

# ZONING ORDINANCE FOR THE CITY OF KENOSHA, WISCONSIN

## SECTION 16.0 FENCE CODE

### 16.01 DEFINITIONS

The following words and terms, for purposes of this Ordinance, shall have the meanings herein provided:

**A. Arbor.** A decorative solid or latticework structure or trellis which is used as an entrance focal point along a barrier which serves the purpose of a fence.

**B. Berm.** A mound of earth higher than the final elevation of a lot.

**C. Department.** The City of Kenosha Department of Neighborhood Services and Inspections.

**D. Dog Enclosure.** Any outdoor structure or enclosure used to restrict dogs to a contained yard area.

**E. Fence(s).** "Fence" means a vertical screen device used to provide privacy, visual or otherwise, or for containment. "Fence" includes but is not limited to trellises, railing and walls.

**F. Fence, Agricultural/Farm.** A fence consisting of chicken wire, deer fence, hog wire, high tensile, wire strands, used in the agricultural, farming and livestock business, specifically for livestock, animal and bird control.

**G. Fence, Patio.** A privacy fence which fully or partially encloses a patio.

**H. Fence, Good Neighbor.** A fence constructed of solid or spaced boards, where the face boards are installed at the center of the posts so that the fence looks the same from both sides.

**I. Install, Installation, Installed.** To construct, erect, install, place, or replace over 16 lineal feet (l.f.).

**J. Lot-Double Frontage.** An interior lot having street frontage on the front and the rear of the lot.

**K. Person.** Any person, firm, corporation, association or other legal entity.

**L. Property Owner.** A Person that owns or controls real property situated in the City.

**M. Trellis.** A frame or structure of open latticework.

**N. Vision Clearance Area.** A triangular area on a lot at the intersection of two streets or a street and an alley, driveway, at the intersection of a driveway/alley and sidewalk, other point of vehicular access or railroad, two sides of which are lot lines measured from the corner intersection of the property lines to a minimum distance of fifteen (15') feet from their intersection.

**O. Zoning Administrator.** The Zoning Administrator of the Department and designees thereof.

### 16.02 PERMIT

**A. Permit Required.** No Person shall install a Fence in the City without first obtaining a Fence Permit and complying in all respects with the terms and conditions and this Ordinance. A Fence Permit shall be valid only for the term of issuance, unless sooner suspended or revoked. A Fence Permit is not required for painting, maintenance, or repair or replacement of less than sixteen (16) lineal feet (l.f.) of a Fence.

**B. Permit Application.** A Fence Permit application shall be filed with the Department, consisting of the following:

1. A fully completed Fence Permit application form and payment of full permit fee.
2. A drawing, site plan or plat map displaying property boundaries, the location of the buildings and structures on the property, the proposed location of the Fence and its distances from the existing structures on the property.
3. If the Fence is proposed to be installed on rented or leased property, the written consent of the owner(s) of the property.
4. Other information as may be required by the Department to assist in the review of the application.

**C. Permit Fee.** A permit fee shall be remitted upon submittal of the Fence application, the amount of which shall be established, from time to time, by the Common Council.

**D. Application Review And Approval Required, Permit Issuance.** The Zoning Administrator shall review, approve and issue the Fence Permit application provided that the application is in compliance with this Ordinance and the standards of this Ordinance for the Fence to be installed have been met. The Fence Permit may contain reasonable conditions stated in the permit.

**E. Completion of Installation.** A Fence authorized by a Fence Permit shall be fully installed

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in accordance with this Ordinance and permit conditions, within one hundred eighty (180) days of the date of permit issuance. A Fence Permit shall expire one hundred eighty (180) days after the date of issuance. After a Fence Permit expires, no work requiring such a permit shall be commenced, resumed or undertaken until a new permit is issued or the original permit is extended.

The permit applicant may file a written request for an extension of the Fence Permit, stating the reason for the request, for up to one hundred eighty (180) additional days to complete the Fence installation. The Zoning Administrator, in administering this Code, shall grant the request if good cause is shown.

