

**VILLAGE OF BARTLETT**

**COMMITTEE AGENDA**

**SEPTEMBER 15, 2015**

**FINANCE**

1. Utility Tax Discussion

**PLANNING & ZONING**

1. Zoning Ordinance Fence Text Amendment



# Agenda Item Executive Summary

Item Name Food and Beverage Tax Committee or Board Committee

## BUDGET IMPACT

Amount:	N/A	Budgeted	N/A
List what fund	General Fund		

## EXECUTIVE SUMMARY

Discussion item for implementing a Food and Beverage Tax.

## ATTACHMENTS (PLEASE LIST)

List of other revenue sources by DuPage Municipalities  
 Village of Streamwood, Food and Beverage Tax Remittance Form  
 Village of Streamwood, Ordinance authorizing a Food and Beverage Tax

## ACTION REQUESTED

- For Discussion Only
- Resolution
- Ordinance
- Motion:

Staff: Jeff Martynowicz, Finance Director Date: 9/8/2015

**Village of Bartlett**  
**Finance Department Memo**  
**2015 - 22**

**DATE:** September 8, 2015  
**TO:** Valerie Salmons, Village Administrator  
**FROM:** Jeff Martynowicz, Finance Director  
**SUBJECT:** Food and Beverage Tax

Per your request, I have looked at the amount of revenue the Village of Bartlett would generate if it were to establish a food and beverage (F&B) tax based on a 1%, 2%, 3% and 4% tax. In calendar year 2014, the Village collected \$284,000 in sales taxes from drinking and eating establishments. The Village also has 43 businesses that are classified as drinking and eating places under the state's sales tax criteria. Unfortunately, the State does not separate what is generated in food and beverage. Based on the aforementioned, we can assume a 1% F&B tax would generate \$284,000, 2% would generate \$568,000, 3% would generate \$852,000 and 4% would generate \$1,136,000.

I also looked at some similar communities that have F&B tax. The Village of Hanover Park has a 3% F&B tax and generated \$1,036,661 in 2014, Streamwood has a 2% tax and generated \$1,192,895, Villa Park has a 1.5% tax and generated \$537,365 and Glendale Heights has a 1% tax and generated \$470,458.

I have attached the monthly remittance form that Streamwood uses to collect the F&B Tax along with their ordinance. Also attached is a listing of "other revenues" municipalities have implemented. The data came from the annual DuPage Mayors and Managers survey on municipal revenues for 2014.

Trustee Hopkins also asked for a history on our Electric and Gas tax. In Fiscal Year 2013 the Village collected \$1,482,693. This was based on 10 months of collections. In 2014 the Village collected \$1,704,373 and in 2015 we collected \$1,705,763. Both Com Ed and Nicor Gas do not give any data on what is generated from business or residential.





## **3-3-7: FOOD AND BEVERAGE TAX:**

### **3-3-7.1: DEFINITIONS:**

As used in this section 3-3-7, the following terms shall have the following meanings:

**ALCOHOLIC LIQUOR:** Any alcohol, spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is intended for internal consumption by humans.

**PREPARED FOOD:** Includes any solid, liquid including both alcoholic liquor and nonalcoholic liquids, except "soft drinks" as hereinafter defined, powder or item used or intended to be used for human internal consumption, whether simple, compound, or mixed, and which has been prepared for immediate consumption. Prepared food may be purchased for consumption within or upon the premises where it is sold, or it may be purchased for consumption off the premises. However, with respect to food purchased for consumption off the premises where it is sold, the term "prepared food" does not include any food which is taxed pursuant to 35 Illinois Compiled Statutes 120/2-10 or is sold in a closed or sealed bottle, can, carton or container of the manufacturer or wholesaler or which has not been prepared for immediate consumption. Notwithstanding any other provisions of this section 3-3-7, "prepared food" does not include any food or drink sold through a vending machine regardless of the location of the vending machine.

