

ORDINANCE NO. 111824-2

AN ORDINANCE ACCEPTING FINDINGS OF FACT AND RECOMMENDATIONS OF THE ZONING ADMINISTRATOR TO APPROVE AN APPLICATION FOR A ZONING TEXT AMENDMENT SUBMITTED BY THE VILLAGE OF POCAHONTAS, ILLINOIS

WHEREAS, a public hearing was held at the Village of Pocahontas Community Building, 101 West Kavanaugh Street, Pocahontas, Illinois, on May 14, 2024, before the Pocahontas Zoning Administrator and Board of Appeals, and notice of said hearing was duly given to all individuals entitled to notice, as well as by publication of the hearing in local newspaper and posting of the notice of hearing at Village Hall; and

WHEREAS, an application was presented by the Village of Pocahontas, on behalf of the board of trustees, to make certain zoning text amendments to the Pocahontas Zoning Code to update the existing zoning code as more fully set forth in the Village's text amendment application; and

WHEREAS, at the conclusion of the hearing on the above request for zoning text amendment, the Zoning Administrator issued findings of fact and her recommendation that the zoning text amendment be granted, as noted in the findings of fact and accompanying memorandum attached hereto as Exhibit 1.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF POCAHONTAS, ILLINOIS, AS FOLLOWS:

SECTION ONE: The above recitals are hereby set forth in this section as findings of fact.

SECTION TWO: That the request for a zoning text amendment is granted with the following changes to be made to Chapter 40 of the Zoning Code as more fully set forth below. **SECTION**

THREE – AMENDMENT: 40-2-2 shall be amended to include the following:

“40-2-2 FENCE. A barrier intended to prevent escape or intrusion or to mark a boundary made of wood, vinyl, or metal.”

SECTION FOUR – AMENDMENT: 40-4-9 shall be amended to include the following:

“40-4-9 FENCES – GENERAL PROVISIONS.

1. All fences up to six feet in height erected or altered in the Village shall require a site plan submitted to the building inspector (or designee) prior to installation. The site plan shall include the fence's location, height, general design, material (wood, vinyl, metal), and other pertinent information upon request of the zoning administrator.
2. All fence support structures shall face the interior of the property, and the fence shall be attractive, sturdy, safe, uniform and of even dimension.
3. Routine maintenance of a fence, such as general repair, painting or staining, weatherization, and foundation stabilization, does not require a permit or site plan.
4. Fences exceeding six feet in height shall obtain a special use permit from the combined planning and zoning board per the provisions of Chapter 40, Article VI-Special Uses.
5. Fence replacement:
 - a. When 50 percent or more of a fence is replaced or rebuilt (as measured by the existing fence's linear length), a site plan must be submitted to the zoning administrator (or designee) before installation. The site plan shall include the fence location, height, general design, material (e.g., wood, vinyl, metal), and other pertinent information upon the building inspector's request.
 - b. Fences over six feet in height that will be replaced or reconstructed per the criteria in this subsection shall obtain a special use permit per the provisions of Chapter 40 Article VI special use permits if one has not been previously granted.
 - c. If a special use permit has been granted for a fence exceeding six feet, a site plan submittal to the building inspector shall be sufficient if fence replacement or reconstruction will result in an identical fence location, height, general design, and material as the existing fence. Changes to any of these criteria shall require a revised special use permit by the combined planning and zoning board.
 - d. No fence, wall, or other obstruction shall be erected within any public right-of way except by written permission of the Village Board.
 - e. Property owners owner(s) shall be responsible for ensuring the fence is properly located so as to not cross onto adjoining properties without express written permission from the owner(s) of the adjoining property. Proper identification by the property owner of the location of property lines by a licensed surveyor prior to installation is encouraged. The Village of Pocahontas shall not be responsible for improper placement of fences or walls.
 - f. No person shall erect, or cause to be erected, maintain, or cause to be maintained, any fence or enclosure of which any part is charged with or designed to be charged with electrical current.
 - g. The use of barbed wire or single-strand wire fences shall not be permitted except in industrial districts by written permission of the Village Board.
 - h. No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code (70 ILCS 605/1-1 et seq.) Property owners are responsible for ensuring that a fence does not block or obstruct the flow of stormwater.

