

**22.200 FENCE ORDINANCE CITY OF ST. CLAIR SHORES, MICHIGAN ord. eff. November 14, 2003**

**THE CITY OF ST. CLAIR SHORES ORDAINS THAT ITS CODE OF ORDINANCES SHALL BE AMENDED BY THE ADOPTION OF THE FOLLOWING AMENDMENTS TO THE FENCE ORDINANCE 22.200 – 22.210, Sections 32.1 – 32.9, and the addition of Section 32.10 WHICH READS AS FOLLOWS:**

**FENCE ORDINANCE**

An ordinance to establish guidelines, standards, and definitions to assist private property owners who wish to erect a fence while preserving the City of St. Clair Shores right to provide for the health, safety and welfare of the general public.

**22.201 Definitions.**

Sec. 32.1. For the purposes of the ordinance and unless the context specifically indicates otherwise, the following terms and phrases shall have the meaning ascribed to them by this section.

- (1) **Approved Manner:** As reasonably determined by the City of St. Clair Shores.
- (2) **Board:** The Board of Fence Arbitration.
- (3) **Building Envelope:** The exterior face of the perimeter of the main building on the site.
- (4) **Chain Link Fence:** A fence structure made of metal fence fabric attached to galvanized or wooden posts in an approved and workmanlike manner.
- (5) **Corner Property:** a) Property which abuts an alley, parking lot, or driveway and a street. b) Property which abuts two streets. c) Property whose common lot line between two or more adjacent properties form different "yards."
- (6) **Fence:** A structure serving as an enclosure, barrier or boundary made of either metal, wire, naturally durable wood, treated wood, synthetic material or plant material. ~~as defined in this Ordinance.~~
- (7) **Fence Installer:** An individual, corporation, or company which installs, erects, or maintains a fence or fence material.
- (8) **Hedges:** Cultivated plant material, deciduous or evergreen plant material planted in such a manner so as to constitute a fence.
- (9) **Height:** The distance measured from the existing average grade of adjoining properties to the top of the tallest structural member of fence or, if a hedge, four feet at the front of the house and sloping to a height of no more than two (2) feet six (6) inches above the sidewalk at the front lot line, maximum allowable height of growth.
- (10) **Interested Party:** 1) The applicants requesting the waiver of the ordinance or their representative. 2) The adjacent and affected property owner/s and/or occupant/s or their representative. 3) The fence ~~erector~~ installer.
- (11) **Lot:** As defined in the City's Zoning Ordinance Section 15.022(46) ~~or~~ as amended.
- (12) **Lot Lines:** The front lot line, rear lot line, and side lot line as defined in the City's Zoning Ordinance Section 15.022(52)(a) (b)(c) ~~or~~ as amended.
- \*~~(13) **Privacy Fence:** A fence which substantially inhibits sight. ~~structure consisting of material constructed to inhibit sight through said fence.~~~~
- (14) **Workmanlike:** Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.
- (15) **Yard:** Front yard, rear yard, and side yard as defined in the City's Zoning Ordinance Section 15.022(90) ~~or~~ as amended. (amended 12/27/06)

**22.202 Board of Fence Arbitration.**

**Sec. 32-2.**

- (1) **Creation.** There is hereby established a Board of Fence Arbitration.

