

CHAPTER 1460
Fences

EDITOR'S NOTE: This chapter, previously a codification of Ordinance 26-62, passed July 2, 1962, and Ordinance 29-62, passed September 17, 1962, was repealed and re-enacted in its entirety by Ordinance 88-85, passed June 20, 1988. The chapter was again repealed and re-enacted in its entirety by Ordinance 169-99, passed September 20, 1999.

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CROSS REFERENCES

Fences - see Ohio R.C. 971.01 et seq.
Fences on limited-access highways - see Ohio R.C.
3767.201
Swimming pool fences- see B. & H. 1482.05

1460.01 PURPOSE.

The purpose of this chapter is to establish regulations controlling the use of fences whereby the property owner may have the privilege of privacy, security and landscape design within the property with due consideration to the environment of the neighboring properties, the appearance of the community and the safety of the public and the individual.

(Ord. 169-99. Passed 9-20-99.)

1460.02 SCOPE.

The fence regulations contained in this chapter shall not apply to any legally erected permanent fence erected prior to the effective date of this chapter.

(Ord. 169-99. Passed 9-20-99.)

1460.03 DEFINITIONS.

As used in this chapter, the following words and terms shall have the following meanings:

- (a) Backyard enclosure fence. A fence that meets all of the following specifications:
- (1) The fence does not exceed six feet in height from grade.
 - (2) The fence encloses part of or the entire rear yard of the subject property.
 - (3) Although not mandatory, the fence may follow property boundaries (i.e. lot lines) of the rear yard.
 - (4) The entire fence is erected to the rear of the wall line of the residence.
Exception number 1:
If the subject property is a corner lot, then, in addition to the fence being erected to the rear of the rear wall line of the primary setback, the fence shall also be erected entirely behind the line established for the secondary setback.
Exception number 2:
If the subject property's rear yard fronts on another street, the fence erected shall also be erected entirely behind the established setback line for structures on that street.
Exception number 3:
Where a residence is equipped with a side door, the fence may be extended into a side yard for a maximum of three feet closer to the street than the side door.
- (5) The fence shall contain a gate that is at least three feet wide and is located so as to provide reasonable and easy access to safety forces.
- (b) Barbed wire fence. A fence, or portion of a fence, made with two or more wires twisted together with sharp hooks or points (or a single wire furnished with barbs).
- (c) Boundary line fence. A fence erected along the boundary line of any lot, which encloses or partially encloses a parcel of property.
- (d) Chain link fence. A fence, usually made of heavy steel wire fabric (usually coated with zinc, or the like) which is interwoven in such a way as to provide a continuous mesh without ties or knots, except at the salvage; the wire fabric is held in place by metal posts.
- (e) Chicken wire fence. A fence constructed of light-weight, galvanized wire netting having a hexagonal mesh.
- (f) Deer fence. A temporary or permanent-type, electric or non-electric, fence to modify deer behavior in cultivated garden areas or orchards of rear yards. A deer fence shall be constructed in accordance with the types and designs as recommended by the Ohio Division of Wildlife for such purpose.
- (g) Dumpster enclosure fence. A privacy fence consisting of materials constructed to inhibit light, ventilation and sight through said fence. Such enclosure shall include a double gate for purposes of vehicle access in addition to a separate employee access area. Such design shall be acceptable to the Building Commissioner.
- (h) Fence. Any artificially constructed barrier of any material or combination of materials, living or otherwise, erected to enclose, screen or divide areas of land, yards or gardens.