- i. The property owners are responsible for maintaining fences on their property and removing any fence that becomes unsightly or a menace to public safety, health, or welfare.
- j. The Village is not responsible for any damages to fences, structures, or buildings constructed over an easement caused during maintenance, repair, replacement, or any other activity derived from or associated with the intent and purpose of said easement.”

SECTION FIVE – AMENDMENT: 40-11-7 shall be amended to include the following:

“40-11-7 FENCE LOCATION REGULATIONS FOR RESIDENTIAL DISTRICT (R-1 ONE-FAMILY DWELLING DISTRICT).

1. On an interior lot:
 - a. A fence up to six feet in height shall be allowed to be placed on the property line within the side and rear yards.
 - b. A fence up to a maximum of 30 inches (2.5 feet) in height shall be allowed in the front yard. The fence may be placed on the property line.
2. On a corner lot:
 - a. A fence up to six feet in height shall be allowed to be placed on the property line within the rear yard and within any side yard not adjacent to the public street. b. A fence up to a maximum of 30 inches (2.5 feet) shall be allowed in the front yard. The front yard shall be determined by the building inspector based upon the property address, the orientation of the dwelling, and/or the location of the primary entrance. A fence shall not be permitted within the sight distance triangle.
 - c. For all other yards adjacent to public street right-of-way (excluding alleys), fence heights shall be 30 inches (2.5 feet) or less when located three feet or less from the property line. Fence heights up to six feet shall be allowed when located more than three feet from the property line. *See Exhibit A - Corner Lot Fences.*
 - d. For double frontage and through lots, a sight distance triangle shall be required at all intersecting street corners (except alleys).
 - e. For the purposes of this section, fence heights along lot lines adjacent to alleys shall be allowed to be up to six feet in height and placed on the property line. f. All fences must remain a minimum of 6 feet away from utilities including but not limited to water meter, gas meter, electric meter to allow workers clear and safe access to these areas.”

SECTION SIX – AMENDMENT: 40-11-13 shall be amended to include the following:

“40-11-13 FENCE LOCATION REGULATIONS FOR RESIDENTIAL DISTRICT (R-2 GENERAL RESIDENCE DISTRICT).

1. On an interior lot:
 - a. A fence up to six feet in height shall be allowed to be placed on the property line within the side and rear yards.
 - b. A fence up to a maximum of 30 inches (2.5 feet) in height shall be allowed in the front yard. The fence may be placed on the property line.

2. On a corner lot:

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a. A fence up to six feet in height shall be allowed to be placed on the property line within the rear yard and within any side yard not adjacent to the public street. b. A fence up to a maximum of 30 inches (2.5 feet) shall be allowed in the front yard.

The front yard shall be determined by the building inspector based upon the property address, the orientation of the dwelling, and/or the location of the primary entrance. A fence shall not be permitted within the sight distance triangle.

c. For all other yards adjacent to public street right-of-way (excluding alleys), fence heights shall be 30 inches (2.5 feet) or less when located three feet or less from the property line. Fence heights up to six feet shall be allowed when located more than three feet from the property line. *See Exhibit A – Corner Lot Fences.*

d. For double frontage and through lots, a sight distance triangle shall be required at all intersecting street corners (except alleys).

e. For the purposes of this section, fence heights along lot lines adjacent to alleys shall be allowed to be up to six feet in height and placed on the property line. f. All fences must remain a minimum of 6 feet away from utilities including but not limited to water meter, gas meter, electric meter to allow workers clear and safe access to these areas.”

SECTION SEVEN: If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION EIGHT: This Ordinance shall be in effect upon its passage, approval and publication as provided for by law.

VOTING AYE:

Pat Forhan

Matt Hawley

Sue Kovach

Dave Crawford

Danny Beard Jr

VOTING NAY:

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ABSENT:

Adam Evans

ABSTAINED:

APPROVED this 18th day of November 2024.

Karen Heilig
Karen Heilig, President

ATTESTED, Filed in my office,
And published in pamphlet form
This day of 2024.

Loni Hensler
Loni Hensler, Village Clerk

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ZONING BOARD OF APPEALS

Village of Pocahontas

Mayor and Village Board Trustees

Village of Pocahontas

Village Hall

Pocahontas, Illinois

Re: **A zoning text amendment to create a proposed fence ordinance.**

This section contains the minimum regulations for erecting or altering fences and walls in the Village of Pocahontas.

Fences - General provisions.