**PREPARED FOOD FACILITY:** Any person, business, or establishment which sells at retail prepared food that has been prepared for immediate consumption with seating provided for consumption of the prepared food, whether or not such prepared food facility use is conducted along with any other use in a common establishment commonly described as an inn, restaurant, eating place, drive-in restaurant, buffet, bakery, cafeteria, cafe, lunch counter, grocery store, convenience store, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, bar, cocktail lounge, soft drink parlor, ice cream parlor, tearoom, delicatessen, hotel, motel, or club, or any other establishment which sells at retail food which has been prepared for immediate consumption. The term "prepared food facility" does not include churches, public or private schools, boarding houses, daycare centers, nursing homes, retirement centers or similar residential care facilities, or programs for the central preparation of meals to be delivered and consumed at private residences of the elderly or disabled, or other facilities of not for profit associations or corporations.

**PURCHASE AT RETAIL:** To obtain for use or consumption and not for resale, in exchange for consideration, whether in the form of money, credits, barter or any other nature.

**RETAIL LIQUOR FACILITY:** Any premises required to obtain a retail liquor license pursuant to chapter 4 of this title.

**RETAILER:** A person or entity who/which sells or offers for sale for use or consumption and not for resale.

**SOFT DRINKS:** Any complete, finished, ready to use, nonalcoholic drink, whether carbonated or not, including, but not limited to, soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size. "Soft drink" does not include coffee, tea, noncarbonated water, infant formula, milk or milk products as defined in the grade A pasteurized milk and milk products act, or drinks containing fifty percent (50%) or more natural fruit or vegetable juice.

**VILLAGE:** Streamwood, Cook County, Illinois. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.2: IMPOSITION OF TAX:**

Effective January 1, 2012, a tax, in addition to any and all other taxes imposed, is hereby levied and imposed upon the retail purchase of alcoholic liquor and prepared foods at any prepared food facility or retail liquor facility, within the village, at the rate of two percent (2.0%) of the purchase price of such alcoholic liquor and prepared foods, excluding other taxes imposed thereon, the ultimate incidence of and the liability for payment of which shall be borne by the purchaser. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.3: COLLECTION OF TAX:**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to collect and account for the tax imposed on each purchaser at the time the consideration is paid by the purchaser. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.4: BOOKS AND RECORDS:**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sale of prepared foods and alcoholic liquor and the tax collected each business day, which shall be made available to the village for examination and for audit by the village upon reasonable notice and during customary business hours. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.5: TRANSMISSION OF TAX COLLECTION:**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to

cause to be filed, a sworn prepared food and beverage tax return with the director of finance of the village for each prepared food facility and retail liquor facility located within the village. The return shall be prepared and submitted on forms prescribed by the village and filed with the village by the filing date and at the same time intervals or frequencies as the sale and use tax return, form ST-1, is due to be filed with the Illinois department of revenue. The return shall also be accompanied by payment to the village of all taxes imposed by this section 3-3-7 which are due and owing for the time period covered by the return. The return shall also be accompanied by a copy of the sale and use tax return, form ST-1, filed with the Illinois department of revenue for sales within the village during the same time period. All taxes collected by the village pursuant to this section 3-3-7 are general revenues of the village and may be used by the village for any lawful corporate purpose. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.6: LATE PAYMENT PENALTY:**

If any tax imposed by this section 3-3-7 is not paid when due, a late payment penalty equal to five percent (5.0%) of the unpaid tax shall be added for each month, or any portion thereof, that the tax remains unpaid and the late payment penalty shall be paid along with the tax imposed. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.7: TRANSMITTAL OF EXCESS TAX COLLECTIONS:**

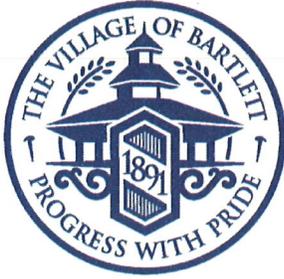
If any retailer collects an amount upon a sale not subject to the tax imposed hereby, but which amount is purported to be the collection of the tax, or if a retailer collects an amount upon a sale greater than the amount of the tax imposed herein and does not for any reason return it to the purchaser who paid it before filing the return for the period in which it occurred, that person shall account for and pay over those amounts to the village along with the tax properly collected. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

