

ORDINANCE NO.: 5157

AN ORDINANCE to amend Section 115-398 of the Code of Ordinances of the City of La Crosse regarding fences and hedges.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 115-398 is hereby amended to read as follows:

Sec. 115-398. - Fences and hedges.

- (a) *Fences defined.* For the purpose of this Section, a "fence" is herein defined as a barrier consisting of vegetation, wood, stone, vinyl, brick, fieldstone, wrought iron, or metal intended to prevent ingress or egress. For the purpose of this section, the term "fence" shall include plantings, such as hedges and shrubbery in the front yard in excess of 4 feet tall. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (1) Fences to be situated in side and/or rear yards shall be constructed using materials suitable for residential-style fencing, including, but not limited to, brick, fieldstone, wrought iron, vinyl, chainlink (with a minimum thickness of nine gauge and a required top rail support), stockade or board-on-board wood. ~~With the exception of a fence that sits atop decorative retaining wall or decorative stone wall which is a part of the fence, no fence or fence panels shall be constructed with multiple building materials or more than one pattern of the same materials on any given lot line (for example, a wooden stockade fence cannot be constructed with a wooden picket fence as part of the same fence).~~ This shall not prohibit two intersecting fences from having different materials if the fences are owned by different property owners.
 - (2) No fence shall be constructed of used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash, tires, junk, or other similar items. Materials not specifically manufactured for fencing, such as, but not limited to, railroad ties, doors, landscape timbers or utility poles, shall not be used for, or in the construction of a fence.
 - (3) Agricultural/farm fences shall only be permitted in agriculturally zoned or used districts and can only exceed six feet with a conditional use permit.
 - (4) Fences associated with baseball and/or softball fields and surrounding tennis courts may be erected in conformance with accepted industry standards. A Fence Permit shall be required for such installation.
 - (5) The La Crosse Regional Airport shall be allowed to erect chainlink fences for security purposes up to ten feet in height plus up to three strands of barbed wire. The three strands of barbed wire may face away from airport property. A fence permit shall be required for such installation.

(6) Any fence built in an Industrial Park that has recorded covenants in regards to fences, the covenants shall apply. A fence permit shall be required for such installation.

(b) *Fences categorized.* Fences shall be categorized into six classifications:

- (1) *Boundary fence.* A fence placed on or within three feet of the property lines of adjacent properties.
- (2) *Protective fence.* A fence constructed to enclose a hazard to the public health, safety and welfare.
- (3) *Architectural or aesthetic fence.* A fence constructed to enhance the appearance of the structure or the landscape.
- (4) *Hedge.* A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary in the front yard.
- (5) *Picket fence.* A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (6) *Dog kennel fence.* A chainlink enclosure which is enclosed on three or four sides in the side or rear yard of a property.

(c) *Height and setback of fences regulated.*

(1) Residential fences are permitted up to the property lines in Residential Districts but shall not, in any case, exceed a height of six feet without a conditional use permit, shall not exceed 48 inches in height from grade in the front, side, or rear yard setback abutting a public sidewalk, shall not encroach into any vision corner and shall not be closer than three feet to any public right-of-way along a public alley. The height of any fence shall be measured as an average and shall not include the posts or pillars to which a fence is attached.

a. Decorative wrought iron, brick, stone, PVC or painted picket style fences less than 48 inches (average) in height from grade or decorative lot corner landscape may be placed up to the property line in Residential Districts and shall not violate vision corner ordinances pursuant to this section.