1. All fences up to six feet in height erected or altered in the Village shall require a site plan submitted to the building inspector (or designee) prior to installation. The site plan shall include the fence's location, height, general design, material (wood, vinyl, metal), and other pertinent information upon request of the zoning administrator. (2)
2. All fence support structures shall face the interior of the property, and the fence shall be attractive, sturdy, safe, uniform and of even dimension. (3)
3. Routine maintenance of a fence, such as general repair, painting or staining, weatherization, and foundation stabilization, does not require a permit or site plan.
4. Fences exceeding six feet in height shall obtain a special use permit from the combined planning and zoning board per the provisions of **(Insert VoP Ordinance)** Special Use Permits.
5. Fence replacement.
 - a. When 50 percent or more of a fence is replaced or rebuilt (as measured by the existing fence's linear length), a site plan must be submitted to the zoning administrator (or designee) before installation. The site plan shall include the fence location, height, general design, material (e.g., wood, vinyl, metal), and other pertinent information upon the building inspector's request.
 - b. Fences over six feet in height that will be replaced or reconstructed per the criteria in this subsection shall obtain a special use permit per the provisions of **(Insert VoP Ordinance)** special use permits if one has not been previously granted.
 - c. If a special use permit has been granted for a fence exceeding six feet, a site plan submittal to the building inspector shall be sufficient if fence replacement or reconstruction will result in an identical fence location, height, general design, and material as the existing fence. Changes to any of these criteria shall require a revised special use permit by the combined planning and zoning board.

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6. No fence shall be located within the sight distance triangle as defined in (Insert VoP Ordinance)
7. No fence, wall, or other obstruction shall be erected within any public right-of-way except by written permission of the Village Board.
8. Property owner(s) shall be responsible for ensuring the fence is properly located so it does not cross onto adjoining properties without express written permission from the owner(s) of the adjoining property. Proper identification by the property owner of the location of property lines by a licensed surveyor prior to installation is encouraged. The Village of Pocahontas shall not be responsible for improper placement of fences or walls.
9. No person shall erect, or cause to be erected, maintain, or cause to be maintained, any fence or enclosure of which any part is charged with or designed to be charged with electrical current.
10. The use of barbed wire or single-strand wire fences shall not be permitted except in industrial districts by written permission of the Village Board.
11. No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code (70 ILCS 605/1-1 et seq.) Property owners are responsible for ensuring that a fence does not block or obstruct the flow of stormwater.
12. The property owners are responsible for maintaining fences on their property and removing any fence that becomes unsightly or a menace to public safety, health, or welfare.
13. The city is not responsible for any damages to fences, structures, or buildings constructed over an easement caused during maintenance, repair, replacement, or any other activity derived from or associated with the intent and purpose of said easement

(b) Fence regulations for residential districts (R-1, R-2, R-3, and R-4).

Location.

A. On an interior lot:

1. A fence up to six feet in height shall be allowed to be placed on the property line within the side and rear yards.
2. A fence up to a maximum of 30 inches (2.5 feet) in height shall be allowed in the front yard. The fence may be placed on the property line.

B. On a corner lot

1. A fence up to six feet in height shall be allowed to be placed on the property line within the rear yard and within any side yard not adjacent to the public street.(i)
2. A fence up to a maximum of 30 inches (2.5 feet) shall be allowed in the front yard. The front yard shall be determined by the building inspector based upon the property address, the orientation of the dwelling, and/or the location of the primary entrance. A fence shall not be permitted within the sight distance triangle. (ii)
3. For all other yards adjacent to public street right-of-way (excluding alleys), fence heights shall be 30 inches (2.5 feet) or less when located three feet or less from the property line. Fence heights up to six feet shall be allowed when located more than three feet from the property line. See Exhibit 1 - Corner Lot Fences.(iv)

4. For double frontage and through lots, a sight distance triangle shall be required at all intersecting street corners (except alleys).

5. For the purposes of this section, fence heights along lot lines adjacent to alleys shall be allowed to be up to six feet in height and placed on the property line.

Board:

The Zoning Board of Appeals held a public meeting on May 14, 2024, at the Pocahontas Village Hall at 7:00PM to discuss a Zoning Text Amendment.

The Board of Appeals recommends that the requested text amendment be to add the Zoning Ordinances.

