

FENCES

which is adopted as part of this ordinance and which is on file with office of the town clerk and the building inspector.

4.1.1 *Residential districts.*

Residence 10 (R-10) formerly residence AA

Residence 8 (R-8) formerly residence A

Residence 7.5 (R-7.5) formerly residence B

Residence 6 (R-6) formerly residence C

4.1.2 *Nonresidential districts.*

Business (B) formerly business D

Commercial industrial (CI) formerly industrial E

Business park (BP)

4.2 *Split lots.* Wherever a district boundary splits a lot into two or more separate zoning districts, a prospective use may be processed only if it is listed in the table of uses for the district. The dimensional requirements for such use shall be determined by the district in which it is located. Where a proposed use is permitted in two or more districts on the same lot, the dimensional requirements, other than density, shall be determined by the district's dimensional regulations which contains the most usable lot area. For density requirements, all portions of the lot shall be calculated proportionately, by usable lot area within each district.

4.3 *Interpretation.* Where, due to the scale, lack of detail or illegibility of the zoning map of the town of West Warwick, it shall be determined that the boundary lines of districts are lot lines, centerlines of streets or such lines extended, railroad right-of-way lines, or the centerlines of watercourses. Interpretations concerning the text of this ordinance and the exact location of district boundary lines as shown on the zoning map shall be made by the building inspector. Any person aggrieved by such interpretation of the building inspector may appeal such interpretation to the zoning board of review.

4.4 *Zoning affects every structure and use.* No structure shall be constructed, erected, placed, moved or maintained nor shall the exterior be

altered and no land use shall be commenced or continued within the town unless in conforming with the regulations wherein specified for the district in which it is located, except as provided for in sections 7 and 8 herein.

4.5 *Unlisted uses.* Any use not listed in the table of uses is prohibited in all districts.

4.6 *Area requirements dedicated.* No part of a lot, yard, parking space, or other dimension required for any building or use for the purposes of complying with the provisions of this ordinance shall be included as part of a lot, yard, parking space, or other dimension required under this ordinance for another use or building except as provided in section 5.9.8, joint use.

4.7 *Only one dwelling on any lot.* In no case shall there be more than one dwelling and its accessory buildings on one lot, except that two-family and/or multiple-family developments may permit more than one residential structure per lot in conformity with this ordinance.

4.8 *More than one nonresidential use or building on a lot.* More than one nonresidential structure may be allowed on a single lot within a nonresidential district if devoted to the same use. Upon application to the zoning board of review, a special use permit may be issued in accordance with this ordinance, where more than one use on a lot may be petitioned, provided, however, that such uses shall be only those that are listed within the district.

4.9 *Street access.* No structure shall be erected on or moved onto a lot which does not have frontage equal to or greater than the required minimum frontage as required in this ordinance, for the district in which it is located except as permitted in subsections 7 and 8.

4.10 *Corner visibility.* Within any required front or corner side yard on any corner lot or any driveway or curb cut, no wall, fence, sign, hedge, shrub or other obstruction to visibility shall be permitted between the heights of 2½ and ten feet above the existing street grade within an area 50 feet long and five feet wide measured along the street line and in either direction from such intersection or driveway or curb cut.

Sec. 5-8. Vacant buildings.

(a) *Purpose.* It has been determined that various vacant buildings located within the town present a hazard to the health, safety and welfare of the residents of the town. These vacant buildings have been the site of numerous fires and present a danger to children and adults within the town and generally present a risk to public safety.

In view of the unsafe conditions and the hazards posed of these vacant buildings, the town has made every effort, at its own expense, to board all openings, including doors and windows from cellar to second floor and all windows, and other openings above the second floor, leading to fire escapes, porches or other structural appurtenances to said buildings. Despite the town's efforts to board public access to these buildings, said buildings have posed an attractive nuisance and has resulted in unauthorized entries by various individuals. In an attempt to eliminate these unauthorized entries, the town council wishes to adopt an ordinance which would establish fines and penalties for these actions of unauthorized entries.

(b) Unauthorized entry / attempt to gain access.

- (1) No person shall willfully and maliciously or mischievously injure, destroy or otherwise remove boards placed upon said property by the town or otherwise interfere with the town's effort to secure said vacant buildings; or otherwise destroy or deface said vacant property in any manner so as to gain access to the property.
- (2) No person shall enter upon vacant property within the town, thereby causing a public nuisance and unsafe conditions within the town.

(c) *Penalty.* Any person who shall violate the provisions of this section shall be guilty of a criminal offense and shall be subject to prosecution by the police department of the town. An individual who violates the provisions of this section may be sentenced to serve no more than 30 days in jail and fined nor more than \$300.00 or both.

(Res. No. 97-66, §§ 1-3, 3-4-97)

Supp. No. 1

Secs. 5-9—5-50. Reserved.**ARTICLE II. FENCES*****Sec. 5-51. Purpose.**

The town council has determined the necessity to establish minimum regulations governing the erection of fences within the town.
(Res. No. 97-07, § 1-1, 1-7-97)

Sec. 5-52. Definitions.

As used in this article, the following terms shall have the meanings indicated:

Fence shall mean a physical barrier erected upon or near the dividing line between adjoining properties or properties and public easements, alleys, sidewalks, service drives, freeways, streets or similar public land for the purpose of separating, screening and/or protecting property or chattel.

Major repairs shall mean replacement of more than one-fourth of an existing fence, a change in height or relocation on the property.