**F. Responsibility of Department.** The Department, through the Zoning Administrator, shall:

1. Review and issue Fence Permits where the application is in compliance with this Ordinance.
2. May issue reasonable site specific conditions.
3. May waive or reduce vision clearance requirements where:
  - a. Traffic can safely approach and enter the intersection, alley, driveway or street given existing traffic control devices or other physical conditions of the area; or,
  - b. Topographic conditions are so extreme or building structures exist such that it is not practical to provide required vision clearance.
4. May inspect the Fence for compliance with this Ordinance and the Permit.
5. Shall enforce this Ordinance with the assistance of the City Attorney.

**G. Responsibility of Applicant.** The applicant is solely responsible for installing the Fence:

1. Within the boundaries of their property determined by survey, in compliance with this Ordinance and the Permit, including, but not limited to, proper materials, height, setback and vision clearance.
2. In compliance with any subdivision covenants or restrictions, deed restrictions, utility easement restrictions, land use restrictions of record, including applicable plan review and approval, or waiver requirements.
3. In a manner as will not obstruct storm water drainage, violate a City approved storm water plan, or unreasonably divert storm water on the property of another.

## 16.03 FENCE INSTALLATION

**A. General Requirements.** No Fence shall be

installed, except in strict compliance with this Ordinance, site specific permit conditions, and the following requirements:

1. Structural and support components of a Fence shall face away from adjacent properties.
2. Fences shall be installed with the finished side facing the adjacent property or public right-of-way, and the Fence posts must be located on the inside of the Fence facing the property on which the Fence is located, except when the style of Fence commonly described as a "Good Neighbor Fence" is installed.
3. Fences shall be installed plumb and the top finish of the Fence shall be uniform. Fences shall follow the contour of the ground to the extent practical. Adjustments for grade shall occur at the bottom of the Fence.
4. The height of the Fence shall be controlled by the applicable provisions of the City Zoning Ordinance for the district in which the Fence will be located. Fence height shall be measured from the surface of the ground immediately below the Fence. Berms, retaining walls or other methods to raise the elevation of the site shall require approval by the Department prior to installation.
5. The project site shall be marked by *Diggers Hotline* before digging holes for Fence installation.
6. No Fence in the Vision Clearance Area shall exceed three (3') feet in height above the mean street grade.
7. The height of walls and Fences shall be measured vertically from the finished grade on the exterior side of the Fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a Fence is prohibited. If a Fence is placed on a berm, the berm shall be included in the height of the fence and the height shall be measured vertically from the base of the berm, unless said Fence is approved in conjunction with a Conditional Use Permit/Site Plan Review, or an exception is granted by the Zoning Board of Appeals.
8. All Fences shall be no closer than six (6") inches to the public sidewalk.

**B. Obstruction of Ingress/Egress Area of a Dwelling.** No Fence shall be installed in any yard that will shield any window or opening in a habitable space of a dwelling. A minimum distance of three (3') feet shall be maintained between any solid Fence and any such window or opening in a dwelling.

**C. Modifications.** All modifications to an existing Fence shall comply with this Ordinance.

**D. Fences in Front Yards.** Fences installed in a front yard shall comply with the following requirements:

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1. In residentially zoned areas on corner, interior, through and reverse frontage lots, Fences, not exceeding four (4') feet in height, shall be allowed within a residentially required front yard setback area. The front yard setback consists of any side lot line between the front property line and the front setback line or building line, whichever is closest to the front property line. No Fence over four (4') feet in height shall be permitted within residentially required front yard setback areas. Fences over three (3') feet in height shall not encroach within vision clearance areas.

2. Fences on residentially zoned lots, including interior and corner double-frontage lots, fronting a street, shall be installed in accordance with front yard setback requirements.

3. No Fence shall be installed in any B-1, B-2, B-3, IP, M-1 or M-2 zoned district, unless said Fence is approved in conjunction with a Conditional Use Permit/Site Plan Review. A Fence shall not exceed the height established unless approved in conjunction with a Conditional Use Permit/Site Plan Review.

