

Exhibit A to Ordinance 09-__ - __

**TITLE 8
DEVELOPMENT REGULATIONS**

**CHAPTER 9
FENCES**

SECTION

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8-9-1: PURPOSE: In enacting this chapter, the village intends to exercise its authority to regulate fences for the following purposes:

1. To improve public safety and the welfare of persons using streets through the maintenance of adequate visibility into and from private property and within street rights of way, particularly as related to the front yard spaces between the streets and any buildings on a lot;
2. To allow individual property owners to provide adequate screening for privacy on their lots without undue negative impact on the interests of residents on abutting properties to secure adequate light and air;
3. To prevent visual blight, monotony and the blocking of view corridors, arising from the placement of fences;
4. To prevent the over-concentration or channeling of wildlife into smaller and smaller areas;
5. To protect against obstruction of storm water runoff due to improper location of fences in drainage ditches and channels;
6. To preserve the character of the neighborhoods in which fences are installed; and

7. To preserve open space.

8-9-2: APPLICABILITY: This chapter applies to the construction of all fences in the village. Front yard, side yard and rear yard shall have the meanings given to such terms in section 9-2-3 of the village code. This chapter shall not apply to fences enclosing tennis courts, swimming pools or hot tubs, or temporary fences installed for construction or erosion control, but such fences shall be subject to applicable regulations set forth elsewhere in the village code, including the published building and safety codes adopted by reference in this title. The village board may impose requirements relating to fences on lots on which a special use is authorized that are controlling over the requirements of this chapter.

8-9-3: DEFINITIONS: The following terms shall have the indicated meanings for purposes of this chapter.

Fence: a structure forming a barrier, which is not otherwise a part of any building or structure, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, partition or ornamental purposes. A gate controlling access to a driveway or other entry point to the property shall be considered a fence. Natural living plant material shall not be considered a fence.

Chain Link Fence: an open mesh fence made entirely of metal wire woven in squares of a certain diameter (typically 1 5/8" diameter or greater) to form a diamond pattern mesh, supported by vertical and horizontal metal tubing.

Deer Fence: a square-mesh or hexagonal mesh fence used to prevent entry by deer or other wildlife that is typically installed to a height of approximately seven and one-half (7½) to eight (8) feet in the village. The mesh material can be woven from polypropylene or from metal coated with polyethylene and is attached to wooden or metal fence posts. Mesh size for deer fencing is approximately 2" by 2". A deer fence requires a monofilament line that runs along the top of the fence that supports the fence and prevents sagging.

Height of a Fence: the vertical distance from each point of natural ground level to the highest point of the fence immediately above it.

Open Fence: a fence having a regular pattern of which more than seventy percent (70%) of the surface is unobstructed to both light and air when viewed perpendicular to the plane of the fence.

Perimeter Fence: a fence erected on or within five feet (5') of one or more of the property lines of any lot or parcel.

Solid Fence: a fence having a regular pattern of which less than thirty percent (30%) of the surface is unobstructed to both light and air when viewed perpendicular to the plane of the fence.

Front Yard, Side Yard and Rear Yard: as defined in section 9-2-3 of the village code.

Welded wire fence: an open mesh fence made entirely of metal wires that have been welded into a mesh, which typically consists of rectangular openings of varying diameters, the gauge and diameter of the wire being contingent on the purpose to be served by the fence. Meshes with smaller openings are usually made with lighter gauge wires and mesh sizes can range from 1/2"x1/2" up to 6"x6". Welded wire fences are more easily installed on flat terrain and are used for cages for animals, dog kennels, and garden fences.

Woven wire fence: an open mesh fence made entirely of metal wire woven in openings of a varying shapes and diameters, the wire gauge and diameter of the openings being contingent on the purpose to be served by the fence. Hexagonal netting (chicken wire), field and farm fence, deer and wildlife fence, and ornamental fence are some examples. In a woven wire fence, the woven joints are flexible yet very strong, which allows for the fence to adjust more easily to grade changes. Chain link fences, as defined in this chapter, shall not be considered woven wire fences but shall be considered a distinct type of fence.

