

**ORDINANCE NO. 172**

**AN ORDINANCE REGULATING THE INSTALLATION AND CONSTRUCTION OF FENCES WITHIN THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN.**

**THE VILLAGE OF DECATUR ORDAINS:**

**Section 1:** This Ordinance shall be known as the Village of Decatur Fence Ordinance.

**Section 2:** Definitions:

- A. Corner Lot: A lot abutting two or more streets at their intersection.
- B. Decorative Fence: A permanent barrier not used for enclosure such as a trellis.
- C. Fence: A structure serving to enclose or divide all or part of a lot or to function as a boundary between two (2) or more lots.
- D. Front Lot line: The line abutting the street, or in the case of a lot abutting more than one street, the boundary line fronting the same street as parallel adjoining lots of similar shape and size.
- E. Hedge: A fence or boundary formed by a dense row of plantings, shrubs, bushes, evergreens or trees planted or otherwise constructed or grown in a continuous line so as to be a barrier to sight of ingress or egress.
- F. Rear Yard: A yard extending the full width of the lot from the rear line of the main building to the rear lot line.
- G. Side Yard: A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.
- H. Wall: A fence built of solid material such as stone, brick, concrete or timbers (as used in a retaining wall).

**Section 3:** Application and Permit Required

No person shall erect any fence or wall unless he/she shall first have applied for and received a permit from the Village Manager or his/her designee. Information required on the application for a permit to build a fence or wall shall include the name, address, and signature of the applying landowner; and the proposed location, height, type, style and materials of the proposed fence or wall. The Village Manager or his/her designee shall examine all applications and, if the application appears to comply with all provisions of this Ordinance and does not appear to violate any other applicable law, and if all applicable fees have been paid, a permit shall be issued to the applicant.

**Section 4:** Permit Fee

A non-refundable permit fee of Ten Dollars (\$10.00) shall be made payable to the Village of Decatur upon submission of the fence application for review. The Village of Decatur will have ten

(10) working days to review the application from the date of its submission in order to determine whether the proposed fence meets the guidelines of this Ordinance.

**Section 5: Fence Types and Construction**

- A. Chain link fences shall be constructed of materials specifically designed by fence manufactures for such use. Fences will have top rails between supporting posts, and caps on end or corner posts. Fence posts shall be placed on the inside of the property line of the owner erecting the fence. Agricultural wire fences such as chicken or hog wire fences are not permitted.
- B. Wood fences shall be of picket, solid, stockade, or basket weaves design. Plywood, particle board, OSB or other sheet material is prohibited for fence facing. Fence posts shall be placed on the inside of the property line of the owner erecting the fence.
- C. Masonry fences or walls shall be of brick, decorative block, pre-cast reinforced or cast in place concrete, and erected on approved footings and foundations. Walls shall be capped with a peaked coping of sufficient pitch to discourage walking.
- D. Privacy fences may be erected of any of the materials referenced in the preceding paragraphs. Sheet metal, old doors, pallets, etc. are prohibited.

**Section 6: General Conditions**

- A. Establishing or locating the correct property line between lots is the responsibility of the owner and not of the Village of Decatur. A survey by a licensed surveyor is recommended.
- B. All fences constructed or reconstructed shall be made of materials and in a manner esthetically compatible with the neighborhood. They are to be maintained in a safe and neat condition and permit a clear line of vision to all modes of traffic: wheeled, pedestrian, etc.

**Section 7: Restrictions**

- A. The finished face of any fence or wall shall face the outside of the permit holder's property with the visible posts or supports located on the inside of the fence or wall, unless:
  - (1) The fence is so constructed that both sides of the fence are the same (such as board on board or shadow box fence), or
  - (2) The adjoining property owner consents in writing to allow the visible posts or supports to be located on the outside of the fence, and such written consent shall accompany the application for a fence permit.
- B. No fence or wall constructed on private property shall be constructed, in whole or in part, of barbed wire or razor wire.
- C. No fence or wall shall be electrically charged or connected to an electrical current, except for a fence installed below ground as an element of an animal control system.
- D. No fence or wall shall be constructed closer than two (2) feet from the established sidewalk line to permit snow removal. If no sidewalk exists residents shall place the fence two (2) feet back from their property line to permit maintenance of fence.
- E. Shrubs are prohibited in front of fences located in front yards or side yards which are adjacent to public rights-of-way.

