

ORDINANCE 763

AN ORDINANCE REGULATING FENCES
WITHIN THE
VILLAGE OF ELWOOD,
WILL COUNTY, ILLINOIS

PASSED AND APPROVED BY
THE PRESIDENT AND BOARD OF TRUSTEES
THE 15 DAY OF Sept., 2004

Published in pamphlet form by
authority of the corporate authorities
of the Village of Elwood, Illinois,
the 17 day of Sept., 2004

ORDINANCE NO. 763

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WITHIN THE
VILLAGE OF ELWOOD,
WILL COUNTY, ILLINOIS

WHEREAS, the Village of Elwood, Will County, Illinois (hereinafter sometimes referred to as "ELWOOD" or the "VILLAGE") is a duly constituted and existing municipality and a home rule unit pursuant to Section 6 of Article VII of the Constitution of the State of Illinois; and

WHEREAS, the President and the Board of Trustees of the Village of Elwood (hereinafter sometimes referred to as the "corporate authorities") deem it necessary and proper to regulate the construction, maintenance and use of fences to provide orderly, efficient and safe conditions; and

WHEREAS, the promulgation of such fence regulations shall best accomplish the foregoing goals and is in the best interest of the general health, safety and welfare of the community.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ELWOOD, WILL COUNTY, ILLINOIS IN THE EXERCISE OF ITS HOME RULE AND STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. INCORPORATION That the preambles to this ordinance be, and the same hereby are, incorporated herein by this reference as if set out in full at this place.

SECTION 2. DEFINITIONS As used in this Ordinance, the following terms shall have the following meanings.

"Buildable Area" shall refer to the space remaining on a zoning lot after the minimum open space, yard and other requirements of the Official Zoning Ordinance are met.

"Building Line" shall mean a line between which and any street line of a district, lot, tract, or parcel of land upon which no buildings or parts of buildings may be erected, altered or maintained.

"Building Line Setback" shall mean the distance between the building line and the street right-of-way.

"Corner Lot" shall mean a lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street and any two (2) chords of which form an angle of 120 degrees or less measured on the lot side.

"Easement" shall mean a grant by a property owner for the use of his land by another party

for a specific purpose.

"Fence" means a nonpermanent, nonliving structure which is not otherwise a part of any building or structure and is used to delineate a boundary or as a means of confinement for the purposes of privacy.

"Frontage" shall refer to all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

"Height of Fence" shall mean the height as measured from the existing grade level of the property on which the fence is installed to the highest most point on the fence. Provided, however, when there is a change of grade between adjoining lots, the *"Height of Fence"* shall be measured from the average grade within six feet (6') on either side of the line where the fence is to be installed.

"Lot" shall mean a parcel of land occupied or to be occupied by one building and accessory buildings and uses or a unit group of buildings and including the open spaces required under the Zoning Regulations. A lot may be land so recorded on official records or it may include parts or a combination of such lots when adjacent to one another, provided such ground is used for only one improvement and the tract of land is designated by the owner at the time of application for a building permit as the site to be used, developed or built upon as a unit under single-ownership or control. A lot may also be a parcel of land described by metes and bounds.

"Open Fence" shall mean any fence that is designed to retain fifty percent (50%) of the width of the uprights as an unobstructed area.

"Property Line" shall refer to a lot line at the edge or boundary of a zoning lot.

"Yard" shall refer to an open space on the same zoning lot with a principal building or group of buildings which is unoccupied and unobstructed from its lowest level upward, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations established in the Official Zoning Ordinance for the district in which the zoning lot is located.

"Yard, Front" shall mean a yard extending across the full width of the zoning lot in accordance with the setback requirements established in the Official Zoning Ordinance.

"Yard, Rear" shall refer to a yard extending across the rear of the lot between the side yards. Double frontage and reverse corner lots will have no rear yard.

"Yard, Side" shall refer to a yard extending from the rear line of the front yard to the lot line most nearly parallel to that rear line.

"Zoning Lot" shall refer to a parcel of land of sufficient size to meet the minimum requirements of the Official Zoning Ordinance concerning use, coverage, width, area, yards and other

open space and having frontage on an improved public street.

SECTION 3. APPLICATION FOR FENCE PERMIT

3.01 It shall be unlawful for any person to commence or proceed with the construction, installation, enlargement, repair or alteration of any fence, wall or shrubbery screening unless first receiving a permit from the VILLAGE.

