

Exhibit A to 06-58
CHAPTER 1139
Fences

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1139.01 PURPOSE.

The purpose of this chapter is to establish regulations controlling the use of fences, hedges and walls in a manner which contributes to the public health, safety, and general welfare and to the value and aesthetic quality of properties throughout the community. It is further the purpose of this chapter to maintain clear visibility of vehicular and pedestrian traffic on adjacent streets, alleys and sidewalks that may otherwise be affected by fencing and/or wall locations and heights; to maintain an orderly appearance and reduce any negative impact upon other properties where such fencing or walls are directly visible from and adjacent to public streets; and to regulate the location, height and material composition of fences, landscaping and overall general fence characteristics.

1139.02 DEFINITIONS. The following definitions shall apply:

- (a) "Accessory use or structure" is a use or structure that is ancillary to the main use.
- (b) "Agricultural" includes farming, dairying, pasturage, agriculture, horticulture, viticulture, animal and poultry husbandry, and the limited processing and sale of agricultural products from land under ownership.
- (c) "Fence" means an accessory wall or structure composed of wood, iron, steel, vinyl, shrubbery, hedges or other material erected in such a manner and positioned as to enclose, or partially enclose, or inhibit the view of any premises or along any part of any premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers and other vegetation when erected in such position as to enclose any premises or any part of any premises shall be included within the definition of "fence". Structures erected other than on lot lines, or within five feet of lot

lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing premises, or separating premises from adjoining premises, hedges, retaining walls, or electronic or sound controlled invisible fences, shall not be included within the definition of the word fence.

- (1) "Fence, privacy" means a fence constructed of wood, vinyl, or a hedge which may be designed, located, or constructed to inhibit public view and to provide seclusion and which, when viewed at right angles, may have more than fifty percent (50%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its vertical plane, closed to light or air. Privacy fences include the following:
 - (2) "Fence, stockade" means a privacy fence constructed with a row of large pointed stakes placed upright and against each other. Stockade fences are prohibited
 - (3) "Fence, solid board" means a privacy fence constructed with a row of boards placed upright and against each other.
 - (4) "Fence, board on board" (shadow box) means a privacy fence constructed with two rows of boards placed upright on opposite sides of a supporting beam, and which have repetitive spacing between boards.
 - (5) "Fence, basket weave" or "woven" fence means a privacy fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket. Basket weave fences are prohibited.
 - (6) "Fence, louver" or "ventilating" fence means a privacy fence made of a series of slats placed at an angle or position so as to provide air but to deflect light perpendicular to its vertical plane.
- (d) "Fence, open ornamental" means a fence usually made of wood, metal, wrought iron, or vinyl constructed for its beauty or decorative effect, which shall not have more than fifty percent (50%) of the area of its vertical plane (the area within a rectangular outline enclosing all parts of the fence is its vertical plane) closed to light or air. A chain link fence is not included in the meaning of "open ornamental fence". "Open ornamental fences" include:
 - (1) "Rail" or "Split rail" means an open ornamental fence constructed of narrow whole or split wooden timbers, placed horizontally between upright supporting posts.
 - (2) "Post and board" means an open ornamental fence constructed of material approved by the Building Inspector, placed horizontally either between upright supporting posts or on the same.
 - (3) "Picket" means an open ornamental fence made of upright poles or slats. The width of the slats shall not be greater

than three (3) inches. The spacing between the slats shall not be greater than twice the width of the slat. No spacing between slats shall be greater than three (3) inches.

- (e) "Fence, chain link" means a fence usually made of metal consisting of loops of wire interconnected in a series of joined links.
- (f) "Fence, barbed wire" means a fence made with metal wire having sharp points or barbs along its length, and includes razor and concertina wire. These are not permitted in the City of Hilliard.
- (g) "Fence, electrified" means a fence or structure, included in which or attached to which, is any device or object which emits or produces an electric charge, impulse or shock when the same comes into contact with any other object or any person, animal or thing, or which causes or may cause burns to any person or animal. "Electrified" fence does not include underground devices used to control animals or for security purposes.
- (h) "Residential" as used in this Chapter shall include any residential zoning district as well as any property used for residential purposes in a Planned Unit Development and in all B-6 zoning.
- (i) "Special" district is one given an "S-1" zoning designation pursuant to Chapter 1123.

1139.03 PERMITTED FENCES IN RESIDENTIAL, AGRICULTURAL AND SPECIAL DISTRICTS.

Privacy, open, ornamental and chain link fences are permitted in residential, agricultural and special districts in conformance with the following provisions

- (a) Height.
 - (1) The height of a fence above the natural grade shall not exceed the following, and may be subject to other height restrictions or allowances depending on location of the fence as further provided in this code. See Sections 1139.06(f) and (g).