8-9-4: PERMIT REQUIRED: It shall be unlawful for any person to erect or alter any fence on any lot (or cause the fence to be erected or altered) in the village without first obtaining a building permit, except if such fence is exempted under section 8-9-7. A permit application shall contain a sketch of the proposed fence, indicate the material and construction methods, the dimensions of the proposed fence and include a plat of survey of the property indicating the location of the proposed fence on the lot. The director of community services may require that permit applications for driveway gates or fence structures that require additional support, larger columns, or deeper footings must be accompanied by architectural or engineering drawings or other requirements applicable to building permits generally. The director of community services may require that permit applications furnish relevant topography of drainage ditches and adjoining grades to avoid obstruction of such drainage. The director of community services shall either approve or deny the application. If denied, the applicant may appeal to the village board, which shall be the final review authority. The permit fee shall be set forth in the village fee schedule.

8-9-5: REQUIREMENTS FOR HEIGHT, OPEN FENCES AND LOCATION:

- A. When located in any front yard, side yard or rear yard, a fence shall be limited to six (6) feet in height, subject to other restrictions in this chapter and the following:
 - 1. Within any front yard, solid fences shall be limited to four (4) feet in height, provided, that if the front yard is located on Deerfield Road,

Saunders Road or Riverwoods Road, then the solid fences in the front yard shall be limited to six (6) feet in height.

2. Fence heights when fences are used as a screen for the storage of recreational vehicles shall be governed by section 9-2-6-9 of the village code.

3. When a fence is installed on top of a retaining wall, the height of a fence shall be measured from the filled ground behind the retaining wall. When the retaining wall extends above the ground elevation, the remaining wall shall be considered as a portion of the fence height.

4. Posts and other vertical supports may exceed by three inches (3") the maximum permitted fence height. A pergola, arbor, trellis or similar open structure, installed at a pedestrian entry or gate opening in a fence shall be limited to eight (8) feet in height and shall not extend more than six (6) feet in any horizontal direction.

- B. When not located in any front yard, side yard or rear yard, a fence shall be limited to six (6) feet in height, except that any open fence or deer fence shall be limited to eight (8) feet in height.
- C. Driveway gates shall be limited to six (6) feet in height and shall not extend more than six (6) feet in any horizontal direction, excluding the portion of the gate extending across the driveway.
- D. No fence shall be constructed within two (2) feet of any public sidewalk, bicycle or multi-use path.
- E. No fence (whether or not a fence permit is required under this chapter) shall impede or alter the natural surface water drainage.
- F. No person shall maintain a fence on any portion of his property which interferes with the clear view of traffic or pedestrians by drivers at the intersection of street rights of way or at the intersection of a street right of way and a private driveway.
- G. Driveway gates shall be installed beyond the demarcation of the right of way or street easement or a minimum distance of twenty (20) feet from the street pavement so that a vehicle can pull safely off the street without impeding traffic. Gates may be constructed from the materials authorized in section 8-9-5:B and need not be of the same material as any fence in which they are located.
- H. Fences to enclose dog runs shall not be installed within front yards, side yards or rear yards, nor shall they be located over any easements. Any

fence used to enclose a dog run shall conform to the requirements of this chapter. If dogs are capable of jumping over the top of the dog run fence, then the owner shall install a top over the dog run fence.