3.02 An application for a fence permit, all applicable fees as established by the then current Ordinance Establishing Permit and Inspection Fees, Zoning Application Fees, General Fees and Water and Sewer Tap-On Fees and a current survey of the subject property showing the location, height and type of fencing to be installed must be submitted to the Village Building Inspector for approval.

3.03 In the event the change of grade between adjoining lots is greater than one foot (1') within a twelve foot (12') area, the applicant shall provide a detailed drawing which shows the cross section of the terrain at the fence line to the Village. The Village shall review the detailed drawing and determine the average grade height.

SECTION 4. GENERAL FENCE CONSTRUCTION REQUIREMENTS FOR ALL DISTRICTS

4.01 Fences shall be constructed so that the most aesthetically pleasing and/or finished sides face outward from the lot on which the fence is erected.

4.02 All fence structural supports, if exposed, shall be located in such a manner as to face the principal building on the lot on which the fence is located.

4.03 All fences shall be constructed within the property lines and shall be subject to the restrictions set forth in Section 5. In no event shall any fence encroach upon any public right-of-way or adjoining property.

4.04 If a fence is erected within a utility easement area, such fence may be required to be removed by either the utility company or the VILLAGE, for the purpose of installing, maintaining or repairing a utility. The utility company and/or the VILLAGE shall not be responsible for repair or replacement of such fence in the event it is moved, damaged or destroyed by virtue of the lawful use of said easement.

4.05 If a fence is to be erected within a landscape easement or as a buffer that is visible to adjacent properties, public spaces or public rights-of-way in connection with a site plan or subdivision of land it shall be constructed concurrently and shall consist of the same style, color and size along the entire length of the frontage. No alterations to the style, color or size of the fence shall be allowed after construction unless equally applied to all sections of the fence.

4.06 All fences planned within a landscape easement or as a buffer shall be located behind the required landscape and/or berming materials so that the landscape and/or berming materials are visible to the adjacent parcels.

4.07 Only one (1) fence shall be permitted to be installed upon along a shared property line provided compliance with Section 5.05 is achieved.

4.08 All public utilities, including but not limited to electrical/phone boxes, shall be functionally accessible to the appropriate utility company and shall be accessible by either a gate or a removable section of the fence, if the property is fully enclosed by fencing.

4.09 Every fence fronting onto an existing or proposed road right-of-way, except corner lots shall include a gate to provide access for maintenance. Provided, however, no gate shall be required if the fence and associated parkway are maintained by a homeowners' association.

4.10 If digging is required to install and/or repair the fence, wall or shrubbery screening, all persons shall contact J.U.L.I.E. at least forty eight (48) hours (two (2) working days) prior to excavation as required by law.

SECTION 5. GENERAL FENCE CONSTRUCTION RESTRICTIONS FOR ALL DISTRICTS

5.01 Fences shall not be installed in a designated landscape/buffer berm or landscape easement unless as planned in a site plan approved by the Village Board.

5.02 Fences shall not be installed in or through a storm water detention basin or retention pond nor shall a fence be constructed to block the required over-land drainage.

5.03 Fences shall not block the vision for drivers or pedestrians at intersections of any street, roadway, alley and/or driveway as provided in the Official Zoning Ordinance 656, as amended from time to time.

5.04 Fences shall not be installed closer than one foot (1') of any existing or proposed public sidewalk or pathway.

5.05 Fences shall not be installed within six inches (6") of any property line unless one of the following exceptions applies:

- A. written authorization is received from the adjoining property owner; or
- B. the fence returns to an existing building or structure to enclose a yard; or
- C. the fence is a patio privacy fence/screen that does not exceed six feet (6') in height

and it is located within the buildable area of the lot.

5.06 Dog enclosures or runs shall be constructed in the rear yard or buildable lot area, shall not exceed five feet (5') in height, not enclose more than twenty percent (20%) of the rear yard, shall be set back no less than five feet (5') from any property line and, notwithstanding any provision contained herein to the contrary, may be constructed of chain link fence.

SECTION 6. GENERAL FENCE MAINTENANCE REQUIREMENTS

6.01 All owners and/or occupants of properties containing fences shall maintain their fence in sound and good condition so that the fence is structurally safe and aesthetically pleasing.

6.02 All fence repairs shall be erected with diligence and with materials of comparable size and color to the existing fence.

