 DEVELOPMENT REGULATIONS

8-6-1: VIOLATION:

Any person who violates or refuses to comply with any provisions of this title, including any of the published codes herein adopted, or constructs, alters, repairs, demolishes or moves a building, structure or part thereof or performs or causes to be performed any site development work without the appropriate building permit or site development permit, as the case may be, or in violation of any such permits issued pursuant to this title shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this title is committed, continued or permitted, and upon conviction of any such violation such person shall be punished by a fine of not more than seven hundred fifty dollars (\$750.00) for each offense. The owner of a structure or premises or parcel where anything in violation of this title shall be placed or exist and any architect, builder, contractor, agent, person, firm or corporation that may have assisted in the commission of such violation shall each be guilty of a separate offense and upon conviction thereof shall be penalized as above provided. (Ord. 07-4-6, 4-17-2007)

8-6-2: INJUNCTIVE RELIEF:

The imposition of penalties herein prescribed shall in no way preclude the village from instituting an appropriate action or proceeding to prevent any unlawful construction, alteration, repair, conversion, maintenance, use, grading, excavation, filling or site development work or to restrain, correct or abate a violation or to prevent the occupancy or illegal use of any structure or premises. (Ord. 07-4-6, 4-17-2007)

8-8-4: FENCES, SCREENING:

Any fence that encloses a tennis court shall be no higher than ten feet (10'), and shall be constructed of metal or plastic materials. All fences for tennis courts and playing courts constructed without fences shall be screened from neighbors' views to provide visual relief and maintain privacy by the planting of effective all season screening consisting of evergreen, shrubbery, trees or otherwise specified in accordance with a landscape plan to be submitted to and approved by the village prior to issuance of permits. All covenants and restrictions of specific subdivisions and/or road associations shall be respected. (Ord. 082-8-12, 8-16-1982; amd. Ord. 07-4-6, 4-17-2007)

Chapter 9 FENCES

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8-9-1: PURPOSE:

In enacting this chapter, the village intends to exercise its authority to regulate fences for the following purposes:

- A. To improve public safety and the welfare of persons using streets through the maintenance of adequate visibility into and from private property and within street rights of way, particularly as related to the front yard spaces between the streets and any buildings on a lot;

- B. To allow individual property owners to provide adequate screening for privacy on their lots without undue negative impact on the interests of residents on abutting properties to secure adequate light and air;

- C. To prevent visual blight, monotony and the blocking of view corridors, arising from the placement of fences;

- D. To protect against obstruction of stormwater runoff due to improper location of fences in drainage ditches and channels;

- E. To preserve the character of the neighborhoods in which fences are installed; and

- F. To preserve open space and facilitate the rejuvenation of woodland areas. (Ord. 11-9-20, 9-20-2011)

8-9-2: APPLICABILITY:

This chapter applies to the construction of all fences in residential zoned districts in the village. Front yard, side yard and rear yard shall have the meanings given to such terms in section [9-2-3](#) of this code. This chapter shall not apply to fences enclosing tennis courts, swimming pools or hot tubs, or temporary fences installed for construction or erosion control, but such fences shall be subject to applicable regulations set forth elsewhere in this code, including the published building and safety codes adopted by reference in this title. The village board may impose requirements relating to fences on lots on which a special use is authorized that are controlling over the requirements of this chapter. (Ord. 11-9-20, 9-20-2011)

8-9-3: DEFINITIONS:

The following terms shall have the indicated meanings for purposes of this chapter:

CHAINLINK FENCE: An open mesh fence made entirely of metal wire woven in squares of a certain diameter ($1\frac{5}{8}$ inch diameter or greater) to form a diamond pattern mesh.

DEER FENCE: A square mesh or hexagonal mesh fence, with mesh size of approximately two inches by two inches (2" x 2"), used to prevent entry by deer or other wildlife. The mesh material is woven from polypropylene, polyethylene nylon, or metal coated with polyethylene.

FENCE: A structure forming a barrier, which is not otherwise a part of any building or structure, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, partition or ornamental purposes. A gate controlling access to a driveway or other entry point to the property shall be considered a fence. Natural living plant material shall not be considered a fence.