~~b. Chainlink and unpainted/unstained fencing is not permitted in residential front, side or rear yards abutting a public sidewalk.~~

~~e. b. A fence located in an interior side yard between dwellings shall not exceed four six feet in height. However, a fence may be erected to a height of six feet if the entire fence is constructed of wrought iron or similar open construction or if the area above four feet is at least 50 percent open. An example of the latter is a fence that is opaque to a height of four feet and is topped with not more than two feet of lattice. Any interior side-yard fence may be erected to a height of six feet if it is located more than ten feet from the side wall of the adjacent neighboring dwelling.~~

~~d. c. A fence located in a rear yard abutting a public sidewalk may be erected to a height of six feet if the entire fence is constructed of wrought iron or similar open construction or if the area above four feet is at least 50 percent~~

open. An example of the latter is a fence that is opaque to a height of four feet and is topped with not more than two feet of lattice. A fence as specified above may be located in a side yard on the street side of a corner lot behind the principal structure.

e. d. All fences must be constructed and maintained in a good state of repair and appearance. The finished side or decorative side of a fence shall face adjoining property.

f. e. Any fences adjacent to or encroaching into alley right-of-way that are required to be removed for construction related causes during a City alley project may be reconstructed within the three-foot setback, provided they are reconstructed outside of the right-of-way using the property line established by the Engineering Department during the project without the requirement of a Certified Survey Map.

(2) No fence, wall, hedge, or shrubbery shall be erected, placed, maintained or grown along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight feet.

(3) Property owners shall locate fences no closer than three feet from the property line so that each side of the fence may be properly maintained by the owner of the fence while on said owners property, unless an affidavit in recordable form is provided signed by the adjacent property owners agreeing to maintain the opposite side of the fence or agreeing to permit the owner of the fence to maintain said fence. This requirement can be waived if a maintenance free fence is installed.

(4) In the case of a proposed fence installation within three feet of a lot line where no record of a fence existed, a survey prepared by a registered land surveyor or professional engineer is required to obtain a building permit. No survey is required if a recordable affidavit signed by all affected property owners establishes an agreed upon lot line. ~~No permit shall be issued for a fence three feet or closer to a lot line until the adjacent property owners have been notified in writing by the Fire Department - Division of Fire Prevention and Building Safety and 15 days have passed. If a recordable affidavit is provided, the 15 day period can be waived.~~

(d) *Fences on nonresidential property.* Fences are permitted on the property lines in all commercial zoning districts but shall not exceed eight feet in height in commercial zoning districts and ten feet in height for property zoned light or heavy industrial and shall be of an open type similar to woven wire, chainlink or wrought iron fencing. Fences regulated under Section 10-49(2)(b) as part of an approved Beer Garden License are not subject to these restrictions. Solid vinyl or composite fences are only allowed on property lines abutting a residential property, but cannot be taller than six feet. The fence can be up to eight feet tall by a conditional use permit.

(e) *Prohibited fences.* No fence shall be constructed which is in a dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire; provided, however, that barbed wire may be used in industrially zoned areas if

the devices securing the barbed wire to the fence are ten feet above grade and project toward the fenced property and away from public area.

(1) No person shall construct or install:

- a. Any wire or chainlink-type fence with the cut or salvage end of the fence exposed at the top.
- b. A fence which creates a hazard to users of the street, sidewalk or to nearby property.
- c. An incomplete fence, consisting only of posts and supporting members.
- d. ~~A fence on a vacant lot or parcel. Fences on vacant commercial or industrial zoned lots or parcels may be permitted by a conditional use permit.~~
- e. d. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- f. e. Temporary fences. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four foot intervals. Such fence shall comply with the setback requirements set forth in this section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than 45 days or, in the case of a construction project, shall only be for the duration of said construction project.
- g. f. Nonconforming fences and hedges. Any fence or hedge existing on the effective date of this Code of Ordinances shall not be modified, enlarged, extended or replaced, except in strict compliance with all of the requirements of this chapter. The replacement of a nonconforming fence as to height, setbacks (vision corner requirements shall still be met), or fence material type may be made provided that the fence material be the same or higher grade as outlined below:

Ascending order of fence types:
 1. Chainlink.
 2. Chainlink with PVC coating.
 3. Stained treated wood.
 4. Cedar.
 5. Vinyl.
 6. Wrought iron or aluminum.
 7. Field stone or brick (does not include split face block).
- h. g. Fences required under conditional use permits. An opaque fence of six feet in height may be required on property for which a conditional use permit is granted in those cases in which such a fence is determined to be beneficial

to the health, safety, or welfare of the public or adjoin property owners. Such fence shall comply with material requirements as specified hereunder.

