

ORDINANCE NO. 1043

AN ORDINANCE AMENDING THE VILLAGE OF MACKINAW MUNICIPAL CODE SAID MUNICIPAL CODE BEING ORDINANCE NO. 513 OF THE VILLAGE OF MACKINAW TO PROVIDE AMENDMENTS RELATING TO DEFINITIONS, YARDS AND FENCE

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MACKINAW:

SECTION 1: Chapter 153 of the Village Code of the Village of Mackinaw is hereby amended in the following manner and method (additions shown in underlined font and deletions in ~~strikethrough~~ font) and renumbering subsections of A of §153.31 Yard and §153.35 Fence:

**§153.05**

**DEFINITIONS**

**RIGHT-OF-WAY.** will include any street, alley, other land, or waterway, dedicated or commonly used for utility purposes, including utility easements in which the Village has the right and authority to authorize, regulate or permit the location of facilities or structures other than those of the Village.

**§153.31**

**YARDS**

- A. Notwithstanding any other provisions of this chapter, the minimum yard dimensions in this subchapter shall not be reduced except through action by the Zoning Board, the County Board or by operation of law.
- B. The following yard regulations and to apply to all lots or tracts of land on which a structure is located:
  1. Yards shall be kept unobstructed for their entire depth except as specified hereinafter.
  2. Private driveways, service drives, easements, sidewalks, flagpoles, arbors, trellises, fences, walls, columns, light poles, hydrants patios, accessory signs and other decorative recreational and utility devices and equipment may be placed in any yard.
  3. No fences or walls shall be placed in the village right-of-way easement. If a corner lot does not have a sidewalk marking the right-of-way easement on any portion, the homeowner must confirm with the Public Works Manager the distance of the village right-of-way easement.
  4. Notwithstanding any other provisions of this chapter, the following visibility regulations and standards shall apply:
    - a. Fences, walls and/or hedges may be placed in any yard, provided that no fence, wall and/or hedge along the sides or front yard or front edge of the front yard of an interior lot shall exceed the height of four feet.

- (1) Along the front property line, and the side property lines to the building setback line, a height of four feet.
  - (2) From the building setback line along the side and rear property line a fence, wall and/or hedge may be placed not to exceed eight feet in height.
- b. On a corner lot nothing shall be constructed, erected, placed, planted, or allowed to grow in such manner as to obstruct the vision of traffic approaching the corner from either direction. A fence, wall and/or hedge may be placed on a corner lot beginning at the building setback line, along the side and rear property line not to exceed eight feet in height.
  - c. Junkyards and automobile salvage yards shall have a solid fence or wall eight feet in height placed along the front of the property at the building setback line, and along the side and/or rear property line to screen the property from view, entrance gates to the property shall also be constructed of a solid material the same height as the fence. Penalty, see §153.999

#### §153.35

#### FENCE

##### A. Requirements

No person shall construct any fence in the Village without first obtaining a permit from the Zoning Department. A site plan must be submitted showing the property lines, location, length, height, and type of fence being installed. A survey may be needed if applicant cannot locate property markers. A survey is at the expense of the homeowner. This chapter does not apply to fences or walls thirty (30") inches or less in height, measured from grade, unless such a wall is structurally supporting additional weight from a building or parking area.

A. Residential fences, landscape walls and decorative posts may be constructed of wood, stone, brick, wrought iron, and chain link. Residential fences along the front property line, and the side property lines to the building setback line, cannot exceed a height of four (4') feet. From the building setback line along the side and rear property line a fence, wall and/or hedge may be placed not to exceed eight (8') feet in height.

1. Berms may not be built to increase fence height; fence height is measured from the existing ground level as measured from the outside of the property line. A two (2") inch gap may be permitted below the fence.
2. Replacement of fences with prior permits is permitted; new fences and fences without permit require a building permit application.
3. Barbed wire may not be used in fencing for any residential use, including those in nonconforming zones.
4. No fences or walls shall be placed in the village right-of-way. "Right-of-way". If a corner lot does not have a sidewalk marking the right-of-way

easement on any portion, the homeowner must confirm with the Public Works Manager the distance of the village right-of-way easement.

5. Fence height measurements:

1. For chain link fences, the fence line height is measured from the top of the fence post to the existing grade.
2. For picket fences, the fence line height is measured from the top of the fence pickets to existing grade
3. For privacy fences, the fence line height is measured from the top of the fence pickets to existing grade, irrelevant of whether the fence has decorative caps, as long as they are no higher than four (4") inches.
4. Fence line height is measured from the top of the horizontal fence line of the exterior face to the existing grade. The horizontal fence line is defined as the horizontal line from top of fence post to fence post. If the topography at grade is sloped in parallel, the fence shall be installed in a stepped fashion or sloped with the grade. A maximum four (4") inch variance is allowed from grade to bottom of each fence lath when topography is inherently uneven. However, the fence line height shall not exceed eight (8') feet.
5. Fences built on retaining walls shall be measured from the existing elevation, prior to construction of a retaining wall, to the top of the fence.

B. Non-Residential

Nonresidential fences, landscape walls and decorative posts may be constructed of wood, stone, brick, wrought iron, chain link and wire mesh. Nonresidential fences along the front property line, and the side property lines to the building setback line, cannot exceed a height of four (4') feet. From the building setback line along the side and rear property line a fence, wall and/or hedge may be placed not to exceed eight (8') feet in height

C. Temporary Fences

Temporary fences are not permitted.

D. Front Yards

Front yard hedges, fences, and walls that are continuous in length shall have one (1) access opening a minimum of thirty-six (36") inches in width and shall remain unobstructed by any items other than a gate in order to form a clear passage to the street. Fences, walls, and hedges which existed before the adoption of the ordinance codified in this section that exceed the prescribed height or access points as defined in this chapter.

E. Prohibited Types of Fences

No electric wire, barbed wire or razor wire may be maintained in any residential, commercial, open space or recreational zone.

1. Residential properties with one and a half (1.5) acres or more within the Village limits will be allowed the use of electric fences for the confinement of animals and shall conform to the NEC, as to voltage, amperage, and safety factors, and shall be energized only with Underwriters Laboratories approved equipment. Electric fences shall be marked with warning signs spaced every one hundred (100') feet along the fence.

F. Notwithstanding any provisions above, a permit must be obtained from the Village before any fence is constructed. The fee for such a permit shall be in accordance with fees specified in the currently adopted fee schedule as revised by the Village.

G. All fences shall be constructed and maintained in a structurally sound manner.


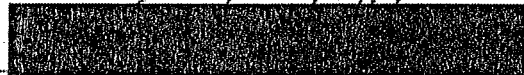
SECTION 2: If any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this Ordinance.

SECTION 3: This Ordinance shall take effect 10 days after publication thereof as provided by law.


SECTION 4: Ordinance No. 513 of the Village of Mackinaw, as amended by this Ordinance, shall remain in full force and effect and all previous amendments to Ordinance No. 513 shall remain in force and effect except as modified by this Ordinance.

PASSED in due form on a roll call vote by the Board of Trustees of the Village of Mackinaw at a duly held meeting on the 24th day of April, 2023.

APPROVED:

  
  
Josh Schmidgall, President of the Board of Trustees

ATTEST:

  
Lisa Spencer/Village Clerk

AYES:

NAYES:

ABSENT:

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