

CITY OF MARSHALL

ORDINANCE NO. 2023-0- 04

AN ORDINANCE AMENDING APPENDIX A. ZONING.  
ARTICLE XII. ACCESSORY STRUCTURES AND USES. SECTION 12-3.  
FENCES.

ADOPTED BY THE  
CITY COUNCIL  
OF THE  
CITY OF MARSHALL

Published in pamphlet form by authority of the City of Marshall,  
Clark County, Illinois, this 9 day of January, 2023.

ORDINANCE NO. 2023-O- 64

AN ORDINANCE AMENDING APPENDIX A. ZONING.  
ARTICLE XII. ACCESSORY STRUCTURES AND USES. SECTION 12-3.  
FENCES.

BE IT ORDAINED by the City Council of the City of Marshall,  
Illinois:

Section 1. That Appendix A. Zoning. Article XII. Accessory  
Structures and Uses. Section 12-3. Fences of the Code of  
Ordinances, City of Marshall, Illinois is hereby amended to read  
as follows, with strikeouts indicating deletions in text and  
underscores indicating additions to text:

Section 12-3. Fences.

No fence may be erected within the corporate limits of the city  
which does not comply with the following regulations:

(1) *General regulations.*

- (a) In all districts except for agricultural  
districts, unless a written agreement signed by the  
adjacent owner of record is filed with the city clerk,  
a fence or wall must be erected, placed or maintained  
at least twelve (12) inches inside the lot line.
- (b) No fence shall be erected on public property or  
right-of-way.
- (c) For any fence which has supports on one (1) side  
of its fabric, the supports are to be on the inside  
(owner's) side, and the better appearing side of the  
fence is to face adjacent properties.
- (d) No fence may be electrified except in  
agricultural districts.
- (e) The owner of any fence erected over or under  
any utility line shall be responsible for the  
repair and maintenance of the fence should

disturbance of the fence be necessitated by repair or maintenance of the utility line.

(f) Property owners are strongly encouraged to hire a licensed surveyor to locate the property lines prior to the construction of a fence.

(2) *Regulations in residential districts.*

(a) Any fence erected in a required front yard shall be at least fifty (50) percent open, and no fence erected in a required front yard may exceed ~~three~~ four (4) feet in height measured from ground level. A clearance of three (3) inches shall be allowed for installation purposes and shall not count in determining the height of a fence. No privacy fence may be erected in the front of a residence on the same zoning lot. For through lots, that yard which is used as a rear yard, and which would normally be considered a rear yard for lots other than through lots, shall be considered a rear yard for purposes of erecting a fence. See Figure One in section 12.3.

(b) Any fence erected on the front or side street of a corner lot shall be restricted to the setback requirements of section 11.2, paragraph 2. Where a lot is located at the intersection of two (2) or more streets a privacy fence shall abide by the twenty-five (25') foot front yard setback (See Section 9.1, notes a) unless the primary structure is closer than twenty-five (25') feet from the property line. In such case the privacy fence may not project past the edge of the primary structure. See Figure Two in section 12.3.

(c) No fence may be erected which exceeds eight (8) feet in height above ground level.

(d) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed metal material. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence at or near the ground.

(3) *Regulations in business and industrial districts not utilized for agricultural uses.*

(a) Any fence erected in a required front yard shall be at least fifty (50) percent open.

(b) Any fence erected on the front or side street of a corner lot shall be restricted to the same setback requirements as a building or structure.

(c) No fence may exceed a height of eight (8) feet above ground level. A clearance of three (3) inches shall be allowed for installation purposes and shall not count in determining the height of a fence.

(d) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials unless the sharp pointed materials are erected at least six (6) feet above ground level, but not higher than eight (8) feet above ground level. All chain link fences shall be installed with the barbed portion at or near the ground unless it is installed at least six (6) feet above ground level.

(4) *Recreational purpose fences.* Fences erected for the purposes of providing fencing around sports or recreation facilities shall not be subject to the height restrictions specified elsewhere in this section, provided that such facility or area is not located within twenty (20) feet of a zoning lot corner formed by the intersection of any two (2) street lines; the fence is at least seventy-five (75) percent open; and a fence permit is obtained.

(5) *Permits.*

(a) No fence may be erected within a residential, business or industrial district not utilized for agricultural uses unless a fence permit is obtained from the office of the zoning officer for a fee of ~~ten~~ fifteen dollars (~~\$10.00~~15.00). The individual or agency actually constructing the fence shall be responsible for obtaining the permit. No work shall start until the permit has been obtained. The

fee for each permit shall be triple the above amount if the construction

commences prior to the submission of the proper application and issuance of a permit.

(b) A fence permit will become null and void after ninety (90) days from the date of issuance if the fence authorized by said permit has not been completed.

(6) *Variations.* The provisions of article XXII concerning, but not limited to, burden of proof, evidence, notice of hearing and filing fees shall apply to all applications for a variation of any of the provisions of this section.

(7) *Nonconforming fence regulations.*

(a) The lawful use of any fence existing at the time of the passage of this ordinance may be continued, although such use does not conform with the provisions of this ordinance.

(b) A nonconforming use shall not be extended.

(c) A nonconforming fence may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the current fair value of the fence unless said fence is changed to a conforming use. A fence designed for a nonconforming use, however, may be reconstructed or altered beyond the limitations herein provided by the action of the zoning board of appeals, after public hearing, as required by law in case of variations. The limitations herein provided shall not prohibit the restoration to a safe condition of any structure or portion thereof declared unsafe by a proper authority.

(d) If a nonconforming use has ceased for a period of one (1) year or more, it shall not be reestablished unless the nonconforming use was in a building designed, arranged, and intended for such use.

(e) Once changed to a conforming use, no fence shall be permitted to revert to a nonconforming use. A nonconforming use shall not be substituted or added to another nonconforming use.

(8) *Conflicting requirements.* Any requirement or specification regulating fences that is contained in another section of the Code of Ordinances that is in conflict with a provision of this section shall take precedence over this section, but only to the extent of the conflict.

Section 2. If any provision of this Ordinance, or application thereof, is held invalid by any Court, other provisions or applications of this Ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. That this Ordinance shall be published in pamphlet form and shall take effect ten (10) days after its passage, approval and publication in pamphlet form as provided by law.

	<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Michael Smitley	✓		
Warren J. Le Fever	✓		
Vickie Wallace			✓
Jarod Green	✓		
Josh Sanders	✓		
Robert Nelson	✓		
Foster Propst	✓		
Rob Knott	✓		

PASSED this 9 day of January, 2023.

APPROVED this 9 day of January, 2023.

  
MAYOR

ATTESTED, filed in my office,  
and published in pamphlet form  
this 9 day of January, 2023.



CITY CLERK

(SEAL)