

CHAPTER 114, FENCES AND WALLS

[HISTORY: Adopted by the Village Board of the Village of Sherburne 9-21-2020 by L.L. No. 1-2020.]

GENERAL REFERENCES

§ 114-1. Applicability.

This chapter shall apply to all fences and/or walls. (Any reference to fences shall also include walls.) None of the provisions of this chapter shall apply to any fence used for agricultural purposes on premises which are primarily agricultural in use.

§ 114-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FENCE -- An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, or natural plantings, other than temporary uses such as garden fences, snow fences or rabbit fences.

§ 114-3. Approval required.

No fence (except a temporary garden fence) free standing wall, arbor or trellis shall be erected without the approval of and issuance of a permit by the Code Enforcement Officer.

§ 114-4. Application for permit; issuance.

Before any work is begun, any person or organization intending to erect a fence shall make application to the Code Enforcement Officer on a form provided by the Code Enforcement Officer. The application shall be accompanied by a plan or sketch showing the proposed dimensions and location of the fence and the materials proposed to be used, which must be in accordance with this chapter and any other law regulating construction within the Village and shall be accompanied by the prescribed fee. Upon approval by the Code Enforcement Officer, a permit shall be issued. Construction of the permitted fence must be completed within one year of the issuance of the permit. The permit shall be available on the job during the progress of the work so that it may be inspected by proper officials.

§ 114-5. Fees.

The fee for issuance of a fence permit shall be \$20.

§ 114-6. Height limitations.

No fence shall be more than eight feet in height at the rear of a home or building in any zoning district. No fence or portions of a fence forward of the rear building line or the rear building line extended shall be more than four feet in height.

§ 114-7. Location restrictions.

Any fence shall be placed at least one foot back from any street or highway boundary line. Any fence or planting higher than 36 inches shall be placed at least 25 feet back from the edge of the pavement and five feet back from the property owner's edge of sidewalk.

§ 114-8. Materials and composition.

Any fence, wall or shrubbery which unduly cuts off light or air or which may cause a nuisance, a fire hazard, a dangerous condition, an obstruction to fire fighters and equipment for combating fires or which may affect public safety is expressly prohibited.

§ 114-9. Prohibited fences and materials.

The following fences and fencing materials are specifically prohibited except on premises which are primarily agricultural or commercial in use:

A. Barbed wire. (Barbed wire exceptions for non-residence properties)

No barbed wire or similar *fence* or any *fence* in which barbed wire or similar wire is used shall be erected, maintained or used except in non-residence properties, and subject to approval of the Village Board in accordance with the following conditions and after a public hearing:

1. The *fence* on which barbed wire is to be used is six feet or higher;
2. The construction of the barbed wire and *fence* meets the specifications of the Village Board;
3. The use of barbed wire will not prevent the reasonable and orderly use of adjacent properties;
4. The use of barbed wire will not prevent the reasonable and orderly use of permitted or legally established uses in the district wherein the property is located or in adjacent districts;
5. The use of barbed wire will cause no undue endangerment of the health, safety and welfare of the populous of the town;
6. In a non-residence district, the use of barbed wire atop a six-foot high

or higher chain link *fence* surrounding open storage areas (i.e., car *lot*, industrial supply, equipment, etc.) will inhibit unauthorized access into such areas; and

7. Wherever barbed wire is installed, a *sign* must be posted cautioning the public about said barbed wire.

B. Electrically charged fences.

C. Poultry fences.

D. Snow fences, except during the months of November to April.

E. Expandable fences and collapsible fences, except during construction.

§ 114-10. Chain link fences.

All chain link fences erected shall be erected with the closed loop at the top of the fence.

§ 114-11. Entrances and gates.

All entrances or gates shall open into the property. Openings for emergency access shall be provided in accordance with the standards of the National Fire Prevention Association.

§ 114-12. Finished side.

All fences shall have the smooth side or finished side facing to the outside of the property owner installing the fence. Fence posts shall be placed on the inside of the fence.

§ 114-13. Erection within property line.

All fences must be erected within the property line.

§ 114-14. Visibility.

No fence shall be erected so as to encroach on a public right-of-way or interfere with vehicular or pedestrian traffic or visibility. The Code Enforcement Officer or Highway Superintendent shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees, flowers or other vegetation, fence, wall, hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles. Any person who shall refuse or neglect to comply within 15 days with the written direction of the Code Enforcement Officer or Highway Superintendent shall be guilty of a violation of this chapter and shall be subject to its penalties.

§ 114-15. Security fences.

Notwithstanding the provisions of this chapter, the Code Enforcement Officer may issue a permit for the construction of a security fence for commercial and/or industrial

properties upon due application to and approval by the Code Enforcement Officer. The Code Enforcement Officer may deny such application if it is found upon application that such fence is not appropriate.

§ 114-16. Maintenance of fences.

Every fence hereinafter erected within the Village of Sherburne shall be finished or painted in such fashion and in such color as to be aesthetically consistent with its surroundings. Thereafter, each such fence shall be repainted at least every three years or, if any portion thereof shall be the subject of weathering or disrepair so as to render it obviously offensive to the character of the area in which it is erected, shall be repainted and restored to its original condition within seven days after receipt by the owner of the appurtenant premises of a notice which shall be issued by the Building Inspector. If any fence or portion thereof will be in need of repair or replacement, it shall be repaired or replaced within seven days after the receipt of a notice from the Building Inspector to that effect. With reference to any fences which exist in the Village of Sherburne prior to the effective date of this section, such fence or fences shall be subject to all of the provisions of this section, except that the periodic painting required herein of fences erected before the effective date of this section shall be required with reference to such preexisting fences two years after the effective date of this section and every three years thereafter.

§ 114-17. Other provisions.

A fence must conform with NYS Uniform Fire and Building Code and this law does not override provisions of state law.

§ 114-18. Appeals.

Upon denial of an application for a permit, an applicant may appeal the Code Enforcement Officer's decision to the Village Board within 30 days of such denial.

§ 114-19. Penalties for offenses.

A violation of this chapter is an offense punishable by a fine not exceeding \$250 or by imprisonment for not more than 15 days, or by both such fine and imprisonment. For the purpose of conferring jurisdiction upon courts and judicial offices, violations of this chapter shall be deemed to be misdemeanors. Each week the violation continues shall be deemed to be an additional violation.