### **3-3-7.8: ENFORCEMENT, LICENSE SUSPENSION, REVOCATION:**

Payment and collection of the tax and any late payment penalty may be enforced by action in any administrative hearing or any court of competent jurisdiction and failure to collect, account for and pay over the tax and any late payment penalty shall be cause for suspension or revocation of any village license issued for the prepared food facility or retail liquor facility, if any, and all in addition to any other penalties provided for by this code. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)

**3-3-7.9: PENALTY:**

Any retailer operating a prepared food facility or retail liquor facility within the village who fails or omits to collect, account for, pay over to the village the tax and any late payment penalty, if any, imposed by this section 3-3-7, or fails to maintain or allow examination of the books and records required in section 3-3-7.4 of this chapter shall be guilty of a business offense and shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day a violation of this section 3-3-7 continues shall be considered a separate violation. (Ord. 2011-32, 11-17-2011, eff. 12-31-2011)



# Agenda Item Executive Summary

Case #14-20 - Zoning Ordinance Text  
 Amendment to increase the Fence Height in  
 Residential Zoning Districts from 3' to 4' in the

Item Name

Front and Corner Side Yards

Committee  
or Board

Village Board Committee

## BUDGET IMPACT

Amount:

n/a

Budgeted

n/a

List what  
fund

n/a

## EXECUTIVE SUMMARY

A Text Amendment to the Zoning Ordinance to increase the Fence Height in the Residential Zoning Districts from 3' to 4' in the Front and Corner Side Yards.

## ATTACHMENTS (PLEASE LIST)

CD Memo, Obstruction List, Zoning Ordinance Amended Sections, List of Fence Variation Petitions, Examples of Fence Types.

## ACTION REQUESTED

For Discussion Only   X   To discuss the proposed Text Amendment and forward the petition to the Zoning Board of Appeals for further review and to conduct the public hearing.

Ordinance \_\_\_\_\_

Motion \_\_\_\_\_

Staff:

Jim Plonczynski, Community Develop. Director

Date:

9/4/15

**COMMUNITY DEVELOPMENT MEMORANDUM**

**15-162**

DATE: September 4, 2015

TO: Valerie L. Salmons, Village Administrator

FROM: Jim Plonczynski, CD Director

RE: **(#14-20) Zoning Ordinance Text Amendment to increase the Fence Height in Residential Zoning Districts from 3' to 4' in the Front and Corner Side Yards**

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The Zoning Board of Appeals requested the Staff to prepare a text amendment to the Zoning Ordinance that would allow four-foot high (4') fences in the required front and corner side yards of residential lots and then to forward this proposed amendment to the Village Board Committee for its' review. Currently, the Zoning Ordinance allows a maximum fence height of three feet (3') in the required front and corner side yards. Increasing the allowable fence height to four feet (4') would reduce the number of fence height variations yet still allow for screening and security on corner lots. Fences within the vision triangle would remain limited to a maximum height of three feet (3').

Since 1990, the Village Board has considered 54 petitions for fence height variations in the front and corner side yards on residential lots. *(Two (2) of the petitions requested multiple fence height variations for **both** the required front yard and corner side yard bringing the total number of fence variation requests to 56).* The fence height variation requests since 1990 are broken down as follows:

<b>Height of Request (In Feet)</b>	<b># of Requests</b>	<b>Approval Rate</b>
3.5	1	100%
4	18	83%
5	20	75%
6	17	76%

To provide some historical perspective, if the proposed text amendment had been in effect in 1990 through today, more than one third (35%) of the above petitions for fence height variations would have been eliminated with residents applying for a building permit immediately rather than waiting to go through the variation process (approximately 45-60 days).

Fences located in the required front and corner side yards could either be *open* or *solid* fences, which are terms that are currently defined in the Zoning Ordinance. Examples of both open and solid type fences are attached. The proposed text amendment to the Zoning Ordinance and a list of residential fence variation requests since 1990 are also attached for your review. If the text amendment to the Zoning Ordinance is approved, Chapter 16 of the Building Code regarding fences would also need to be updated.

**Recommendation**

Staff recommends forwarding the proposed text amendment to the Zoning Board of Appeals for their review and to conduct the public hearing.