- (i) Latticework fence. A fence constructed of reticulated or net-like work formed by the crossing of laths or narrow, thin strips of wood or iron, in a diagonal pattern.
- (j) Living fence. A natural plant species which has been planted to form a continuous barrier to prevent passage or for protection.
- (k) Open ornamental fence. A fence, with a maximum height of thirty-six inches (such as a rail, split rail or white picket fence), that is constructed for its beauty or decorative effect and, when viewed at right angles, has not less than fifty percent of the surface area of its vertical plane (the area within a rectangular outline enclosing all parts of the fence in its vertical plane) open to light and air. However, an ornamental fence shall not surround a front yard, either partially or in its entirety.
- (l) Patio privacy fence. A fence that meets all of the following specifications:
 - (1) The fence is used to enclose a patio.
 - (2) The fence has a maximum height of six feet.
 - (3) No part of the fence shall be more than three feet from any boundary line of the patio.
 - (4) The fence shall be erected entirely behind the rear wall line of the residence.
 - (5) No part of the fence shall be within ten feet of any side yard line of the residence.
- (m) Privacy fence. A fence structure, or any part thereof, consisting of materials constructed to inhibit light, ventilation and sight through said fence. This definition shall not include a "living fence."
- (n) Private nuisance. That which destroys or deteriorates the property of an individual or of a few persons or interferes with their lawful use or enjoyment thereof and producing such material annoyance, inconvenience and discomfort that law will presume resulting damage and/or that which annoys and disturbs one in possession of his or her property, rendering its ordinary use or occupation physically uncomfortable to the person.
- (o) Rail fence. A fence in which the rails are set into the posts and adjoining rails either butt against each other or overlap. Maximum rail height shall be thirty-six inches.
- (p) Shadowbox fence. A fence constructed of three-quarter inch thick by a maximum five and one-half inches wide by a maximum of six feet high (from finished grade) vertical boards that are attached to both sides by horizontal rails. Minimum board spacing shall be equal to the board width on both sides of the horizontal rails. The rails shall be a maximum one and one-half inches thick by three and one-half inches wide. Posts shall be a maximum of four inches thick by four inches wide by thirty-four inches high.
- (q) Similar fences. The Building Commissioner, the Architectural Review Board or the Planning Commission may permit other fences, which are similar in character and design to one or more of the fences permitted by this chapter.
- (r) Snow fence. A temporary fence which has slats less than four inches in width, wired together and set perpendicular to the direction of the prevailing winds to catch drifting snow.

- (s) Split rail fence. A fence with a maximum of two horizontal rails, with a maximum size of three inches by three inches, that are set into posts that are a maximum of five inches by five inches. Maximum rail height shall be thirty-six inches.
- (t) Stockade fence. A solid fence of half-rounded boards pointed at the top.
- (u) White picket fence. A fence, painted white, with pickets that have points at the center of the top of the picket. The maximum size of each picket shall be seven-eighths inches thick by three and one-half inches wide by thirty-six inches high. Minimum picket spacing shall be equal to the picket width. The rails shall be a maximum of one and one-half inches thick by three and one-half inches wide. Posts shall be a maximum of four inches thick by four inches wide by thirty-four inches high.
(Ord. 169-99. Passed 9-20-99; Ord. 199-99. Passed 11-15-99.)

1460.04 PLOT PLAN AND PERMIT REQUIRED.

Any fence, other than living and snow fences, which may be permitted, shall, prior to its erection, require issuance of a permit by the Building Commissioner after an application for the same has been approved. Application shall be made on a City application form and shall be accompanied by a plot plan made to scale showing property lines, the location of all existing driveways, sidewalks, fences and structures on the subject property, plus distances from all fences and structures within five feet of the property lines to the proposed fence(s). The plot plan shall show the location of the proposed fence with length, height and fence style noted. A permit fee shall be required in accordance with the fee schedule in Chapter 1449.
(Ord. 169-99. Passed 9-20-99.)

1460.05 GENERAL REQUIREMENTS.

- (a) Scope. This section shall include general fence requirements for all districts.
- (b) Access Corridor. No fence shall be erected or allowed to grow in a natural state so as to create an inaccessible and/or unmaintainable area or corridor with any other principal, accessory or fence structure. Such area or corridor shall be a minimum distance of thirty inches. This shall not prohibit a fence from being adjacent to or attached to another principal, accessory or fence structure.
- (c) Attachment to Neighboring Structure. A fence may be erected across the property line to be adjacent to or attached to a neighbor's principal, accessory or fence structure if such notarized authorization from said property owner is submitted with the required application for a fence permit.
- (d) Appearance. All visible supports must face the property that is making such installation, unless the Architectural Review Board grants approval otherwise.
- (e) Swimming Pool Fence. Swimming pool fences shall comply with the regulations as set forth in Chapter 1482.

(f) Maintenance.

- (1) Living fences shall be trimmed and maintained at all times so as not to create a private nuisance, as determined by the Building Commissioner, or interfere with pedestrian and vehicular traffic on both public and private property.
- (2) All other fences shall be maintained:
 - A. So as not to interfere with pedestrian and vehicular traffic on both public and private property.
 - B. In accordance with the City's Property Maintenance Code as set forth in Chapter 1494.
(Ord. 169-99. Passed 9-20-99.)

1460.06 FENCES IN RESIDENTIAL DISTRICTS.

(a) Scope. This section shall include single-family, two-family and multifamily districts.