FRONT YARD, SIDE YARD AND REAR YARD: As defined in section [9-2-3](#) of this code.

HEIGHT OF A FENCE: The vertical distance from each point of natural ground level to the highest point of the fence immediately above it.

OPEN FENCE: A fence having a regular pattern of which more than seventy percent (70%) of the surface is unobstructed to both light and air when viewed perpendicular to the plane of the fence. Open fences may include, by way of example, wrought iron fences, deer fences, chainlink fences, woven wire and welded wire fences.

PERIMETER FENCE: A fence erected on or within five feet (5') of one or more of the property lines of any lot or parcel.

SOLID FENCE: A fence which does not satisfy the conditions for being classified an open fence.

WELDED WIRE FENCE: An open mesh fence made entirely of metal wires that have been welded into a mesh, which consists of rectangular openings of varying diameters, the gauge and diameter of the wire being contingent on the purpose to be served by the fence. Mesh sizes can range from one-half inch by one-half inch ($\frac{1}{2}$ " x $\frac{1}{2}$ "") up to six inches by six inches (6" x 6"). Welded wire fences are used as barriers to protect gardens and new plantings of trees and shrubs.

WOVEN WIRE FENCE: An open mesh fence made entirely of metal wire woven into openings of varying shapes and diameters, the wire gauge and diameter of the openings being contingent on the purpose to be served by the fence. The joints of a woven wire fence are flexible. Woven wire fences are used in hexagonal netting (chicken wire), field and farm fences and wildlife fences; however, for purposes of this chapter, woven wire fences do not include chainlink fences and deer fences, each of which is regulated as a distinct type of fence. (Ord. 11-9-20, 9-20-2011)

8-9-4: PERMIT REQUIRED:

It shall be unlawful for any person to erect or alter any fence on any lot (or cause the fence to be erected or altered) in the village without first obtaining a permit, except if such fence is exempt from permit requirements under section [8-9-7](#) of this chapter. A permit application shall contain a sketch of the proposed fence, indicate the material and construction methods, the dimensions of the proposed fence and, if the fence is located in a required yard, include a drawing of the property indicating the location of the proposed fence on the lot. The director of community services may require that permit applications for driveway gates or fence structures that require additional support, larger columns, or deeper footings must be accompanied by architectural or engineering drawings or other requirements applicable to building permits generally. The director of community services may

require that permit applications furnish relevant topography of drainage ditches and adjoining grades to avoid obstruction of such drainage or plats of survey when necessary to verify location. The director of community services shall either approve or deny the application. If denied, the applicant may appeal to the village board, which shall be the final review authority. The fence permit fee shall be set forth in the village fee schedule. (Ord. 11-9-20, 9-20-2011)

8-9-5: HEIGHT LIMITS AND SETBACKS:

Fences shall be subject to the height limits and setbacks as provided in this section.

A. Height Limits And Setbacks:

1. Open Fences: Open fences not to exceed eight feet (8') in height are allowed, but if located in a front yard or adjacent to a street must be set back a minimum of twenty feet (20') from the street pavement.
2. Solid Fences: Solid fences not to exceed six feet (6') in height are allowed, but if located in a front yard or adjacent to a street must be set back a minimum of twenty feet (20') from the street pavement; provided, however, solid fences located in a front yard or adjacent to a street that do not exceed four feet (4') in height need only be set back a minimum of fifteen feet (15') from the street pavement. The setback from the street pavement for solid fences shall not apply if the fence runs alongside Deerfield Road, Saunders Road, or Riverwoods Road and complies with subsection E of this section.
3. Screening: Fencing when used as a screen for the storage of recreational vehicles shall not exceed ten feet (10') in height and shall not extend farther at such height than is necessary to provide such screening.

B. Measuring Fence Height: When a fence is installed on top of a retaining wall, the height of a fence shall be measured from the filled ground behind the retaining wall. When the retaining wall extends above the ground elevation, the remaining wall shall be considered as a portion of the fence height.