i. h. Permit required. A City of La Crosse Building Permit is required for any newly installed fence or for a total fence replacement as defined in section 103-34 which shall be set at the same rate as a Flat Permit Fee in section 103-34.

j. i. Vision clearance. No fence, structure, post, pillar or object of natural growth shall hereafter be maintained or allowed to grow higher in the vision clearance area than 36 inches above the highest grade of the adjacent sidewalk or the required sidewalk grade where no sidewalk exists. This provision shall likewise apply to alley vision clearance areas.

1. The requirement of vision clearance shall not apply at a height of six feet or more above the highest grade of the adjacent sidewalk or the required sidewalk grade where no sidewalk exists.

2. Objects of narrow width, which do not exceed ten inches in diameter, which do not impair corner vision, may, at the discretion of the Fire Department - Division of Fire Prevention and Building Safety, be permitted in the vision clearance area.

3. Right-of-way. All permanent fences shall be located outside the public right-of-way.

4. *Public nuisance.* Obstruction to visual clearance, as regulated by this section, shall be deemed to be a public nuisance and the Fire Department - Division of Fire Prevention and Building Safety and City Attorney are authorized to abate said nuisance.

(2) Obstruction of ingress/egress area of a dwelling.

a. No fence shall be installed in any yard that will shield any window or opening in a habitable space of a dwelling. A minimum distance of six feet shall be maintained between any solid fence and any such window or opening in a dwelling.

b. The Fire Department may approve a fence adjacent to a required ingress/egress opening of a dwelling between four feet and six feet if the fence has one of the following features:

1. For basement ingress/egress openings, the fence opening or gate shall be the width of the ingress/egress opening or four feet whichever is greater with no ability to lock or secure said gate, or a four foot wide approved breakaway fence panel and the area on both sides of the gate/fence shall continuously be free from all obstruction including vegetation and snow and ice buildup and shall swing or break away in the direction of egress.

2. For ingress/egress opening above grade, the fence opening or gate shall be the width of the ingress/egress opening or four feet whichever is greater with no ability to lock or secure said gate, or a four foot wide

approved breakaway fence panel, or the top of the fence shall be no taller than the bottom of the sill of the ingress/egress opening and the area on both sides of the gate/fence shall continuously be free from all obstructions including vegetation and snow and ice buildup and shall swing or break away in the direction of egress.

- (3) Fences permitted without a permit. The following types of fences are permitted, as specified, without a permit, subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility, or block, redirect or cause a drainage problem for the adjacent or downstream properties:
- a. Snow fencing shall be permitted in all districts not exceeding four feet in height provided it is removed between May 1 and November 1 of each year. No snow fence shall extend into the street right-of-way line unless installed by the City or a contractor having a permit from the City.
 - b. Agricultural/farm fences are limited to agriculturally zoned or used districts. An agricultural/farm fence is a fence consisting of chicken wire, deer fence, hog wire, high tensile, wire strand and barbed wire used in the agricultural, farming and livestock business, specifically for livestock, animal, and bird control.
 - c. Fences not exceeding two feet in height shall be permitted in all districts. Such fences shall not be placed in any manner which presents a hazard to pedestrians on any public or private sidewalk.
 - d. Underground electrical fences are permitted in all districts.
- (f) *Fences on City-owned property and easements.* Fences that are owned and maintained by the City, front recreational trails, and are built on City-owned property or on private land through City easement rights, shall be under the authority of the Board of Public Works, including the height of the fence, fence materials and fence location, and no fence permit shall be required.

SECTION II: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION III: This ordinance shall take effect and be in force from and after its passage and publication.

_____/s/_____
Timothy Kabat, Mayor

_____/s/_____
Teri Lehrke, City Clerk

Passed: 10/8/2020
Approved: 10/12/2020
Published: 10/17/2020