8-9-6: CONSTRUCTION METHODS, MATERIALS AND COLORS:

- A. Every fence shall be designed and constructed to resist and withstand a wind pressure from any angle of approach of not less than twenty (20) pounds per square foot of the gross projected area of the fence, excluding openings. All posts, anchors and bracings made from wood or other organic materials shall be made of cedar or other naturally resistant wood or else treated to protect from deterioration when resting upon or entering into the ground. All fence installation methods and techniques shall comply with the requirements of published building and safety codes adopted by reference in this title, except as modified by this chapter.
- B. Fences shall be constructed only from the following materials or any combination thereof:
 - 1. Wood;
 - 2. Wood-polymer lumber, provided said material consists of at least fifty percent (50%) post-consumer wood fiber;
 - 3. Wrought iron, steel or aluminum;
 - 4. Masonry or stucco wall;
 - 5. Decorative concrete block;
 - 6. Stone;
 - 7. Polypropylene mesh or metal mesh when used in a deer fence; or
 - 8. Welded wire or woven wire used in fences other than a deer fence, when authorized by this chapter.

A fence constructed of solid plywood, scrap lumber or other non-specified materials shall not be permitted. All fences, posts and supporting structures (including polypropylene mesh or metal mesh used in a deer fence) are to be black, brown, grey or similar neutral earth tones which harmonize with the surrounding landscape of the area in which the fence is located. The foregoing color restriction shall not apply to untreated metallic surfaces of iron, steel or aluminum fences, chain link fences, welded wire fences or woven wire fences but is specifically applicable to deer fences.

- C. 1. If a chain link fence is installed in any front yard, side yard or rear yard, the mesh and the wire size shall be a minimum of 11 gauge, the line posts and top cross pieces shall have a minimum of 1-5/8" diameter, the terminal posts shall have a minimum of 2-1/2" diameter, and all unfinished edges shall be installed at the bottom of the ground.
2. Any wood fence that is picket style, shadow board, or solid board-on-board panel, shall have cross pieces with a minimum size of 2" by 4" and posts with a minimum size of 4" by 4".
3. Deer fences shall not be attached to or wrapped around trees. Metal deer fence posts shall have a minimum of 1-5/8" diameter. Deer fences shall have brace bands, cables, earth anchors and ties as needed to provide for a wind and snow resistant fence. Monofilament lines shall be a minimum 12-gauge line along the top of all polypropylene deer fences over 500 feet long, and a minimum of 8-gauge line along the top of all metal deer fences regardless of length. Any newly installed deer fence must have white warning flags attached (one per 20-foot fence section) when the fence is first installed and for three months thereafter to warn deer and prevent collisions.
- D. The side or surface of a perimeter fence from which crossbars, lateral reinforcement, supports or similar construction features are more visible shall be oriented toward the inside of the lot on which such fence is being erected. The more finished surface of the fence (from which such construction features are less visible), shall be oriented toward any adjacent properties.
- E. All fences shall be non-reflective or oriented so that reflected light from automobile headlights shining on fence surfaces does not create dangerous glare for motorists.

8-9-7: EXEMPT FENCES:

Fences for the following purposes are exempt and do not require a permit for installation under this chapter:

- A. Welded wire or woven wire metal fences for the protection of young or newly planted trees may be installed around the trunk of the trees, whether or not located in any required front, rear or side yards, provided such fences do not exceed five (5) feet in height or extend beyond a radius of two (2) feet from the trunk of the tree, and further provided that such fences shall be removed when the crown of the tree exceeds eight (8) feet.

- B. Welded wire or woven wire metal fences may be installed to protect flower and vegetable gardens, provided such fences do not exceed five (5) feet in height or, if they exceed such height, are screened from view of any adjoining street or properties. If such fences are screened by vegetation which dies back during winter months, they shall be removed during the time the screening is ineffective.
- C. Welded wire or woven wire metal fences, 1" or smaller mesh, may be attached to the bottom 36" of another fence as an apron or ground barrier to contain pets or prevent intrusion of animals, or burrowing or digging under the fence.