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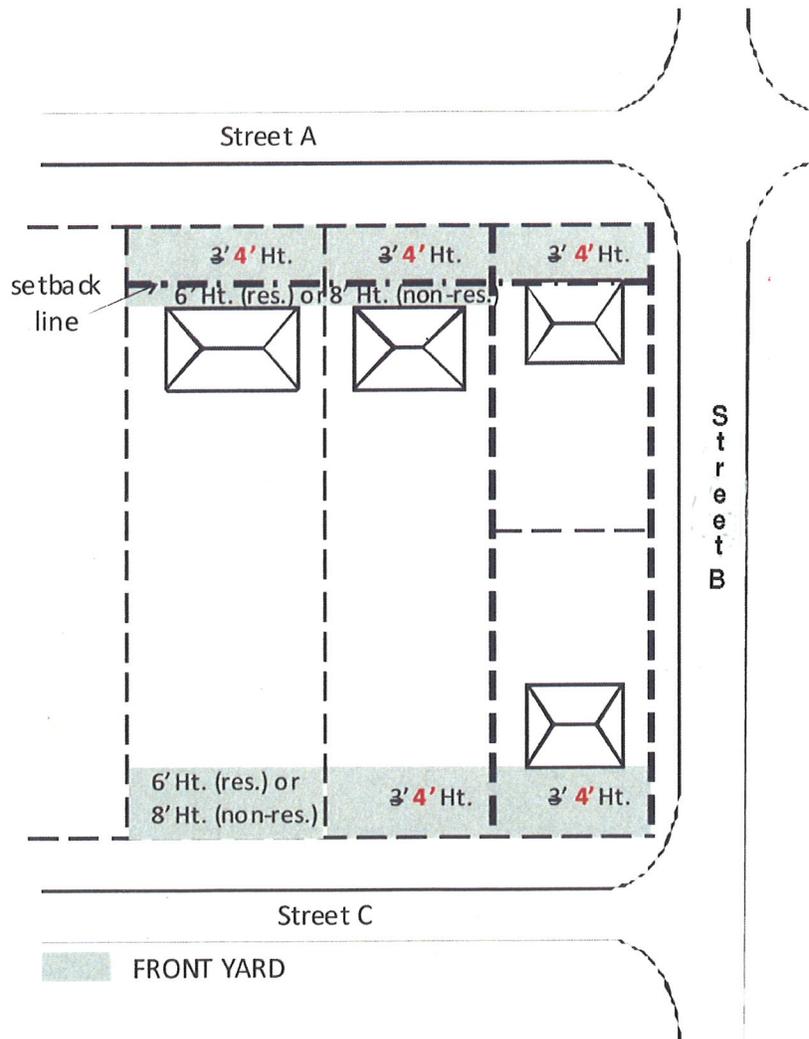
## Zoning Ordinance Section 10-3-4

Type of Obstruction	Yards			
	Front	Side	Side	Rear
Decks greater than eighteen inches (18") in height, are permitted to extend ten feet (10') into the required rear yard and shall be setback a minimum of five feet (5') from a side property line, except in the SR-4 district, where it shall be setback a minimum of three feet (3') from the side property line or when a side property line coincides with a common wall between dwelling units, then no setback shall be required. A dividing wall shall be required between immediately adjacent decks. *(See Section 10-3-5)				R
Decks eighteen inches (18") or less in height, on corner lots, only when the rear yard is not opposite the front entrance, and shall be setback a minimum of five feet (5') from any property line, except in the SR-4 district, where it shall be setback a minimum of three feet (3') from any property line. *(See Section 10-3-5)			S	
Dog Runs and Dog Houses, and shall be setback a minimum of five feet (5') from any property line, except in the SR-4 district, where it shall be setback a minimum of three feet (3') from any property line. *(See Section 10-3-5)				R
Driveways and other access drives.	F	C	S	R
Dumpster and trash enclosures, and shall be setback a minimum of five feet (5') from any property line. *(See Section 10-3-5)			S	R
Eaves and gutters on principal buildings or attached accessory buildings projecting a maximum of four feet (4') into a front and rear yard and a maximum of twenty four inches (24") into a side yard.	F	C	S	R
Entrance structures, architectural, on a lot two (2) acres or greater in area or at entrance roadways into subdivisions.	F	C	S	R
Farms and garden crops and shall be setback a minimum of 15' from the front of the house and a minimum of five feet (5') from a side property line, except in the SR-4 district, where it shall be setback a minimum of three feet (3') from the side property line.			S	R
Fences, a maximum of <del>three</del> <b>four</b> feet (3') <b>(4')</b> in height. *(See Section 10-3-5)	F	C	S	R