Open ornamental fence	4 feet
Privacy fence	6 feet
Chain Link fence	4 feet

The height of a fence shall be measured from the established grade line to the highest point of the fence excluding posts and finials. The height of the fence may not be artificially increased by the use of mounding unless otherwise required by the zoning district regulations.
 - (2) For either "post and board" or "rail/split rail" fences, if the post extends four (4) feet above the natural grade, then not more than four boards or rails shall be installed. If the post extends less than four (4) feet above the natural grade, then not more than three (3) boards or rails shall be installed.

- (3) Shrubbery or hedges located closer to the street right-of-way than the dwelling which are not be more than three (3) feet in height above the natural grade shall not be deemed fences.
- (b) Location. Except as otherwise permitted herein, fences are not permitted closer to a public right-of-way than the face of the main building structure extended laterally regardless of whether the main building structure extends up to the build line. This provision applies to front yards, interior lots, corner lots, double-corner lots and through lots. "Face of the main building structure" excludes building projections including garages, porches, chimneys, bay windows or other similar structures. The fence shall not be permitted to encroach upon public rights-of-way or easements or no build zones, conservation or no/disturb zones.
 - (1) Front Yard. Only open ornamental fences are permitted in front yards if placed safely so as not to obstruct visibility at driveway and roadway intersections and shall not be any closer to the public right of way than three feet.
 - (2) Interior Lot. Privacy fences, open ornamental fences, or chain link fences may be located in the side and rear yards in the buildable areas, and must meet minimum setbacks for principal structures.
 - (3) Corner Lot, Double Corner Lot, Through Lot.
 - (A) An Open ornamental fence may be located in the buildable area that is not past the build line, and in side and rear yards that do not abut a street. Except as provided in (3)(B) below, no other fences are permitted on the lot.
 - (B) An ornamental fence or a privacy fence may be located in the side or rear yard, but not closer than ten (10) feet to the right-of-way, where the side yard or rear yard abuts a street or alley Landscaping, having a minimum opaqueness of fifty percent (50%) during full foliage, shall be installed in the area between the fence and the right-of-way.
- (c) Other Fences.
 - (1) Subject to approvals otherwise required by the Hilliard City Code, the Chief Building Inspector or designee may permit fences substantially similar in character and design to one or more of the fences permitted by this Chapter. Substantially similar means exhibiting the essential elements (of the like fence).
 - (2) Stone or brick walls used as fences may be permitted if approved by the Board of Zoning Appeals.

1139.04 SWIMMING POOL FENCES.

Fences shall be installed to surround all swimming pools, whether in- or above-ground, (collectively, “swimming pool”), as follows:

- (a) The immediate surrounds of the swimming pool or the yard on which it is located, shall be fenced and equipped with a self-latching gate and self-closing lock to prevent uncontrolled access into any swimming pool. The fence shall be designed, constructed, and maintained in a manner to secure the pool from unauthorized entry and may be a privacy fence, chain link or an open ornamental picket fence provided that the spaces between boards is small enough to prevent entry by small children.
- (b) The fence shall be at least four (4) feet above the natural grade but shall not exceed six (6) feet above the natural grade. A swimming pool shall be provided with either a fence four (4) feet in height completely surrounding the pool, or a fence along the top edge of the pool which is at least thirty-two (32) inches higher than the edge of the pool and four (4) feet above the natural grade. Any ladders or stairs providing access to a pool shall be enclosed by a fence and/or self-latching and self-locking gate with a lock to prevent uncontrolled access.
- (c) All gates within fencing surrounding a swimming pool shall be self-latching and self-locking.

1139.05 FENCES IN COMMERCIAL, BUSINESS AND MANUFACTURING DISTRICTS.

Except as otherwise provided in this Code, fences in other than residential, agricultural and special districts, shall comply with the following standards:

- (a) Fences shall only be constructed in rear and side yards. Open ornamental fences are permitted in front yards per Section 1139.03(b)(1).
- (b) Fences shall not exceed a height of seven (7) feet.
- (c) Fences abutting residential areas, or that are located directly across a street or right of way from a residential area, shall be a privacy fence type as defined in 1139.02(a)(1-5) above and shall be set back at least ten (10) feet from the property line. A landscape plan shall be submitted with the application and shall include planting adjacent to the fence and facing the residential area(s) and shall include at least one (1) shrub for every six (4) feet of fence. At least one half of all shrubs shall be evenly spaced and all shrubs shall be attractively arranged, with a minimum fifty percent (50%) year round opacity. At least 50% of the shrubs shall be evergreen. Shrubs shall be a minimum of two (2) feet in height at the time of planting and shall be of a type expected to reach at least six (6) feet at maturity with a spread of at least six feet. If mounding is used

the slope shall be no greater than 4:1 (or for every four feet of horizontal space the rise in grade is one foot).

- (d) Chain link and non-ornamental fences permitted under this code, if visible from a street, must be screened with appropriate landscape material providing a minimum eight percent (80%) year round opacity.