8-9-8: UNSAFE FENCES:

- A. It shall be unlawful to erect or maintain anywhere within the village an electrified fence with the exceptions of: (1) electric fences commonly used for containing household pets which consist of subsurface devices which transmit a charge to a collar worn by the pet and (2) fences used to corral equine animals on a lot or parcel occupied by a private stable in which such animals are stabled. Any electrified fence enclosing a stable shall have warning signs attached (one per 20-foot fence section) which give prominent notice of the danger. The voltage used in electrified fences shall comply with all published building and safety codes adopted in the village.
- B. It shall be unlawful to erect or maintain on any lot a fence equipped with or having barbed wire or topped with razor ribbon, broken glass or other sharp objects. Wrought iron fences shall not be topped with spears or finials unless they are blunt and pose no danger of impalement.

8-9-9: LEGAL NON-CONFORMING FENCES:

A fence shall be deemed a legal non-conforming use if it was installed pursuant to a proper permit issued by the village at the time it was installed. Any existing fence which is legal but non-conforming under the provisions of this chapter may be repaired, re-built or replaced with a like fence at the same location, provided that the repair or replacement shall not increase the degree of nonconformity or create any new noncompliance with the provisions of this chapter. However, any repair requiring a permit or the replacement of such fence shall be complete within 180 days of the start of such action. If the repair or replacement is not completed, the status of legal nonconformity for such fence may be revoked by director of community services, and all characteristics of the fence must then conform to this chapter. The director of community services may grant one 180-day extension upon a written request by the property owner and finding that extenuating circumstances, such as unfavorable weather for construction, warrant the extension.

8-9-10: TEMPORARY FENCE PERMIT FOR COMPLIANCE:

The owner of any property on which a fence was installed on or before July 1, 2009, without a proper permit from the village and which does not conform to the regulations of this chapter, may apply for and receive a temporary fence permit under which such fence shall constitute a temporary permitted use for a period of three (3) years from the effective date of the ordinance from which this chapter is derived. No repairs or alterations shall be made to such fence if the repairs or alterations would increase the nonconformity during such period, and if replacement of the fence is warranted, then the temporary fence permit shall not allow rebuilding to the previous condition. Any fence allowed to remain under a temporary fence permit shall be eliminated or made to conform to the provisions of this chapter on or before the expiration of such permit.

8-9-11: AMORTIZATION FENCE PERMIT FOR CERTAIN FENCES:

The owner of any property on which a deer fence was installed on or before July 1, 1999, may apply for an amortization fence permit under which such deer fence shall constitute a temporary permitted use for a period that expires upon the earlier to occur of: (i) the date on which such owner conveys the property or beneficial interest therein to a third party purchaser and (ii) the date on which the "documented costs of landscaping" incurred during the ten (10) year period between July 1, 1999 and July 1, 2009 are deemed amortized as provided in this section. For purposes of this section, "documented costs of landscaping" shall mean the amounts actually paid for labor and materials for gardening, landscaping and woodland preservation on the property, as evidenced by written receipts and other documentary evidence presented to the director of community services, which shall be made part of the property file for such property in the building department of the village. The documented costs of landscaping shall be deemed amortized at the rate of \$10,000 per year, commencing on the effective date of the ordinance from which this chapter is derived, and at such time as the documented costs of landscaping have been fully amortized, the amortization fence permit (if the property has not yet been conveyed) shall then expire. Any fence allowed to remain under an amortization fence permit shall be eliminated or made to conform to the provisions of this chapter on or before the expiration of such permit.

8-9-12: PENALTY:

Any person violating the provisions of this chapter shall be fined not more than seven hundred fifty dollars (\$750.00) and each day's continued violation shall be deemed a separate offense. In addition to any fine permitted or required to be imposed hereunder, the village may seek injunctive relief to prevent an actual or threatened violation of this section, and may also seek mandatory injunctive relief to require the removal of any fences erected in violation of this section, the corporate authorities finding that the village will be irreparably harmed by the

erection of unlawful fences, and that the imposition of a fine alone is an inadequate remedy for such violations.