## Zoning Ordinance Section 10-3-5

9. Height: A fence is a permitted obstruction in any yard in any zoning district with the following limitations:
- Front Yards: Fences shall not exceed a height of ~~three~~ **four** feet (3') (**4'**) except as follows:
    - Front Yards behind Setback line: Fences shall not exceed a height of six feet (6') in residential districts or eight feet (8') in non-residential districts, when placed on or behind the front setback line as established by the zoning district in which the lot is located. (See Figure 3-5)
    - Through Lots: In front yards located behind the principal structure, adjacent to a public right-of-way and not adjacent to the front yard of a corner lot, fences shall not exceed a height of six feet (6') in residential districts or eight feet (8') in non-residential districts. (See Figure 3-5)

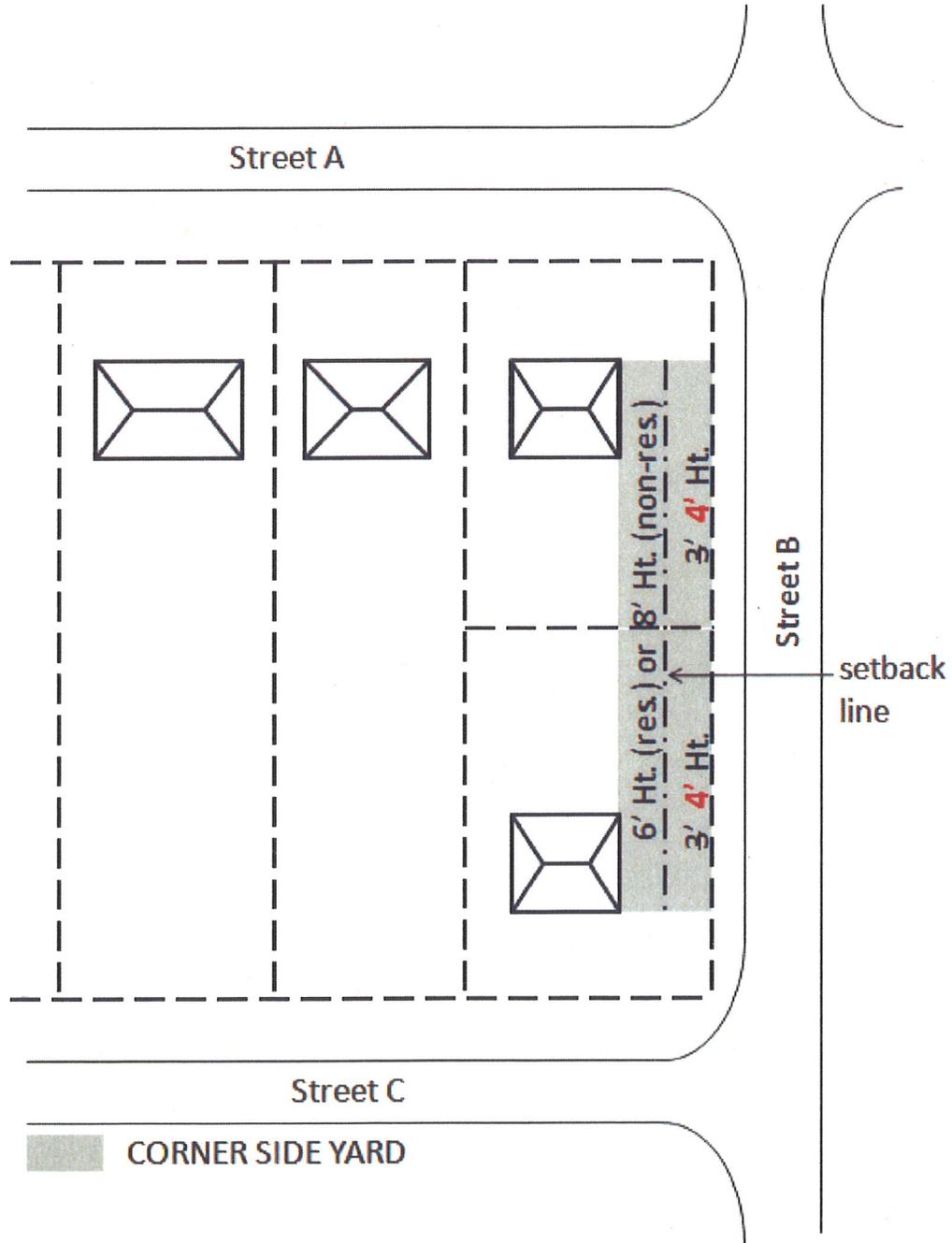
**FIGURE 3-5  
FENCES IN FRONT YARDS**



# Zoning Ordinance Section 10-3-5

- c. Corner Side Yards: Fences shall not exceed a height of ~~three~~ **four** feet (3') (**4'**) except when placed on or behind the corner side setback line as established by the zoning district in which the lot is located, then fences shall not exceed a height of six feet (6') in residential districts or eight feet (8') in non-residential districts. (See Figure 3-7)

**FIGURE 3-7  
FENCES IN CORNER SIDE YARDS**



