

# CHAPTER 17. FENCES

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## 📖 Section 1700 - Purpose

**1700.01 Purpose.** The purpose of this chapter is to provide for the regulation of fences in all land use zone districts of the City Of Hermantown, to prevent fences being erected or plantings made that would be a hazard to the public or an unreasonable interference with the use and enjoyment of neighboring property, and to provide that fences are compatible with existing uses and other zoning restrictions.

## 📖 Section 1705 – Definitions

**1705.01 Definitions.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**1705.01.1.** “Fence” means any linear structure, made of lumber, building blocks, wire or similar materials placed in a fashion which is intended to block free passage or to block visual and/or sound transference from the fenced area to the outside area or from the outside area to the fenced area.

**1705.01.1.1.** “Agricultural fence” means electrified wire, barbed wire, welded wire, hog wire, wire mesh, wood, steel.

**1705.01.1.2.** “Electrical fence” means an agricultural fence that has or is designed to have an electric current passing through it.

**1705.01.1.3.** “Hedge fence” means any bush-like vegetation, excluding trees, placed in such a fashion as to block free passage or to block visual and/or transference from the outside area to the fenced area or the fenced area to the outside area.

**1705.01.1.4.** “Permanent fence” means any fence, other than a temporary fence as defined herein.

**1705.01.1.5.** “Residential fence” means a chain link, wood picket fence, wood post and rail, brick, masonry, stone, hedge fence, and similar materials of a permanent nature, such as wrought iron.

**1705.01.1.6.** “Temporary fence” means a plastic safety fence, plastic snow fence, slatted wood snow fence, or chain link fence if temporarily erected in a construction zone or temporarily erected as a snow fence or garden fence or plastic safety fences, plastic snow fence or slatted wood snow fence erected for any other purpose.

**1705.01.2.** “Front yard” means where a lot is located at the intersection of two or more streets, there shall be “front yard” on each side that abuts the street and a side yard on each side of that lot that does not abut the street. The “front yard” is that portion of the property that extends between the dwelling and the street.

**1705.02 Other Capitalized Terms.** Shall have the meanings given them in these Zoning Regulations unless the context clearly requires otherwise.

## **Section 1710 – Requirements**

**1710.01 Permit.** No person/persons shall construct or cause to be constructed any fence in the City of Hermantown without obtaining a fence permit from the Zoning Officer. The permit application shall include a plat plan showing the fence location and the property lines with setback. A copy of the fence application and plat plan shall be mailed to all property owners adjacent to the property on which the proposed fence is to be located at least ten days before a fence permit is issued. Comments, if received from neighbors during such ten-day period, will be considered in setting any conditions on the fence permit. The Zoning Officer may, as one condition to the granting of a fence permit, if it appears from the comments made by neighboring property owners that the boundary location or location of the fence may be or become in dispute,

require an applicant for a fence permit to establish, at the applicant's sole expense, the boundary lines of the applicant's property by a survey performed by a land surveyor registered in the State of Minnesota.

(Am. Ord. 2012-09, passed 11-5-12)

## **1710.02 Zone Districts.**

**1710.02.1.** Residential fences are allowed in any zone district.

**1710.02.2.** Agricultural fences are allowed in any zone district, which is zoned for agricultural uses if the agricultural fence is erected for or in connection with agricultural use.

**1710.02.3.** The regulations of Section [1725](#) shall govern fences in commercial and industrial zone districts. Such provisions shall be in addition to but not supersede the provisions of this [1710.02.3](#).

## **Section 1715 – Location of Fences**

**1715.01 Intersection.** No fence, screen hedge, or similar structure that obstructs the view shall be placed within 25 feet of the point formed by the intersection of the traveled surface of two or more intersecting streets or within 25 feet of the traveled surface of such roadways that is within 25 feet of such point.

**1715.02 Right-of-way.** No fence, screen, hedge or similar structure shall be constructed or caused to be constructed in such a manner as to block any public right-of-way.

**1715.03 Easements.** Fences shall not obstruct access to easements that run across the property.

### **1715.04 Property Lines/Side Lot Line Setback.**

**1715.04.1. Residential Fences.** Residential fences must be set back from the property line of adjoining property a minimum of three feet to allow for the maintenance of the fence and cutting of weeds and grass on both sides of the fence. If an application for a fence permit is jointly made by adjoining property owners, the fence may be placed on the property line between the two properties provided that the property owners have, by written agreement between them, agreed on the location of the fence, the responsibility for maintenance and that such agreement will be binding on their successors and assigns. A copy of such agreement must be provided to the Zoning Officer concurrent with the application for a fence permit. Residential fences must be set back the greater of (1) 20 feet from the edge of the traveled surface of an adjoining roadway; or (2) one foot from the edge of the existing right-of-way of the adjoining roadway.

**1715.04.2. Agricultural Fences.** Agricultural fences must be set back the greater of (1) 20 feet from the edge of the traveled surface of an adjoining roadway; or (2) one foot from the edge of the existing right-of-way of the adjoining roadway. The setback for side or rear yards for agricultural fences is three feet, with the exception of property adjoining a rail right-of-way must

be set back a minimum of one foot from the railroad right-of-way. Electrical fences must be marked as such every 25 feet with appropriate signage.

**1715.04.3. Other Fences.** The setback for all other fences allowed by this chapter shall be the same as the setback for residential fences.

