

ORDINANCE CERTIFICATION

At a regular meeting of the Boyne Falls Village Council, Charlevoix County, held in the Boyne Falls Village Hall, located at 2290 Railroad Street, Boyne Falls, Michigan, on Oct. 14, 1997, at 7:00 P.M.

PRESENT: William Bricker, William Cousineau, Debra Taylor, & Chris Williams
ABSENT: April Kenney and Paul Zerbel

It as moved by Chris Williams and supported by Debra Taylor that the following Ordinance be adopted.

(See attached VILLAGE OF BOYNE FALLS ORDINANCE NO. 40)

YES: 4
NO: 0

ORDINANCE DECLARED ADOPTED.

VILLAGE OF BOYNE FALLS

By: Blake Kenney
Blake Kenney, President

I, the undersigned, the Clerk of the Village of Boyne Falls, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Boyne Falls Village Council of said County at its regular meeting held on Oct. 14, 1997, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in the *Petoskey News Review* on Oct. 28, 1997.

Dated: Oct. 14, 1997

Marilyn Cousineau
Marilyn Cousineau, Clerk

Note: The Ordinance and this Ordinance Certification should be placed in the Village Ordinance Book.

VILLAGE OF BOYNE FALLS FENCE ORDINANCE
Ordinance No. 40

THE VILLAGE OF BOYNE FALLS ORDAINS:

Section 1. Definitions.

As used in this Ordinance the following terms shall have the meanings prescribed in this section.

- (a). "Fence" means a man-made structure or barricade intended to serve or in fact serving the purpose of enclosing or marking the boundaries or a boundary of property or preventing or controlling access to property or a portion of property.
- (b). "Front yard" means:
 - (1). For a corner lot, the portion of the entire width of the lot between the street right-of-way and the nearest side of the principle building or the front yard setback line, whichever distance is greater and the portion of the entire depth of the lot between the street right-of-way and the nearest side of the principle building or the side yard setback line, whichever distance is greater.
 - (2). For a non-corner lot, the portion of the entire width of the lot between the street right-of-way and the nearest side of the principal building or the front yard setback line, whichever distance is greater.

Section 2. Permit Required.

It shall be unlawful for any person to construct, or cause to be constructed, a fence upon property within the Village without first having obtained a permit from the Village Clerk.

Section 3. Application.

Any person desiring a permit to construct, enlarge, alter, or reconstruct a fence shall file a written application with the Village Clerk and pay the required fee as established by resolution of the Village Council. The application shall contain a drawing of the proposed location of the fence on the property, the type of fence to be constructed, enlarged, altered, or reconstructed, the legal description of the property on which the fence will be located, and such other information as may be required by the Village Clerk to determine that the fence will not violate any provisions of this Ordinance.

Section 4. Existing Fences.

Any fence in existence at the time this Ordinance becomes effective may continue to exist although it does not conform to the provisions of this section. However, such existing fences shall not be enlarged, altered, or reconstructed, unless such fence is made to

conform with the provisions of this Ordinance, a permit is obtained, and the required fee is paid. Nothing in this Ordinance shall prevent such necessary repairs and maintenance of an existing fence as may be necessary to secure a reasonable use of it during its natural life, which may be done without a permit.

Section 5. Fence Regulations.

- (a). Except as provided herein, all fences shall be located entirely on the property of the person constructing the fence. A fence may be constructed on the common property line between two (2) lots if the owners of both lots jointly apply for the permit to construct the fence.
- (b). Except for fences permitted on the common property line between two (2) lots as provided by section 5(a) above, all fences shall be located no less than one (1) foot from the property line. *→ For maintenance*
- (c). The portions of all fences facing property other than the property of the fence owner or facing a street right-of-way shall be finished so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the street right-of-way.
- (d). The gates in all fences shall not swing open over a public street right-of-way, but must swing open over the property of the fence owner.
- (e). No fence shall be constructed or maintained which is charged or connected with an electric current that can cause an electric shock upon contact.
- (f). No barbed wire fence shall be constructed or maintained, and no spikes, nails, barbs, or other pointed instruments shall be affixed to any fence so as to project from the fence.
- (g). All fences shall be maintained in good condition and shall not constitute a safety hazard. Any fence not maintained as required by this section shall be removed by the owner of the fence.
- (h). Fences located in a rear or side yard shall be a height of no more than six (6) feet, as measured vertically from the surface of the ground; provided, however, that fences located in a side yard shall not extend closer to the front lot line than the front of the principle building located on the lot.
- (i). All fences shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, chain links, or similar material.
- (j). All fences shall be finished on both sides.

Section 6. Penalty/Civil Infraction.

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine as determined by the Village Council pursuant to Ordinance No. 47. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

Section 7. Enforcement.

The Village Marshall is hereby designated as the authorized village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. Severability.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portion or application of this Ordinance which can be given effect without the invalid portion or application.

Section 9. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Village.

VILLAGE OF BOYNE FALLS

By: Blake Kenney
Blake Kenney, President

By: Marilyn Cousineau
Marilyn Cousineau, Clerk