- F. No fence or wall, except public fences or fences in Industrial zoned areas, over six (6) feet in height measured from the surface of the ground shall be erected in a rear yard area or side yard area not abutting a road right-of-way. No fence over four (4) feet in height measured from the surface area of the ground shall be erected in a front yard area or a side yard area or a rear yard area adjoining a road right-of-way, and a minimum of fifty percent (50%) of the surface area of a fence adjoining a road right-of-way shall be open to permit visibility through same.
- G. In Industrial zoned areas fences and walls may be constructed up to eight (8) feet in height measured from the surface of the ground in a rear yard area or side yard area not abutting a road right-of-way. No fence over four (4) feet in height measured from the surface area of the ground shall be erected in a front yard area or a side yard area or rear yard area adjoining a road right-of way, and a minimum of fifty percent (50%) of the surface area of a fence adjoining a road right-of-way shall be open to permit visibility through same.

**Section 8: Hedges**

- A. It shall be the obligation of the owner or occupant of the land upon which the hedge is growing to trim said hedge to the height limits provided for other residential fences. Any shrubs, bushes or other growing plants which project into or across adjacent land may be trimmed by the adjacent owner back to the lot line.
- B. Hedges shall be contained two (2) feet back from the established sidewalk line. If no sidewalk exists residents shall contain the hedge two (2) feet back from their property line.
- C. Hedges on corner lots shall permit visibility to both wheeled and pedestrian traffic.

**Section 9: Decorative Fences**

Decorative fences shall be a part of the overall landscape plan. In no instance shall the surface area encompassed by the outer most limits of such a fence restricts air movements or visibility by more than twenty (20) percent.

Decorative fences are subject to all other provisions provided under this Ordinance.

**Section 10: Public Fences**

In order to protect the health, safety, welfare and property of the public, all fences constructed by the Village of Decatur, Michigan which enclose public parks, playgrounds, sewer and storm water ponds, or other public areas situated in the Village of Decatur, Michigan may be constructed in any manner deemed appropriate by the Village Council of the Village of Decatur, Michigan, including but not limited to, solid board fences or fences with barbed wire.

**Section 11: Dilapidated or Dangerous Fences and Walls, Blight**

It shall be the duty of the owner upon whose property the fence or wall is located to ensure that all fences or walls are installed and maintained plumb, with adequate support and footings, and in a safe and sightly manner. If the fence or wall is deemed to be on the lot line and the ownership is not known, it shall be the duty of both adjoining property owners to maintain the fence or wall in a safe and sightly manner.

**Section 12: Appeal**

Any applicant whose permit is denied on the basis of requirements set out in this ordinance may appeal such decision to the Zoning Board of Appeals.

**Section 13: Repeal**

Ordinance No. 138 and Ordinance No. 165 are hereby repealed and any other ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, also hereby repealed.

**Section 14: Violations:**

A violation of this Ordinance is a Municipal Civil Infraction and any person or firm who shall violate the Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred Dollars (\$500.00) per day of said violation, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 and 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

The Village of Decatur may further seek such other relief for the repair or removal of fences which are deemed to be dangerous, damaged or dilapidated, by making said necessary repair or removal and thereafter placing the costs incurred on the property tax roll for such property.

**Section 15:** This Ordinance shall become effective the 1<sup>st</sup> day of November, 2006.

Adopted by the Village Council of the Village of Decatur, Michigan on this 2<sup>nd</sup> day of October, 2006.