- (2) **Powers of Board of Fence Arbitration.** The Board shall be limited to granting waivers of provisions of the City of St. Clair Shores Fence Ordinance.
- (3) **Composition of the Board of Fence Arbitration.** The Board shall consist of three (3) administrative officials who shall be appointed by the City Manager and who shall represent the interests of the City of St. Clair Shores as well as the health, safety, and welfare of the public. A representative of the city attorney's office may be present at all hearings. A recording secretary shall record minutes.
- (4) **Meetings.** The Board shall meet at regularly scheduled times. All hearings shall be open to the public. Written minutes of the hearings shall be kept. Minutes shall be reviewed for accuracy and adopted or amended at the next regularly scheduled hearing. A copy of the official minutes shall be provided to the Mayor and Council and copy of official minutes shall be kept on file for public review. Two members of the Board shall constitute a quorum. The Board shall have the power to require the attendance of applicants and to require such applicant to produce information pertinent to the matters properly before it.
- (5) **Appeals; how taken.** An applicant may file an appeal for waiver from requirements of this ordinance and appear before the Board by completing an application form in writing, producing information and documents as may be required, and paying the prescribed fee to the designated office at city hall, either in person or by certified mail. Upon satisfying all appeal requirements, the members of the Board, a representative from the city attorney's office, and the defined interested parties shall be notified of the appeal for a waiver and of the time of the next regularly scheduled hearing. The interested parties shall be notified in writing at least ten (10) calendar days prior to the hearing by first class mail. Upon the filing of an appeal all actions pertaining to the construction or repair of the fence to which the appeal pertains shall stop. (amended 12/27/06)
- (6) **Fees.** Fees for an appeal for a waiver of any provision of the Fence Ordinance shall be established by the City Council and set forth in the City's fee schedules. Said fee shall be paid at the time the application form is filed. The Secretary shall forthwith pay over such money to the City Treasurer to the credit of the general fund of the City. Fees may be amended from time to time by the St. Clair Shores City Council. The application fee shall be \$50.00.
- (7) **Duties of Board of Fence Arbitration.** Board members shall review appeal applications and shall inspect the premises prior to the regularly scheduled **public** hearing. After the **public** hearing, **the** Board **members** shall issue a decision, in writing, to the interested parties. The Board's written decision shall be sent via first class mail within five (5) business days from the date of the hearing. Decisions of the Board shall be based on the following: (1) To what extent construction, repair or alterations of the fence would be reasonable to interested parties based upon the general health, safety and welfare of the public. (2) Practical difficulties created by compliance with the Ordinance. (3) Unique conditions or circumstances.

Waivers granted by the Board to the Fence Ordinance shall lapse one (1) calendar year from the date the waiver was granted if not completed. Waivers shall run with the land. Failure to comply with the Board's ruling shall be deemed a violation of this Ordinance. A violation ticket shall be issued accordingly for a scheduled court appearance in the 40th District Court. (amended 12/27/06)

### 22.203 Materials.

Sec. 32-3. Minimum construction materials are as follows:

- Galvanized steel pipe
- 2 inch galvanized steel corner posts
- 1 5/8 inch galvanized steel line posts
- 1 3/8 inch galvanized steel cross bars, or 2" × 4" wooden cross bars
- 4 inch wooden posts
- 4 inch reinforced posts or any other member of equal stability placed at least 42 inches below the ground, embedded in concrete or other accepted industry practice

- Fence fabric material (**chain link**) - 11 1/2 gauge wire (residential) which shall be securely fastened to the upright members
- Synthetic materials as **reviewed and** approved by the City of St. Clair Shores.

All structural members shall be surface coated to prevent rust and corrosion, pressure treated to prevent rot, or be of a material that is impervious to rust, corrosion, rot, and/or deterioration from sunlight. The surface coating shall be reapplied as necessary.

Wire, wood, metal or other acceptable fence materials shall be securely fastened to the upright members of the fence. **All fences shall be self supporting.**

Chain link fence shall not be less than three (3) feet nor more than four (4) feet in height as measured from the established grade of adjoining properties to the top of the tallest structural member of the fence.

Fences erected on school property or adjacent to school property within the City of St. Clair Shores may be six (6) feet in height. (amended 12/27/06)

#### **22.204 Duty and responsibilities of property owners.**

##### **Sec. 32-4.**

- (1) Property owners are responsible for the determination and location of easements, rights of way, and utilities prior to the maintenance or construction of fences.
- (2) Property owners shall be responsible for determination and location of lot lines prior to the maintenance or construction of fences.
- (3) Property owners shall be responsible for resolving private subdivision restriction matters.
- (4) Property owners shall endeavor to work out disagreements prior to applying for a waiver of the fence ordinance.
- (5) Property owners shall be responsible for resolution of the payment of costs of fence installation. (ord. eff. Nov. 14, 2003)

#### **22.205 Fence ~~Permit Installation Plan Review~~**

**Sec. 32-5.** Prior to the erection or installation of any fence, **an application for a Fence ~~Permit Installation Plan Review~~** must be submitted and approved. A Fence **~~Permit Installation Plan Review~~** shall be applied for at the City of St. Clair Shores upon a form to be supplied by the City. (amended 12/27/06)