C. Exceptions For Posts: Posts and other vertical supports shall not exceed by more than three inches (3") the maximum permitted fence height.

D. Exceptions For Pergolas, Trellises, Driveway Gates: A pergola, arbor, trellis or similar open structure, installed at a pedestrian entry or gate opening in a fence, and any driveway gate, shall be limited to eight feet (8') in height and shall not extend more than six feet (6') in any horizontal direction, excluding the portion of the structure extending across the entry or driveway. Driveway gates shall be installed beyond the demarcation of the right of way or street easement and at a sufficient distance from the street pavement so that a vehicle can pull safely off the street without impeding traffic. Structures governed by this subsection need not be made of the same material as any fence in which they are located.

E. Clearance Required For Public Sidewalk Or Path: No fence shall be constructed within two feet (2') of any public sidewalk, bicycle or multiuse path.

F. Special Provisions For Dog Runs: Notwithstanding other provisions of this chapter, fences to enclose dog runs shall not be installed within front yards, side yards or rear yards, nor shall they be located over any easements. Any fence used to enclose a dog run shall conform to the requirements of this chapter. If dogs are capable of jumping over the top of the dog run fence, then the owner shall install a top over the dog run fence. (Ord. 11-9-20, 9-20-2011)

8-9-6: CONSTRUCTION METHODS, MATERIALS AND COLORS:

A. Every fence shall be designed and constructed to resist and withstand a wind pressure from any angle of approach of not less than twenty (20) pounds per square foot of the gross projected area of the fence, excluding open space in the fence. All posts, anchors and bracings made from wood or other organic materials shall be made of cedar or other naturally resistant wood or else treated to protect from deterioration when resting upon or entering into the ground. All fence installation methods and techniques shall comply with the requirements of published building and safety codes adopted by reference in this title, except as modified by this chapter.

B. All fences except as noted below shall be constructed primarily from the following materials or a combination thereof:

1. Wood.
2. Wood-polymer lumber which consists of at least fifty percent (50%) postconsumer wood fiber.
3. Wrought iron, steel or aluminum.
4. Masonry or stucco wall.
5. Decorative concrete block.
6. Stone.

Deer fences may be constructed from polypropylene, polyethylene nylon, or metal coated with polyethylene. A fence constructed of solid plywood, scrap lumber or other nonspecified materials shall not be permitted. All fences, posts and supporting structures (including polypropylene mesh or metal mesh used in a deer fence) shall be black or a neutral, earth tone color to harmonize with the surrounding landscape of the area. Metallic surfaces of iron, steel or aluminum fences, including chainlink fences, shall be black or a neutral, earth tone color when such fences are located in the front, rear or side yards.

C. 1. If a chainlink fence is installed in any front yard, side yard or rear yard, it shall be supported by vertical and horizontal metal tubing, the mesh and the wire size shall be a minimum of 11-gauge, the line posts and top cross pieces shall have a minimum of one and five-eighths inches ($1\frac{5}{8}$ "

diameter, the terminal posts shall have a minimum of two and one-half inches (2¹/₂") diameter, and all unfinished edges shall be installed at the bottom of the ground.

2. Any wood fence that is picket style, shadow board, or solid board on board panel, shall have cross pieces with a minimum size of two inches by four inches (2" x 4") and posts with a minimum size of four inches by four inches (4" x 4").
 3. Metal deer fence posts installed after the effective date hereof shall have a minimum of one and five-eighths inch (1⁵/₈") diameter, and new deer fences when installed shall have a monofilament line that runs along the top of the fence to support the fence and prevent sagging. All deer fences shall have brace bands, cables, earth anchors and ties as needed to provide for a wind and snow resistant fence. Monofilament lines shall be a minimum 12-gauge line along the top of all polypropylene deer fences over five hundred feet (500') long, and a minimum of 8-gauge line along the top of all metal deer fences regardless of length. Any newly installed deer fence must have white warning flags attached (1 per 20 foot fence section) when the fence is first installed and for three (3) months thereafter to warn deer and prevent collisions.
- D. The side or surface of a perimeter fence from which crossbars, lateral reinforcement, supports or similar construction features are more visible shall be oriented toward the inside of the lot on which such fence is being erected. The more finished surface of the fence (from which such construction features are less visible), shall be oriented toward any adjacent properties.
- E. All fences shall be nonreflective or oriented so that reflected light from automobile headlights shining on fence surfaces does not create dangerous glare for motorists.
- F. No fence (whether or not a fence permit is required under this chapter) shall impede or alter the natural surface water drainage. No fence shall be attached to or wrapped around trees.
- G. No person shall maintain a fence on any portion of his property which interferes with the clear view of traffic or pedestrians by drivers at the intersection of street rights of way or at the intersection of a street right of way and a private driveway. (Ord. 11-9-20, 9-20-2011)