SECTION 7. REQUIREMENTS FOR FENCES IN RESIDENTIAL DISTRICTS ONLY

7.01 Location requirements:

- A. Open fences may be constructed and maintained in the front and side yard setbacks.
- B. Fences shall be permitted in rear yards, provided that the fence is located no closer to the front yard than the rear building line of the principal structure (see illustration).
- C. Fences shall be permitted in rear yards of corner lots at a distance not closer to the right-of-way (second frontage) than the rear corner of the primary structure or the established building setback line of the property, whichever is closer to the right-of-way (see illustration).

7.02 No hazardous type fence that can cause injury shall be installed or maintained within residential districts, such as barbed wire, razor wire and/or electrified fencing.

7.03 No fence constructed of chain link or cyclone fencing shall be installed or maintained.

SECTION 8. REQUIREMENTS FOR FENCES IN COMMERCIAL DISTRICTS ONLY

8.01 Location requirements:

- A. Open fences shall be permitted in the front yard setbacks.
- B. On corner lots, fences shall be permitted within ten feet (10') of the property line in the side yard (second frontage) forward of the front of the principal structure for use as buffering or screening (see illustration).

C. Fences shall be permitted in all rear yards and side yards provided that the fence is located to the rear of the principal structure.

8.02 Closed walls and fences shall be used to enclose outside storage and shall fully screen the interior contents.

8.03 Fences shall be constructed of material that is consistent and/or compatible in material, color, size and scale of the architectural design of the building.

8.04 No hazardous type fence that can cause injury, such as barbed wire, razor wire and/or electrified fencing shall be installed or maintained within commercial districts unless previously approved by the applicable public utility and/or municipal facilities.

8.05 No fence that is visible from a public right-of-way, public space, residential or other commercial property shall be constructed of chain link or cyclone fencing, except as provided in Section 5.06.

SECTION 9. MAXIMUM FENCE HEIGHT IN RESIDENTIAL AND COMMERCIAL DISTRICTS ONLY

Fence Location	Residential Districts	Commercial Districts
Front Yard Setbacks	Four feet (4') (open fences only)	Four feet (4') (open fences only)
Side Yard Setbacks	Four feet (4') (open fences only)	Six feet (6') (on corner side lots only) Eight feet (8') (all other lots)
Rear Yards	Six feet (6')	Eight feet (8')
Corner Rear Side Yard	Four feet (4') (open fences only)	Eight feet (8')
Corner Front Side Yard	N/A	Six feet (6')
Outside Storage	N/A	Eight feet (8')

SECTION 10. REQUIREMENTS FOR FENCES IN INDUSTRIAL DISTRICTS ONLY

10.01 Fences shall be permitted in any required yard as defined for each Industrial zoning district and use pursuant to the Official Zoning Ordinance.

10.02 All fences, other than those intended for decorative or screening purposes shall be buffered with berming and/or landscaping.

10.03 Closed walls and fences shall be used to enclose outside storage and shall fully screen the interior contents. The height of the closed walls and/or fences shall be a minimum of six feet (6') and a maximum of fifteen feet (15').

10.04 Fences shall not exceed a height of fifteen feet (15').

SECTION 11. MISCELLANEOUS USES

11.01 Closed fences and/or walls shall be used for buffering or screening between different uses.

11.02 Screening which is required for private and public non-residential swim and/or tennis clubs shall not exceed a height of twelve feet (12').

11.03 Fences shall join together to provide continuity along the common lot line of commercial and residential or industrial and residential districts where a fence for screening is required.

SECTION 12. NON-CONFORMING FENCES

12.01 This Ordinance shall not require the removal of fences that were in conformity with the prior ordinance and in existence on the date of the adoption hereof so long as the fence is not located within a public right-of-way. In the event an existing fence or section thereof does encroach upon a public right-of-way, it shall be summarily removed and constructed to conform with this ordinance.

12.02 All non-conforming fences and/or walls that require twenty-five percent (25%) of the total linear length of the fence to be replaced or repaired due to destruction, damage, neglect or removal shall be constructed in conformance with this Ordinance.

SECTION 13. REPEALER All Ordinances of the VILLAGE inconsistent herewith, to the extent of such inconsistency and no further, are hereby repealed upon the effective date hereof.

SECTION 14. SEVERABILITY Should any section, subsection or other provision of this Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the Ordinance as a whole or any part not declared invalid.

SECTION 15. PUBLICATION The Village Clerk is hereby authorized and directed to publish this Ordinance, by publication in pamphlet form for general distribution in the manner provided by law.

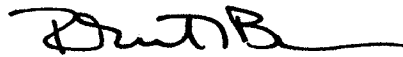
SECTION 16. EFFECTIVE DATE That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

AYES: 3

NAYS: 2

ABSENT: 0

PASSED and APPROVED this 15 day of September, 2004.