## Zoning Ordinance Section 10-11A-4D

Alternate A: The buffering area shall be a minimum of eight feet (8') in width for this alternative. An opaque brick or other approved masonry wall six feet (6') high shall be constructed along the entire perimeter, excluding area within the required front yard setback. The wall may be continued within the front yard provided the height is reduced to three a maximum of **four** feet (3 4'). If the proposed use is for a mining operation or for related building or structure for screening, crushing, mining, washing or storage, the required masonry wall shall be eight feet (8') high. In addition, large deciduous trees in a quantity equal to one tree per seventy five feet (75') of perimeter length shall be provided. Tree spacing shall be determined by tree species and design considerations.

Alternate B: A minimum twelve foot (12') buffer area shall be required for this alternative. A fence of wood or other approved material six feet (6') high and at least seventy five percent (75%) opaque shall be constructed along the entire perimeter, excluding area within the required front yard setback. The fence may be continued within the front yard provided the height is reduced to three a maximum of **four** feet (3 4'). If the proposed use is for a mining operation or for related building or structure for screening, crushing, mining, washing or storage, the required masonry wall shall be eight feet (8') high. In addition shrubs shall be planted within the buffer area. Large deciduous trees shall be provided in a quantity equal to one tree per sixty feet (60') of perimeter length. Tree location shall be determined by tree species and design considerations.