8-9-7: EXEMPT FENCES:

Fences for the following purposes are exempt and do not require a permit for installation under this chapter:

- A. Welded wire or woven wire metal cage fencing installed to encircle and protect gardens, ground layer plants, shrubs or young or newly planted trees (and not installed as perimeter fencing), provided these fences enclose no more than sixty percent (60%) of the area of the lot.

- B. Welded wire or woven wire metal fences, one inch (1") or smaller mesh, may be attached to the bottom thirty six inches (36") of another fence as an apron or ground barrier to contain pets or prevent intrusion of animals, or burrowing or digging under the fence. (Ord. 11-9-20, 9-20-2011)

8-9-8: UNSAFE FENCES:

- A. It shall be unlawful to erect or maintain anywhere within the village an electrified fence with the exceptions of: 1) electric fences commonly used for containing household pets which consist of subsurface devices which transmit a charge to a collar worn by the pet, and 2) fences used to corral equine animals on a lot or parcel occupied by a private stable in which such animals are stabled. Any electrified fence enclosing a stable shall have warning signs attached (1 per 20 foot fence section) which give prominent notice of the danger. The voltage used in electrified fences shall comply with all published building and safety codes adopted in the village.
- B. It shall be unlawful to erect or maintain on any lot a fence equipped with or having barbed wire or topped with razor ribbon, broken glass or other sharp objects. Wrought iron fences shall not be topped with spears or finials unless they are blunt and pose no danger of impalement. (Ord. 11-9-20, 9-20-2011)

8-9-9: LEGAL NONCONFORMING FENCES:

Any fence installed prior to the effective date hereof without record of having received a proper permit or which becomes nonconforming upon the adoption of this chapter shall be deemed a legal, nonconforming use, provided the fence satisfies or is brought into compliance with the requirements of subsections [8-9-6E](#), F and G of this chapter. If such conditions are met, the owner may apply for and receive a permit for the fence as installed. Any such legal nonconforming fence which receives a permit under this section may be repaired, rebuilt or replaced with a like fence at the same location, provided that the repair or replacement shall not increase the degree of nonconformity or create any new noncompliance with the provisions of this chapter. However, any repair requiring a permit or the replacement of such fence shall be complete within one hundred eighty (180) days of the start of such action. If the repair or replacement is not completed, the status of legal nonconformity for such fence may be revoked by director of community services, and all characteristics of the fence must then conform to this chapter. The director of community services may grant one 180-day extension upon a written request by the property owner and finding that extenuating circumstances, such as unfavorable weather for construction, warrant the extension. The permits issued under this section and the conditions contained herein shall not expire but shall continue to apply notwithstanding the sale and transfer of title to the property on which the legal, nonconforming fence is located. (Ord. 11-9-20, 9-20-2011)

8-9-10: PENALTY:

Any person violating the provisions of this chapter shall be fined not more than seven hundred fifty dollars (\$750.00) and each day's continued violation shall be deemed a separate offense. In addition to any fine permitted or required to be imposed hereunder, the village may seek injunctive relief to prevent an actual or threatened violation of this chapter, and may also seek mandatory injunctive relief to require the removal of any fences erected in violation of this chapter, the corporate authorities finding that the village will be irreparably harmed by the erection of unlawful fences, and that the imposition of a fine alone is an inadequate remedy for such violations. (Ord. 11-9-20, 9-20-2011)