VILLAGE PRESIDENT

ATTEST:

Patricia Kochman
VILLAGE CLERK

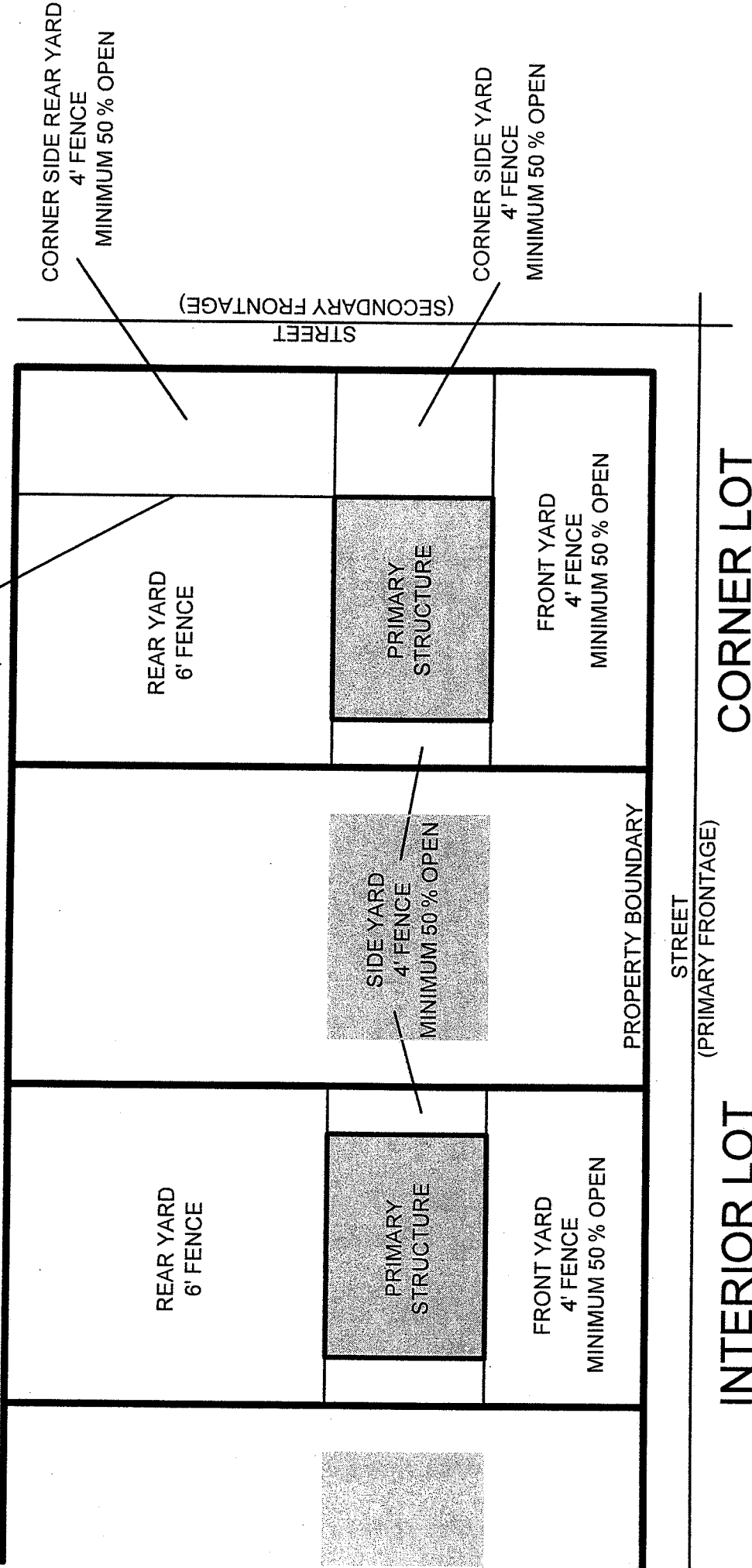
PASSED: This 15 day of September, 2004.

APPROVED: This 15 day of September, 2004.

PUBLISHED: This 17 day of September, 2004.

EXHIBIT

NOT CLOSER THAN THE
REAR CORNER OF PRIMARY
STRUCTURE OR BUILDING
SETBACK LINE
(WHICHEVER IS CLOSER TO
SECONDARY FRONTAGE)



INTERIOR LOT

CORNER LOT