#### **22.206 Fences and permitted installation.**

##### **Sec. 32-6.**

- (1) Fences in compliance with the requirement of this ordinance shall be allowed by the City of St. Clair Shores. It is recommended that fences be erected on common lot lines. However, the installing party may opt to adjust the location of the proposed fence as long as all other requirements of the City's Fence Ordinance are met.
- ~~(2) In instances where the City's Fence Ordinance does not address a unique or unusual circumstance, the party desiring to erect a fence shall first obtain approval from the City of St. Clair Shores Community Development Department. This includes, by way of example, but is not limited to, property on corners or courts where the common lot line between two or more adjacent properties may form different types of yards.~~
- (2) The owner of a corner property may erect a fence six (6) feet in height along a side street starting at the rear lot line forward to the front of the house, stopping, reducing to four (4) feet in height, then sloping the fence from this point to the front lot line to a height of no more than two (2) feet six (6) inches above the sidewalk at the front lot line. The fence shall be of a material that does not obscure vision of vehicular or pedestrian traffic.

- (3) Business properties. At business properties ~~on~~ at which the owner installs, or the City requires, the erection of a masonry wall or solid fence of an approved material six (6) feet in height, the fence material shall reduce to four (4) feet in height at the residential building line **and then step down** to two (2) feet six (6) inches in height at the front lot line of the residential property.
- (4) All owners/occupants **of property in** non-residential zoning districts shall comply with the requirements of Zoning Ordinance 15.508 as amended regarding the construction of walls between residential and non-residential properties.
- (5) Privacy fences shall not exceed six (6) feet in height, **be self-supporting** and shall be installed in a workmanlike and approved manner. Acceptable materials may include naturally durable wood, treated wood such as cedar or redwood, synthetic materials **as approved**, metal, or other materials if approved by the City. It is recommended that privacy fences be constructed in such a manner that neither side shall be different from the other. If there is a different, or what is commonly referred to as a "bad side," it shall face the installing party's property. This provision shall apply to both side yard and rear yard fences.
- (6) For all fences other than privacy fences, the installing or requesting party shall construct the fence with the "post side" or "bad side" facing the installing party's property. This provision shall apply to both side yard and rear yard fences.
- (7) Swimming pools, spas, hot tubs. Safety fences, alarms, locks and hardware are not governed by this Ordinance. Please refer to the current Building Code for requirements. Animal pens/dog runs are not governed by this Chapter, therefore refer to Chapter 15.000, Accessory Uses allowed. (amended 12/27/06)

### **22.207 Prohibited conditions.**

Sec. 32-7. The following shall be prohibited:

- (1) The erection or **extension continuance** of a fence that may impede ingress or egress of a stairway, entrance, ~~or~~ exit of a building or any portion of a sidewalk adjacent to such building.
- (2) Spikes, nails, barbed wire, razor wire or other sharp pointed instruments affixed, placed upon or allowed to exist in any manner attached to a fence or part of a fence.
- (3) Fences which utilize either ~~a~~ shock or electrocution. Any fence installation or repair utilizing electricity or electrical components shall require a permit and a final inspection from the St. Clair Shores electrical inspector.
- (4) Fences which obstruct access to, or the visibility of, fire hydrants, water meter wells, ~~or~~ other utility reading devices, **or** vehicular or pedestrian traffic.
- (5) Damaged or unstable fences if the condition of the fence is a hazard to the health, safety and/or welfare of the general public.
- (6) Hedges that contain plant material that is dead, dying or diseased, which exceeds the maximum allowable height or which create obstructions as described in this Ordinance.
- (7) Fences or hedges erected or installed except as allowed herein. Hedges **rows in any yard in the side yard and rear yard shall not shall** be considered fences.
- (8) Fences consisting of broken concrete, masonry block or similar material ~~to be~~ stacked in piles or rows.
- (9) Fences, guy wires, braces or structural members of any fence constructed upon or protruding over property over which the City or the general public has dominion and control, owns, or has an easement over, under, around or through, except upon utility easements which are permitted to be fenced.
- (10) The erection of a fence beyond the face of a house to the front lot line without the consent of the Board of Fence Arbitration or unless allowed as described in the Ordinance.
- (11) **Privacy fences shall not be permitted on any waterfront or canal lot parcel. (amended 12/27/06)**