**E. Fences in Rear/Side Yard.** Fences in rear and side yards shall meet the following requirements:

1. No Fence or wall shall exceed six (6') feet in height in any side or rear yard. Fences not greater than six (6') feet in height are permitted in side or rear yards and shall not extend beyond the front of the principal structure or the required building setback, whichever is furthest from the road right-of-way.

2. A wall or solid Fence not more than six (6') feet in height, as measured from the highest adjacent grade, may be maintained along the interior side or rear lot lines provided such a wall or solid Fence does not extend into a required front yard.

3. Fences which exceed three (3') feet in height in side or rear yards shall not encroach within vision clearance areas.

4. No Fence shall be installed in any B-1, B-2, B-3, IP, M-1 or M-2 zoned district, unless said Fence is approved in conjunction with a Conditional Use Permit/Site Plan Review. A Fence shall not exceed the height established unless approved in conjunction with a Conditional Use Permit/Site Plan Review.

**F. Fences On Corner Lots.** No Fence over three (3') feet in height shall be permitted within a vision clearance area of any portion of the lot.

**G. Fences On A Lot-Double Frontage.** Fences shall be installed in accordance with the required front yard setback on both streets, except where otherwise approved in conjunction with a Conditional Use Permit, Site Plan Review, or variance from the Zoning

Board of Appeals.

**H. Approved Fence Materials.** All Fences shall meet the following material requirements:

1. Fences to be situated in side and/or rear yards shall be constructed using materials suitable for residential-style fencing, including, but not limited to, brick, fieldstone, wrought iron, vinyl, chainlink (with a minimum thickness of nine (9) gauge and a required top rail support), stockade or board-on-board wood.

2. No Fence shall be constructed of used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash, tires, junk, or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers or utility poles shall not be used for, or in the construction of a Fence.

3. Agricultural/Farm Fences shall only be permitted in agriculturally zoned or used districts and shall not exceed six (6') feet in height.

4. Residential front yard Fences shall be fifty (50%) percent open (see-through) and be of split rail, wrought iron or picket design. Four (4') feet high chainlink fencing is not permitted in residential front yards.

## 16.04 MAINTENANCE OF FENCES

Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public. Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every Fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.

## 16.05 EXISTING FENCES

Any Fence existing upon the effective date of this Ordinance shall not be enlarged, extended or replaced, except in strict compliance with all of the requirements of this Ordinance.

## 16.06 PROHIBITIONS

**A. Prohibited Fences.** No Person shall install:

1. An electric or razor wire Fence.
2. Any wire or chainlink-type Fence with the cut or salvage end of the Fence exposed at the top.
3. A Fence which creates a hazard to users of the street, sidewalk or to nearby property.
4. A Fence composed solely of Fence posts.
5. An incomplete Fence, consisting only of posts and supporting members.

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**B. Barbed Wire Fences Restricted.** No Person shall construct, use or maintain any barbed wire Fence on residential, business or institutionally zoned property.

Barbed wire Fences may be installed in M-1 or M-2 Zoning Districts under circumstances whereby no more than three (3) strands of barbed wire are horizontally situated above a Fence of boards or woven wire not less than seventy-two (72") inches in height, excluding the barbed wire. Barbed wire may be used on top of a six (6) foot Fence surrounding a public utility, public use, or on a site storage area as approved under a Conditional Use Permit or Site Plan Review. Notwithstanding the above, barbed wire shall not be used along a property line abutting a residentially zoned area.

## 16.07 FENCES PERMITTED WITHOUT A PERMIT.

The following types of Fences are permitted, as specified, without a permit, subject to the following restrictions and providing that said Fence does not in any way interfere with traffic visibility, or block, redirect or cause a drainage problem for the adjacent or downstream properties:

1. Snow fencing shall be permitted in all districts not exceeding four (4') feet in height provided it is removed between May 1 and November 1 of each year. No snow Fence shall extend into the street right-of-way line unless installed by the City or a contractor having a permit from the City.

2. Agricultural/Farm Fences are limited to agriculturally zoned or used districts.

3. Decorative Fences not exceeding two (2') feet in height shall be permitted in all districts. Such Fences shall not be placed in any manner which presents a hazard to pedestrians on any public or private sidewalk.