## Residential Fence Variation Petitions

Case#	PROJECT NAME	Description	Completed Status	Ordinance #
1991-29	Skelnik - 1198 Morning Glory	5' in CSY	Approved	1992-04
1992-16	Powers - 951 Tallgrass Drive	4'	Denied	Motion
1992-18	George - 630 Swinford	5' in CSY	Approved	1992-57
1992-23	Massey - 1355 Mohawk	5' in CSY	Approved	1992-105
1992-27	Smith - 405 Millwood Lane	6' in CSY	Approved	1992-75
1992-29	Marciniak - 747 Falmore	6' & 4' in CSY	Approved	1993-15
1992-33	Hardwick - 633 Swinford	6' in CSY	Approved	1993-05
1993-18	Turchany - 524 Foster Avenue	4' & 6' in CSY	Approved	1993-87
1993-22	Sapp - 345 Windsor Drive	4' in CSY	Approved	1993-88
1993-26	Mogan - 1182 Princeton Drive	6'	Approved	1993-101
1993-33	Rapinchuk - 380 E. Millwood	6'	Approved	1993-117
1993-34	Ordoqui - 1024 W. Maplewood	5'	Approved	1993-133
1994-14	Cozzi - 761 Bayberry	6'	Denied	Motion
1994-21	Besinger - 345 Millwood	4'	Approved	1994-68
1994-24	Harrison - 510 Orchards Pass	6'	Approved	1994-72
1995-09	Caputo - 1196 Beechtree Lane	6'	Approved	1995-35, 1995-44
1995-10	Giron - 1355 Marlboro Court	5'	Approved	1995-36, 1995-45
1995-13	Shea - 717 Heather Lane	5'	Approved	1995-53
1995-14	Golevicz - 1304 Newcastle Lane	5'	Denied	Motion
1995-16	Hildebran - 136 E. Sherman	4'	Approved	1995-61
1995-17	Rodriguez - 1301 Branden Lane	6'	Denied	Motion
1995-19	Kasun - 132 E. Sherman	4'	On Hold	N/A
1995-22	Wurster - 1333 Blackhawk Lane	5'	Denied	Motion
1996-08	McCarty - 800 Francine Drive	4'	Approved	1996-57
1997-05	Fedorowicz - 801 Kent Circle	5'	Denied	Motion
1997-15	Findon - 993 Longstreet Drive	5'	Approved	1997-47
1997-30	Montiel - 794 Voyager Drive	6'	Approved	1997-89
1997-42	Sethi - 947 Longford	6'	Approved	1998-15
1998-10	Kann - 291 S. Oak Ave.	3.5'	Approved	1998-84
2002-21	Wages - 1797 Penny Lane	5'	Approved	2002-90
2002-34	Linnartz - 455 Hadley Ct	4'	Approved	2002-123
2003-43	Baxter - 147 N. Hickory	4'	Approved	2003-159, 2004-001
2003-47	Dyer - 101 N Western	5'	Approved	2004-025
2004-28	Carr - 390 Pinoak	5'	Approved	2004-109
2005-08	Sirotzke - 643 Cedar	4' in CSY	Approved	2005-46
2005-18	McCarty/Martinez-105 S. Berteau	5'	Denied	N/A
2005-20	Zervas - 1041 Foster	5' (28' from p/l)	Approved	2005-84
2006--16	Hall - 300 Queens Parkway	6'	Denied	Motion

Case#	PROJECT NAME	Description	Completed Status	Ordinance #
2006-20	Smith - 101 S. Elroy	4'	Approved	2006-55
2009-06	Baumann - 1270 Bridge Ct	4' Aluminum	Approved	2009-62
2009-22	Mann - 388 E. Woodhollow Ln.	6' in CSY	Approved	2010-002
2010-04	Tierney - 136 Wallace Ct	4'	Approved	2010-32
2010-12	Patel - 1303 Silver Ct	4' Black Aluminum	Denied	2010-58
2011-08	MacDonald - 292 Bragg St.	5' (10' from p/l)	Denied	2011-57 (RY only)
2012-05	Finnegan - 944 Surf	5'	Approved	2012-36
2012-06	Locascio - 855 Kent Circle	4'	Approved	2012-30
2012-10	Wendel - 1043 Maplewood Ln.	4'	Approved	2012-46
2012-17	Johnson - 225 Wilcox Drive	5'	Approved	2012-75, 2012-76
2012-25	Wilson - 750 W. Appletree Ln.	4' in CSY	Approved	2013-14
2012-27	Kucia - 560 Vallyview Dr.	6'	Denied	2013-15 (pool app)
2014-10	Mackowiak - 511 Orchards Ps - 2nd Req.	6' in CSY (10' from p/l)	Approved	2014-058
2014-16	Paladino - 250 Wilcox Ct	5' in CSY (1' from p.l.)	Approved	2014-83
2015-07	Considine - 908 Shorewood Drive	5' in FY (10' from p/l)	Approved	2015-47
2015-10	Pilasiewicz - 1200 Pinetree Ln 2nd Req.	6' in CSY (15' from p/l)	Approved	2015-60

## FENCE TYPE EXAMPLES - OPEN



Figure 1: Ornamental steel or aluminum



Figure 2: Picket with scallop design (wood, vinyl, or other man-made material)

## FENCE TYPE EXAMPLES - SOLID



Figure 3: Board-on-Board (wood)



Figure 4: Stone wall (natural stone or other man-made material)