

Resolution No. 2019-25

2019 Village Board

A Resolution Approving Amending Ordinance 8.13 – Fences and Walls

RECITALS:

- A. On August 15th, 2019 the Village of Elmwood Park Board of Trustees assigned a task to review and make recommendations to Village of Elmwood Park Ordinance 8.13 on Fences and Walls,
- B. On November 5th, 2019 the Village of Elmwood Park Plan Commission approved the recommendation of a new Fence/Wall Permit along with changes to Ordinance 8.13,
- C. On November 12th, 2019 a Public Hearing was held in front of the Plan Commission on the recommended edits,

RESOLUTION:

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Elmwood Park adopts Ordinance 8.13 of the Village of Elmwood Park Code of Ordinances to read as follows:

“8.13 FENCES AND WALLS

(1) Materials. Fences shall be constructed of high-quality materials that resist weathering and deterioration and present an aesthetically pleasing appearance. All wood fences shall be either cedar or pressure treated material. All steel, galvanized or aluminum fences shall be coated with an acrylic enamel paint or powdered finish to resist rust and corrosion. Walls shall be constructed of brick, masonry, architectural stone or similar materials, and must conform to the same height requirements as fences.

Chain link style fences are discouraged but may be permitted in the side or rear yards when the fence is consistent with an existing fence on an adjacent property. In the B-1 and P-1 Districts, chain link style fences may be permitted in all yards.

Temporary construction and/or erosion control fences require a permit.

All fences, unless further mentioned in this Ordinance to state otherwise, may not be less than 50% open to light.

(2) Prohibited Fences. No fence shall be constructed to provide an electrical shock, barbed wire, agricultural fences, snow fences, construction fences, privacy slats, vinyl, or chain link fences. No fence shall have sharp edges or pointed pickets that could be dangerous to personal safety. No fence, wall or hedge shall be constructed or installed in the vision triangle specified in Section 9.09(1) of this Code.

- a. Drainage. No fence shall be constructed so as to allow water to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property.

(3) Exempt Fences. The following fences may be constructed in all districts and do not require a building permit or approval from the Village Board.

- a. Underground fences for confinement of domestic animals.
- b. Ornamental fences when less than 2.5 feet in height.

(4) Location.

a. Unless otherwise restricted in this Ordinance, fences or walls may be located on a lot line provided the owner has knowledge of the location and extent of their property line where the fence or wall will be constructed. By approving a fence or wall application, the Village assumes no responsibility for knowing the location of the owner's lot dimensions or knowledge of the property boundaries. This responsibility is placed solely on the owner of the property.

b. Within all zoning districts, fence posts, supporting framework and walls shall be located on the interior side of the lot facing the property being enclosed. The "finished" side of a fence shall face, the neighboring or adjacent property.

c. Street Yards.

i. In the R-1 Single Family Residential District, on an interior lot, no fence or wall shall extend from the rear of the existing residence toward the street right-of-way line.

ii. On corner lots, a fence shall not extend beyond the exterior limits of the principal structure toward the street right-of-way line unless approved by the Village Board as part of the application for site plan approval. On corner lots, any fence that is approved to extend into a street yard shall not be less than 75% open to light and shall incorporate landscaping on the side of the fence facing the street. Walls shall not be permitted to extend into any street yard on corner lots in the R-1 District.

iii. In the B-1 and P-1 Districts, fences may extend into a street yard provided the fence is over 75% open to light and landscaping is incorporated on the side of the fence facing the street. Walls shall not be permitted within a street yard of a B-1 or P-1 Districts unless the wall is to serve as a buffer against a residential use or district. In this instance, an adequate landscape buffer placed adjacent to the residential property shall be incorporated in the design of the wall to soften the impact on the neighboring property. Unless approved by the Plan Commission, a fence or wall shall not be constructed parallel with the front lot line adjacent to a street.

d. Side and Rear Yards. In all districts, fences or walls may extend into the side or rear yard provided all other locational requirements of this Ordinance are met.

e. Alleys. For lots adjacent to an alley, fences or walls may be constructed not closer than 2 feet from the right-of-way of an alley to permit the ease of snow removal and maneuvering of vehicles.

f. Any fence located in an easement area that must be removed so as to facilitate utility access or repair shall be removed at the fence owner's expense, without recourse to the Village or Utility.

g. When an existing fence of an adjacent property owner is built prior to the construction of a new fence by the permit-applicant, new fence shall not be constructed within 3 feet of adjoining property owners' fence. Property owners must maintain the annular space on their property, with fence being constructed to allow access to said space via a gate unless access is available via a side yard.

(5) Height.

a. In the R-1 District, fences or walls shall not exceed the height of 4 feet within the side and rear yards unless adjacent to a nonresidential use or district (commercial, industrial, or institutional properties), or adjacent to the City of Racine boundaries (only applies for properties on Green Meadows Ln). Raising the finished grade by placing fill solely for the purpose of adding additional height to a Fence is prohibited.

b. In the B-1 and P-1 Districts, fences shall not exceed the height of 6 feet in any yard unless associated with a recreational use or for security purposes and 75% open to the air. In these instances, the fences shall not exceed the height of 10 feet. Walls shall not exceed the height of 6 feet in any yard.

c. When approved by the Village Board, on corner lots, fences located in the street yard shall not exceed the height of 4 feet and shall incorporate landscaping on the side of the fence adjacent to the street right-of-way.

d. Decorative fence post caps shall not extend more than eight (8) inches above the maximum allowed fence height.

(6) Permit Issuance.

a. All fences require a permit issued by the Village of Elmwood Park before construction.

b. As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold harmless the Village of Elmwood Park from and against all claims, including without limitation boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

c. Any permit applicant requesting a variance from the Village of Elmwood Park Code of Ordinances, shall make a request through the Building Inspector to be

placed for consideration of a variance by the Village Clerk to appear before the Village Board of Trustees.

d. The Building Permit Fee shall be \$12 per \$1,000 of construction cost, with a minimum of \$60. Plus, Village processing fee.

e. Failure to obtain a permit before construction shall result in the cost of double the Building Permit Fee. If after 14 days from notification by the Village Clerk, a permit has still not been applied for, the Building Inspector and any member of the Village Board of Trustees have the authority to recommend citations to the Village Clerk and contracted police service, and/or removal of the fence in question.

(7) Repair and Replacement.

a. Fences existing in any residential district prior to the effective date of this Ordinance are permitted to be:

i. Repaired for ordinary maintenance, including painting, staining, and cleaning. A fence shall be maintained in a structurally adequate condition. Posts, supports, rails, boards, panels, etc. shall be repaired and replaced as reasonably required toward that purpose. No permit shall be required for such work.

ii. Replaced; provided, however, that a permit is obtained for the construction of the replacement fence.

(8) Penalty.

a. Any person or persons violating the provisions of this Ordinance shall upon conviction thereof, be assessed a fine of \$200.50 for the 1st Offense, \$389.50 for 2nd Offense, and \$641.50 for 3rd Offense with the cost of prosecution.

b. The Village Building Inspector, or by a majority vote of the Village Board of Trustees, shall have the power to order the emergency removal of a fence, or a portion thereof, where there is immediate danger to persons or property, or a significant maintenance concern by filing a notice with the Village Clerk.”

Passed and Approved the November 14th, 2019

Introduced by Trustee _____

Attest: _____

Ernie S. Rossi, President

Christophe E. Jenkins, Village Administrator