(b) Permitted Fences. The following fences shall be permitted in residential districts:

- (1) Living fence.
- (2) Boundary line fence.
- (3) Privacy fence.
- (4) Open ornamental fence.
- (5) Chain link fence.
- (6) Deer fence.
- (7) Rail or split rail fence.
- (8) White picket fence.
- (9) Backyard enclosure fence.
- (10) Patio privacy fence.
- (11) Latticework fence.
- (12) Shadowbox fence.

(c) Restricted Fences. The following fences shall be restricted in residential districts:

- (1) Patio privacy fence (as defined above).
- (2) Backyard enclosure fence (as defined above).
- (3) Swimming pool fence, as set forth in the regulations of Chapter 1482.
- (4) Tennis court fences. A variance shall be required from the Zoning Board of Appeals.
- (5) Barbed wire fences, as follows:
 - A. Prohibited when the fence would abut a residential district or use.
 - B. Approval is required from the Architectural Review Board for all others.
- (6) Snow fences may be erected and used only in the months of customary snowfall, after which they shall be removed. No snow fence shall be used so as to cause an artificial or unnatural accumulation of snow or driving snow to accumulate on the property of another, in excess of that which would otherwise accumulate in the absence of such a fence.
- (7) Chicken wire fences shall be prohibited.

- (8) Electrified fences shall be prohibited, except for underground low voltage pet fences and deer fences.
 - (9) Stockade fences shall be prohibited.
 - (10) Dumpster enclosure fence shall be prohibited, except for multi-family dwellings.
- (d) Maximum Fence Height and Location of Fence Types.
- (1) Rear yard. As defined in Section 1260.04 (55). However, a fence shall not be erected in a side yard (as defined in Section 1260.04 (54)) that abuts a street.
 - A. Living fences shall not exceed three feet in height for fifteen feet from any public sidewalk. Otherwise they may grow to their natural height.
 - B. Privacy and boundary line fences shall not exceed three feet in height for fifteen feet from any public sidewalk. Otherwise they shall not exceed six feet from finished grade to the top of any portion of the fence. Fence posts may exceed the fence height by six inches.
 - C. Backyard enclosure fences shall meet all of the following specifications:
 - 1. The fence shall not exceed six feet in height from finished grade.
 - 2. The fence encloses part of or the entire rear yard of the subject property.
 - 3. Although not mandatory, the fence may follow property boundaries (i.e. lot lines) of the rear yard.
 - 4. The entire fence is erected to the rear of the wall line of the residence.
 - Exception number 1:
If the subject property is a corner lot, then, in addition to the fence being erected to the rear of the rear wall line of the primary setback, the fence shall also be erected entirely behind the line established for the secondary setback.
 - Exception number 2:
If the subject property's rear yard fronts on another street, the fence erected shall also be erected entirely behind the established setback line for structures on that street.
 - Exception number 3:
Where a residence is equipped with a side door, the fence may be extended into a side yard for a maximum of three feet closer to the street than the side door.
 - 5. The fence shall contain a gate that is at least three feet wide and is located so as to provide reasonable and easy access to safety forces.
 - D. Chain link fences shall not exceed six feet from finished grade to the top of any portion of the fence. Fence posts may exceed the fence height by six inches.

- (2) Side yard. As defined in Section 1260.04 (54). Location and height shall be as follows:
- A. Except for living and/or ornamental, and as permitted in paragraph (d)(1)C.4. Exception number 3, all other fences are prohibited in side yards. Any living side yard fence shall not exceed three feet in height for fifteen feet from any public sidewalk or front property line.
- (3) Front yard. As defined in Section 1260.04 (53).
- A. Living fences shall not exceed three feet in height for fifteen feet from the front property line and/or any public sidewalk. Beyond fifteen feet, they may grow to their natural height.
- B. Open ornamental fences shall not exceed thirty-six inches in height.
- C. All other fences are prohibited in the front yard unless approval is granted by a simple majority of the Architectural Review Board.
- (4) Height exception. A privacy fence may be erected in the rear yard, and shall not exceed eight feet in height, including posts, when such rear or side yard property line abuts a property zoned or used for nonresidential purposes. Such fence shall not exceed three feet in height for fifteen section feet from any public sidewalk.
(Ord. 169-99. Passed 9-20-99; Ord. 199-99. Passed 11-15-99.)

1460.07 FENCES IN NONRESIDENTIAL DISTRICTS.

(a) Scope. This section shall include all Class B-1, B-2, B-5, Business, D-1, and E Districts.

(b) Permitted Fences. The following fences shall be permitted in nonresidential districts:

- (1) Living fence.
- (2) Boundary line fence.
- (3) Privacy fence.
- (4) Open ornamental fence.
- (5) Chain link fence.
- (6) Deer fence.
- (7) Dumpster enclosure fence.
- (8) Rail or split rail fence.
- (9) Picket fence.
- (10) Latticework fence.
- (11) Shadowbox fence.