## **Section 1720 – Residential Fence Regulations**

**1720.01 Application.** These regulations apply to the Suburban and all Residential Zone Districts and to all fences erected for residential purposes.

**1720.02 Height.** Fences, screens, walls and hedges that are located in the Suburban and Residential Zone Districts shall not exceed a height of six feet six inches. The Zoning Officer may allow a taller fence if the adjoining lot is not in a Suburban or any Residential Zone District, or unique land characteristics exist that justify or require a higher fence. All fence heights are measured from the finished grade of the lot.

**1720.03 Type of Fence.** All fences except hedge fences shall be constructed of chain link, wood, brick or wrought iron. Fences constructed of wire mesh, hog wire, welded wire or straight wire are not permitted in Suburban or Residential Zone Districts or for residential purposes in those Residential Zone Districts in which agricultural uses are permitted. Agricultural fences are allowed in a Suburban or any Residential Zone District if the fence is erected for or in connection with an agricultural use. Snow fence, if erected on a permanent basis, is not permitted in a Suburban or Residential Zone District. No wood fence may have boards, planks or panels larger than 12 inches in width.

**1720.04 Finish.** The side of the fence considered to be the face (finished side as opposed to structural support side) shall face the abutting property and be appropriately painted, stained or finished. All fences shall be constructed straight, true and plumb, in a substantial and workmanlike manner and accordance with the Hermantown Building Code.

**1720.05 Ingress.** In those instances where a fence exists as an enclosure, which restricts access from the front to the rear yard, a gate or other means of recognizable ingress shall be constructed within the fence. The location of such ingress shall be located at any point along the fence paralleling the front lot line, between the side lot property line and the principal structure.

## **Section 1725 – Commercial and Industrial Fence Regulations**

**1725.01 Application.** These regulations apply to districts zoned C-Commercial, C-1 Commercial, C-1A Adult Use, M-1 Light Industrial and M-2 Heavy Industrial.

**1725.02 Types of Fencing Permitted.**

**1725.02.1. Agricultural Fences.** Are allowed if the fence is erected for or in connection with an agricultural use.

**1725.02.2. Decorative Fencing.** Decorative fencing in the above districts is subject to the same standards as is applicable for residential fences.

**1725.02.3. Residential Fences.** Subject to the provisions of Section [1720](#).

**1725.02.4. Security Fencing.** Primarily chain link, brick, masonry or wood fencing erected for security purposes.

## **Section 1730 – Maintenance of Fences**

**1730.01 Maintenance.** Every permanent fence, whether constructed before or after the effective date of this chapter, shall be maintained in a condition of reasonable repair (including without limitation, appropriate painting, staining or surface finishing), and shall not be allowed to become or remain in a condition of disrepair or danger to constitute a nuisance, public or private. Any fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the Zoning Officer shall commence proper proceedings for the abatement thereof.

## **Section 1735 – Special Purpose Fences**

**1735.01 Special Use Permit.** Fences for special purposes and fences differing in construction, height, length or placement from those permitted by this chapter may be permitted in any district in the City of Hermantown by issuance of a special use permit approved by the Planning and Zoning Commission and the City Council in accordance with the terms and provisions of these Zoning Regulations. No special use permit shall be issued except upon findings that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

## **Section 1740 – Grievance Procedures**

**1740.01 Filing and Investigation of Complaints.** Any person aggrieved by the construction or maintenance of a fence in violation of this chapter may make a complaint to the Zoning Officer on a form, which will be provided. The Zoning Officer shall investigate such complaint and issue his or her determination in writing to the aggrieved party and to the property owner.

**1740.02 Appeal.** Any person aggrieved by the determination of the Zoning Officer under this section may appeal to the Board of Appeals and Adjustments as provided in these Zoning Regulations.

**1740.03 Alternative Dispute Resolution.** The Board of Appeals and Adjustments may, after receiving notice of an appeal from the determination of the Zoning Officer under this section, direct that the parties submit their dispute to nonbinding arbitration or mediation prior to proceeding with the public hearing as provided in these Zoning Regulations.

**1740.04 Finality.** Any determination made by the Zoning Officer under this chapter is final and binding upon expiration of the time for appeal from a determination of the Zoning Officer as set out in these Zoning Regulations.

## **Section 1745 – Temporary Fence(s) Regulations**

**1745.01 In Construction Zones.** Temporary fences are permitted in construction zones until construction is substantially complete. Temporary new fencing shall be installed no earlier than October 15 and must be removed by April 15.

**1745.02 Gardens.** Temporary fences are permitted to protect and enclose gardens. Temporary garden fences may be installed no earlier than May 1 and must be removed by November 1.

## **Section 1750 – Non-Conforming Fences**

**1750.01 Non-Conforming Fences.** All permanent fences in existence prior to the adoption of this chapter may continue as a non-conforming use pursuant to the Hermantown Zoning Code. However, no non-conforming fence may be replaced, rebuilt or increased in size or length without compliance with the terms of this chapter. Temporary fences in existence on the effective date of this chapter shall not be allowed to be continued after the effective date of this chapter without complying with the terms and provisions of this chapter.

## **Section 1755 – Partition Fences**

**1755.01 Partition Fences.** Nothing in this chapter shall be applicable to partition fences that are subject to the provisions of M.S. Chapter 344, as it may be amended from time to time.