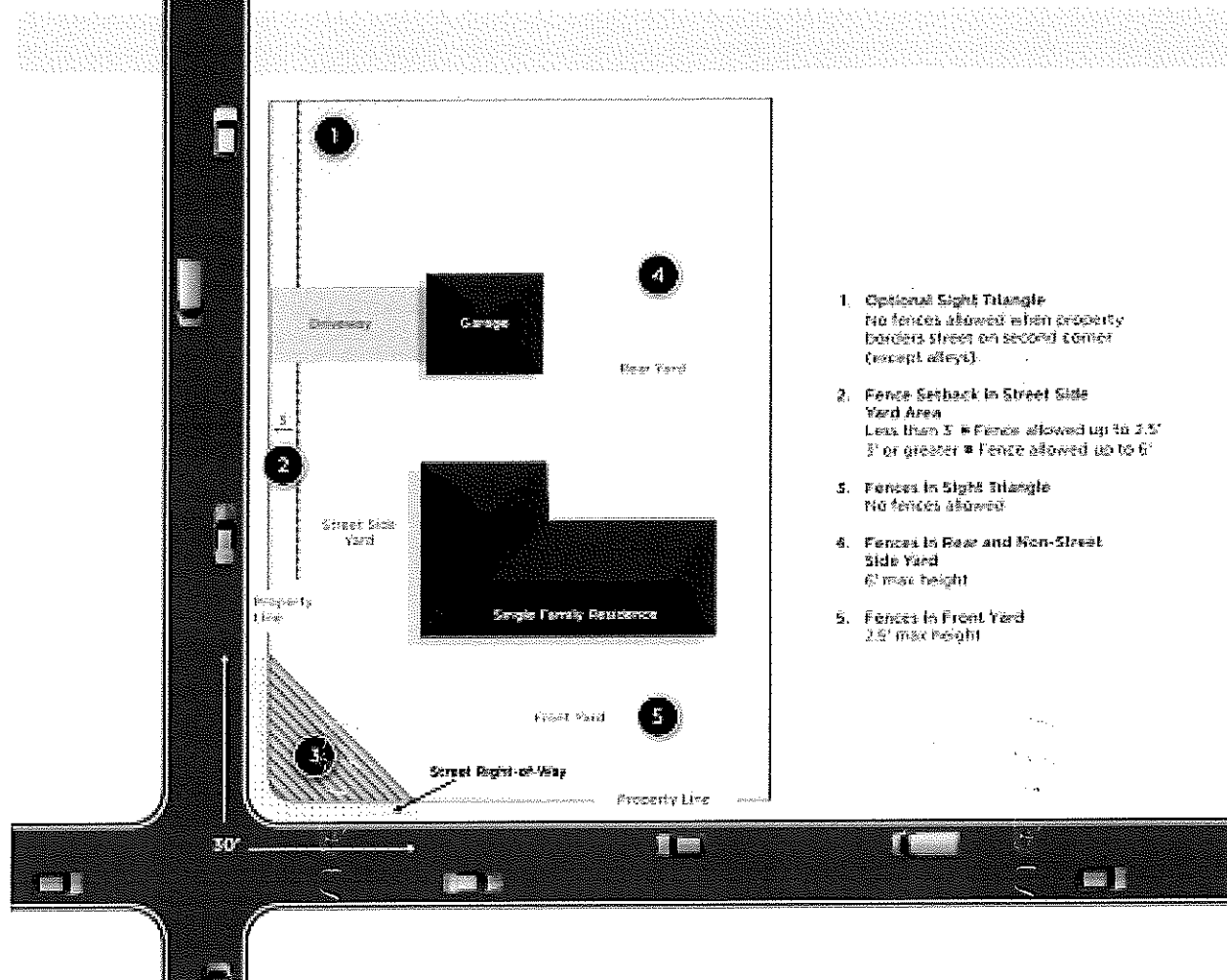
By the vote of 5 - 0, the Zoning Board of Appeals recommends that the proposed requests be granted.

Very Truly Yours

VILLAGE OF POCAHONTAS

ZONING BOARD OF APPEALS

Exhibit A - Fence Placement for Corner Lots in Residential Areas



1. **Optional Sight Triangle**
No fences allowed when property borders street on second corner (except alleys).
2. **Fence Setback in Street Side Yard Area**
Less than 5' ■ Fence allowed up to 2.5'
5' or greater ■ Fence allowed up to 6'
3. **Fences in Sight Triangle**
No fences allowed
4. **Fences in Rear and Non-Street Side Yard**
6' max height
5. **Fences in Front Yard**
2.5' max height