4. Underground electrical Fences are permitted in all districts.

5. Arbors and/or trellises shall not be used as a Fence.

## 16.08 NON-BOUNDARY RELATED FENCE STANDARDS

Fences and/or enclosures for swimming pools shall be permitted as required in Section 9.185 F.2. of the Code of General Ordinances.

Fences surrounding tennis courts, and baseball and/or softball field backstops may be erected in conformance with accepted industry standards. A Fence Permit shall be required for such installation.

## 16.09 DOG ENCLOSURES

Dog enclosures shall be permitted in residential districts subject to the following criteria:

1. No dog enclosure shall be installed on a lot unless approved by the Department and a permit is issued.

2. Dog enclosures shall be obscured from view from neighboring properties at grade and adjacent streets. Existing structures (i.e., sheds, garages) may be used to obscure view.

3. Dog enclosures must be located in the buildable area directly behind and adjacent to the principal building. In no event shall a dog enclosure encroach into a required setback or be located closer to a corner or interior side property line than the principal building.

4. No dog enclosure shall be in excess of two hundred fifty (250) square feet in area, nor more than six (6') feet in height above the surface of the ground, as measured from the ground level at the lowest grade level within five (5') feet of either side thereof.

5. Dog enclosures may be constructed of any material permitted for a residential Fence.

6. No dog enclosure shall be constructed contrary to required vision clearance area requirements.

## 16.10 VISUAL CLEARANCE VIOLATIONS

**A. Administration of Visual Clearance Violations.** The Zoning Administrator shall have the duty of establishing, restoring and maintaining visual clearance. When the Zoning Administrator has determined that visual clearance has not been established, restored or maintained, as required within this Ordinance, the Zoning Administrator shall, in writing, notify the owner, operator or other party responsible for managing and/or maintaining the offending property that visual clearance must be established or restored within fifteen (15) days from the date of notice. The notice shall further provide that the notified party or agent shall have the opportunity to be personally heard by the Zoning Administrator within said period, and failure to request a hearing shall waive the opportunity to be heard. The fifteen (15) day compliance period may be extended upon written request, for good and sufficient reason. The failure of the owner, operator or other responsible party to provide or restore visual clearance within the time prescribed shall authorize the Zoning Administrator to do or to have done such work as will establish or restore visual clearance, bill the owner, operator or other responsible party for the actual costs of the service rendered, and demand payment be made within thirty (30) days of the billing date. The failure of the owner, operator or other responsible party to promptly pay said bill shall

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authorize the Zoning Administrator to charge the cost against the property in noncompliance as a special assessment, pursuant to the authority of Section 66.60, Wisconsin Statutes. The special assessment shall be a lien upon the real estate until paid in full, with interest accruing on the unpaid balance at the rate of seven (7%) percent per annum. There shall also be a One Hundred (\$100.00) Dollar administrative charge added to the charge and special assessment to cover administrative costs of charging and specially assessing the property.

The order of the Zoning Administrator may be appealed to the Board upon written notice of said appeal being served upon or sent by registered mail to the Zoning Administrator within ten (10) days after the date of the order.

**B. Public Nuisance.** Obstruction to visual clearance, as regulated by this Section, shall be deemed to be a public nuisance and the City Attorney is authorized to abate said nuisance.

### **16.11 ADMINISTRATION, SPECIAL EXCEPTIONS AND APPEALS**

**A. Administration.** It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance.

**B. Special Exceptions.** Upon application for a Special Exception, the Zoning Board of Appeals may, after investigation and public hearing, grant a Special Exception from the terms of Section **16.03** of this Ordinance where such Special Exception will not be contrary to the spirit and purpose of this Ordinance, and where a Special Exception will do substantial justice.

**C. Appeals.** An aggrieved person adversely affected by the denial of a permit or decision, determination or interpretation under this Ordinance by the Zoning Administrator may appeal such denial, decision, determination or interpretation to the Zoning Board of Appeals.

**D. Application Procedure.** Any application for a Special Exception or appeal shall be taken pursuant to the procedure set forth in Section **9.07** of the Zoning Ordinance.