

**CITY OF LAKE ELMO
ORDINANCE NO. 97-137**

**AN ORDINANCE ADDING SECTION 302 RELATING TO THE REGULATION
OF FENCES AND SCREENING
AND REPEALING SECTION 1360 AND THE FENCE MORATORIUM**

Section 1. Amendment: Section 302 Fence Regulations is hereby added to the Lake Elmo Municipal Code, to wit:

302 – Regulation of Fences

302.01 Fence Height

Subd. 1 - Fence Height in Street Setbacks

No fence shall be constructed exceeding 42 inches in height measured from grade within any front, side, or rear street setback. Fences constructed within the prescribed street set back areas shall be at least 50% open to air and light. *(See Figure 302.1)*

Subd. 2 – Fence Height in Interior Yards

No fence shall be constructed exceeding 72 inches in height measured from grade in interior yards; and, any portion of such fence above 42 inches measured from grade shall be open to light and air over 75% of the surface area. (See Figure 302.1).

Subd. 3 – Grade Defined

The grade from which fence height measurements are calculated shall only be from either natural grade or grade modified responsive to a grading plan approved by the City; and, shall not include the height of berms or introduced increases in ground elevation that would raise the effective fence height over that which would be otherwise permitted by this Section, except that a combination of raised grade and fence that would exceed in sum the fence height permitted by this section may be specifically approved by the City Council as an element of a subdivision plat or commercial site plan approval establishing specific property grading and topography.

302.02 Fence Materials

Subd. 1 – Permitted Fence Materials

Permitted fence materials shall be limited to brick, stone, wood planks, split rail, wrought iron, and as regulated by Section 302.04. Vinyl or composite material fences shall also be permitted.

Subd. 2 – Finished Face of Fence

That side of the fence considered to be the face (finished side as opposed to structural supports and frame) shall face abutting property and Public Streets.

Subd. 3 – Chain Link or Cyclone Fences

Chain Link, and wire mesh fences are permitted to a maximum height of 72 inches measured from grade. No chain link, cyclone or wire mesh fence shall be permitted in any front, side, or rear setback. (See Figure 302.2)

302.03 – Fences in the Shoreland Overlay District

No fence shall be permitted in the OHW setback of any parcel located in Shoreland, as defined by Section 150 of the City Code except where the principal structure is entirely located within said OHW setback.

302.04 Temporary Fences

Subd. 1 – Defined

For the purposes of this ordinance Temporary Fences are those that are installed and removed on a seasonal basis, such as snow fences and garden fences. Temporary Fences shall be open to light and air over not less than 40% of the fence surface area.

Subd. 2 – Duration and Limitation

No snow fence shall or posts therefore shall be installed prior to November 1, and must be removed prior to April 15.

Subd. 3 – Height and Location

Temporary Fences shall comply with the fence and fence location standards of Section 302.01, except that snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Building Official.

302.05 Agricultural Exemption

Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres for the keeping of other livestock, as defined by Section 150 the City Code, are specifically exempted from the provisions of this section. Any such agricultural fencing shall be at least 75 % open to air and light.

302.06 Fences as Screening and Security as Required by This Code

The Lake Elmo City Code and Zoning Ordinance include prescribed physical circumstances of a site where screening of uses, equipment, and outside storage is required. In those prescribed circumstances, fence not to exceed 72 inches in height measured from grade may be installed, subject to the following standards:

1. Required fences for screening and security purposes in Agricultural and Residential zoning districts shall be set back from all property lines equal to the required structure set back of the zoning district in which they are located.
2. The provisions of Section 302.01, Subd. 3 of this Chapter regarding fence height measurement from grade shall apply. No combination of earthen berm and fence may exceed the 72 inch maximum height for screening.
3. Materials used for screening shall be limited to those specified by Section 302.02
4. No such screening shall be roofed or covered in any manner.

302.07 Fence Permits Required

Except as noted herein, installation of all fences require a fence permit issued by the City of Lake Elmo. Said permit shall be applied for on such forms, include such documentation, and include such fees to the City for processing as may be prescribed from time-to-time by the City Council. Fences exempt from requiring an installation permit are limited to the following:

1. Fences of any type installed for the sole purpose of the keeping of Domestic Farm Animals, as defined by Section 150 of the City Code, and regulated by Section 300.13, Subdivision 15E of the City Code. All such fences shall be removed by the property owner within 6 months of the termination of the keeping of Domestic Farm animals, unless an extension is specifically authorized by City Council action.
2. Fences of any type installed by Municipal, County or State governments and Public Utilities for facility security or the delineation and/or protection of Public Rights-of-Way.

Failure to obtain a City Fence Permit prior to the installation of any fence subject to this regulation shall result in an automatic double permit fee, in addition to any corrective measures to bring said fence into compliance with the standards for fences prescribed by the Lake Elmo Zoning Ordinance.

302.08 - Fences as Non-conforming/Hazardous Structures

Fences shall be considered to be structures for the purposes of applying the terms of the Non-conforming structure provisions of the Zoning Ordinance, and the Hazardous Structures provisions of City Code and State Statute.

302.09 – Other Provisions of Code

To the extent that provisions of this Section may conflict with other provisions of the City Code regarding the regulation of fences and screening, the provisions of this Section only shall apply.

Section 2 – Amending Section 150 Definition of Fence

The Section 150 definition of “Fence” is hereby amended to add the following: “...not to include any roof or covering.”

Section 3. Repealer

Section 1360, of the City Code is hereby repealed in its entirety.

Section 4. Effective Date: This ordinance shall become effective upon its passage and publication according to law.

ADOPTED by the Lake Elmo City Council this 4th day of August, 2004.



Lee Hunt, Mayor

ATTEST



Martin J. Rafferty, City Administrator

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