(c) Restricted Fences. The following fences shall be restricted in nonresidential districts:

- (1) Tennis court fences. Approval shall be required from the Planning Commission.
- (2) Barbed wire fences shall be prohibited when the fence would abut a residential district or use, unless approval is granted by a simple majority of the Architectural Review Board.

- (3) Snow fences may be erected and used only in the months of customary snowfall, after which they shall be removed. No snow fence shall be used so as to cause an artificial or unnatural accumulation of snow or to allow drifting snow to accumulate on the property of another in excess of that which would otherwise accumulate in the absence of such a fence.
 - (4) Chicken wire fences shall be prohibited.
 - (5) Electrified fences shall be prohibited, except for underground low voltage pet fences and deer fences.
 - (6) Stockade fences shall be prohibited.
- (d) Maximum Fence Height and Location.
- (1) Rear and side yards. As defined in Section 1260.04 (54) and (55).
 - A. Living fences shall not exceed three feet in height for fifteen feet from any public sidewalk. Otherwise they may grow to their natural height.
 - B. Privacy and boundary line fences shall not exceed three feet in height for fifteen feet from any public sidewalk.
 - C. Open chain link fences may be erected in the side and rear yards that abut a public sidewalk or street with no setback requirement.
 - (2) Front yard. As defined in Section 1260.04(53).
 - A. Living fences shall not exceed three feet in height for fifteen feet from the front property line and/or any public sidewalk. Beyond fifteen feet, they may grow to their natural height.
 - B. Open ornamental fences shall not exceed three feet in height.
 - C. All other fences are prohibited in the front yard unless approval is granted by a simple majority of the Architectural Review Board.

(e) Nonconforming Residential Uses Excepted. This section shall not apply to pre-existing, nonconforming residential dwellings in these districts. Section 1460.06 (Fences in Residential Districts) shall apply and govern.
(Ord. 169-99. Passed 9-20-99.)

1460.08 INSPECTIONS.

It shall be the duty of each property owner erecting a fence to determine property lines, at the owner's expense, and to ascertain that the fence thus constructed does not deviate from the plans approved by the Building Commissioner and does not encroach upon another lot or parcel of land unless specifically authorized by that abutting property owner, in writing. The person responsible for the erection of such fence shall contact the Building Department to have the fence inspected upon completion. The inspection will not be to determine whether the fence is encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon him or her herein.
(Ord. 169-99. Passed 9-20-99.)

1460.09 EXEMPTIONS.

(a) Legally pre-existing fences that had a valid permit shall be exempt from the provisions of this chapter. However, there shall be no exemption from the maintenance provisions of this chapter.

(b) Fences constructed or owned by the City of Broadview Heights are exempted from the provisions of this chapter.
(Ord. 169-99. Passed 9-20-99.)

1460.10 VARIANCES.

(a) Where difficulty and unnecessary hardship will result from the strict enforcement of this chapter, the Board of Zoning Appeals may grant a variance, in harmony with the general intent of this chapter, to secure the general welfare and substantial justice in the promotion of the public health, comfort, convenience, morals, safety and general welfare of the City of Broadview Heights.

(b) A variance from this chapter will be granted only by a majority of the Board members after a hearing and notice to neighbors residing within a 500 foot radius of the property for which a variance is requested. In the instance(s) where such property is in the condominium form of ownership, notice shall be sent to the condominium unit owners' association only.
(Ord. 169-99. Passed 9-20-99.)

1460.11 APPEALS.

(a) Any decision of the Building Commissioner made in the enforcement of this chapter may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by such decision.

(b) A reversal of the Building Commissioner's decision will be granted only by a majority of the Board members after a hearing and notice to neighbors residing within a 500 foot radius of the property for which a variance is requested. In the instance(s) where such property is in the condominium form of ownership, notice shall be sent to the condominium unit owners' association only.
(Ord. 169-99. Passed 9-20-99.)

1460.12 FEES FOR VARIANCES AND APPEALS.

The fee for each request for a variance and/or appeal to the Board of Zoning Appeals shall be the same as set forth in Section 1262.05.
(Ord. 169-99. Passed 9-20-99.)

1460.13 ENFORCEMENT.

See Section 1440.17.
(Ord. 169-99. Passed 9-20-99.)

1460.99 PENALTY.

(EDITOR'S NOTE: See Section 1440.99 for general Building and Housing Code penalty if no specific penalty is provided.)