1139.06 MISCELLANEOUS COLOR, HEIGHT, LOCATION AND CONSTRUCTION REQUIREMENTS.

Notwithstanding anything contained herein to the contrary and in addition to any other requirement, the following provisions shall apply:

- (a) All fences, regardless of the district where located, shall be a neutral color of white, tan, light gray, light brown, or some variation thereof.
- (b) A fence may be constructed along or upon common property lines and across any utility easement so as to allow maximum use of the area to be enclosed. Fences placed on utility easements shall provide access to manholes, utility boxes, cleanouts or other apparatus that may be used from time to time for maintenance of the utility. Fences in drainage easements shall require prior approval of the City Engineer to allow for proper flow of water.
- (c) A fence shall not be located within three feet of a utility box, manhole or other apparatus that may be used for maintenance of the utility. When a fence obstructs access to a utility box, manhole or other public apparatus for maintaining utilities, the owner shall be required to remove such fence at his expense without remuneration from the City.
- (d) Except for a fence that is the same on both sides, such as split rail fences or board on board fences, fences shall be erected so that no exposed posts or supporting cross-elements face the public right-of-way or any lot other than the lot on which the fence is to be constructed.
- (e) The height of the fence shall not include the posts or finials, except, however, that the posts or finials may not exceed the fence height by more than six inches.
- (f) Except as approved or required by the City Engineer, all fences shall extend to the ground grade, or the bottom of the fence panels shall be no higher than six inches (6") above the ground grade, and those inches count towards the maximum fence height
- (g) The City Engineer may prohibit the construction of an otherwise permitted fence, if the location of the same interferes with the visibility at any right of way.
- (h) Only one style of fence, as defined herein for the applicable district, may be used on a single lot unless each of the following conditions is satisfied:

- (1) The new fence is an extension of a previously approved fence, or is connected to an already existing fence located on an adjacent property.
- (2) The new fence is approved at a public hearing conducted by the Board of Zoning Appeals.
- (i) Barbed wire, razor wire and concertina wire fences and electrified fences shall not be permitted in any district, except that the Board of Zoning Appeals may grant an exception to permit the construction of a barbed wire fence or electrified fence where it finds that the nature of a use enclosed by such fence, the location and appearance of the fence, and the public welfare and safety justify the construction of such a fence.

1139.07 MAINTENANCE.

- (a) All fences, walls, and hedges shall be maintained in good condition, with all boards, posts, slats and gates securely in place, be structurally sound and completely finished at all times, including its painted surfaces. Any grounds between such structures and property lines shall be well maintained at all times, and clear of debris, weeds and overgrowth.
- (b) All fences located within an S-1 or A-1 District, and which are constructed in order to, at any time, house livestock, shall be locked securely and maintained in a manner to prevent the wondering of livestock from the fenced area.

1139.08 PERMIT AND INSPECTION.

- (a) No fence shall be constructed until a permit has been issued by the Chief Building Inspector or designee and the applicable fee is paid. The application for a permit shall include plans or drawings showing the actual and accurate shape and dimensions of the property on which the fence or wall is to be erected; the exact height, location, length, type of material, type of construction of such proposed fence or wall; the location of all buildings on the lot; and other information deemed necessary by the Chief Building Inspector or designee in order to ensure that such fence or wall is constructed in compliance with this code.
- (b) Each property owner shall determine property lines prior to constructing a fence and shall ascertain that the fence thus constructed does not deviate from the plans as approved by the Chief Building Inspector or designee and does not encroach upon another lot or parcel of land. The owner shall either: (1) submit a copy of a survey drawing indicating the location of property lines in the area of the proposed fence; or (2) locate and mark the property corners so they are visible at the time of inspection; or (3) submit a signed statement from the abutting owner or owners stating that they approve of the proposed location of the fence.

- (c) The City shall furnish such inspection as is deemed necessary to determine that the fence is constructed in accordance with plans submitted for permit, provided, however, that the issuance of such permit by the City shall not be construed to mean the City has determined the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed on him herein.
- (d) To the extent possible, two fences and walls shall not be placed back-to-back along a common property line. Every effort shall be made to utilize the existing fence or wall. Otherwise, there shall be no separation between the two fences or walls, or a minimum separation of three (3) feet between fences or walls shall be provided for the maintenance of the fences or walls and the ground area between the two fences or walls.

1139.09

COMPLIANCE REQUIRED; CONFLICTING PROVISIONS.

- (a) Fences shall be designed, erected, altered, reconstructed, moved, anchored, positioned and maintained strictly in accordance with the provisions of this code.
- (b) If these code standards are more restrictive than the standards in any planned development text, then the code standards herein shall prevail. Standards in this code section applicable to matters not covered in the planned development zoning text shall also apply.

1139.99

PENALTY.

Whoever violates any provisions of this chapter shall be deemed guilty of a misdemeanor of the fourth degree. Each day that such violation continues shall constitute a separate offense. A subsequent violation for the same offense within a twelve-month period shall be deemed a misdemeanor of the first degree. See section 501.99 for penalties.