(Res. No. 97-07, § 1-2, 1-7-97)

Sec. 5-53. Permit required.

A permit must be obtained by the property owner or his agent prior to erecting a fence or effecting major repairs that are regulated by this article. Both the property owner and party erecting the fence may be held equally responsible for obtaining said permit. The fee for said permit shall be \$10.00 or any other amount as the town council, from time to time shall designate
(Res. No. 97-07, § 1-3, 1-7-97)

Sec. 5-54. Requirements for the issuance of a fence permit.

The following information and documentation shall be presented to the building department for the town for review and approval by the building official for the issuance of a fence permit:

- (1) A completed application on a forms supplied by the building department, listing

*Editor's note—Res. No. 97-07, §§ 1-1—1-12, adopted Jan. 7, 1997, did not specifically amend the Code; hence inclusion as a new art. II, §§ 5-51—5-62, was at the editor's discretion.

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- at a minimum, the applicant and property owner's home address and telephone number;
- (2) A plot plan which diagrams the location of the fence in relation to the adjacent lot lines, streets and principal dwelling;
 - (3) The above referenced plot plan must be signed and approved by each of the owner(s) of the property adjacent to the proposed fence location, or in lieu of written approval, the applicant must submit a survey which is stamped and signed by registered land surveyor for the state;
 - (4) The building official for the town may from time to time, in his discretion, require an applicant to provide information and/or documentation in addition to that as set forth herein.

(Res. No. 97-07, § 1-4, 1-7-97)

Sec. 5-55. Standards.

The following standard shall apply to the construction and maintenance of fences:

- (1) All fences shall be maintained in a workmanlike condition having no breaks, jagged or sharp edges, holes or other defects. Fences shall be properly surface coated to protect against the elements and maintained straight and plumb.
 - (2) Fences shall be free standing and shall not be attached to another fence or unstable means of support. Fences shall be erected on a series of fence posts spaced so as to provide proper support to the fencing material. In no case shall the distance between fence posts exceed ten feet. Fence posts shall be embedded below grade to a depth and manner which in the opinion of the building official, provide proper means of support for the type of fence constructed. Local soil and subsurface conditions, including but not limited to the existence of ledge, shall be taken into consideration by the building official when determining proper depth.
- (3) No fence shall be erected in the required front yard space, except for the following:
 - a. Residential properties designed as corner lots may erect a fence in the front yard space on the corner side, from the house to a point ending at the street right-of-way line. Such fences must begin at a height of four feet at a line parallel to the front of the house and taper down to a maximum of 2 feet at its termination point. Fences erected under this subsection must not impede traffic sight lines;
 - b. Fencing less than three feet in height may be utilized in the front yard space provided it is not erected parallel to an adjacent driveway or does not enclose more than one-half of the front yard space. Such fencing shall not obstruct traffic sight lines and shall serve no other purposes other than landscaping or decoration;
 - c. Residential lots containing more than one lot adjoining the lot where the primary dwelling is situated, may have a maximum four foot high cyclone fence from a line parallel to the front of the house to the front property line and across the front property line of lots not containing the dwelling.
 - (4) Fence posts shall be installed on the applicant's interior side of the lot, with the finished portion of any fence facing outward.
 - (5) Any fence lawfully erected prior to the enactment of this article shall be deemed lawfully non-conforming and allowed to remain until such time as it is damaged beyond reasonable repair, destroyed or removed.
 - (6) No fence shall be electrically charged or contain barbed wire, unless otherwise permitted by the zoning ordinance.
 - (7) Fences shall not eliminate or interfere with parking, or otherwise, interfere with traffic or become a hazard or nuisance in any manner.

structure hereafter erected on that lot shall extend to average alignment of the two nearest existing structures instead of the minimum in the district. No residence shall have a front yard of less than five feet in depth or be required to have a front yard of greater depth than required by the district.

5.7.6 Height.

5.7.6.1 Nothing herein contained shall restrict the height of the following architectural and structural features:

5.7.6.1.1 On any public or semipublic building, a spire, cupola, dome, belfry, or clock tower;

5.7.6.1.2 A flagpole, chimney flue, elevator or stair bulkhead, water tank, stage tower, or scenery loft as accessory facilities to permitted or special permitted uses in a given district;

5.7.6.1.3 Barns, silos, or similar farm structures as accessory structures to agriculture; and,

5.7.6.1.4 A telecommunications tower, transmission line or tower of similar structure only if approved as a special use by the zoning board of review.

5.7.6.2 No building or structure erected pursuant to subsection 5.7.6 to a height in excess of the height limit for the district in which it is situated shall:

5.7.6.2.1 Have a lot coverage in excess of ten percent of the lot area;

5.7.6.2.2 Be used for residence or tenancy purposes;

5.7.6.2.3 Have any sign, nameplate, display or advertising device of any kind whatsoever inscribed upon or attached to such building or structure.

5.7.7 Fences and walls.

5.7.7.1 In residence districts. No fence or wall constructed wholly or in part of barbed wire or other protruding or sharp objects shall be permitted in residence districts, except upon approval of the zoning board of review. No fence may exceed six feet in height.

5.7.7.2 In all districts. No electrically charged fence or portion of a fence or wall shall be permitted in any district unless the owner of the property shall have obtained a variance from the zoning board, in accordance with section 9 of this ordinance. In making its written findings, the zoning board shall also consider the character of the district, the location of the fence, the likelihood of injury or shock to persons and animals from the fence, and the purpose of the fence and that the fence does not constitute a nuisance or hazard. This regulation shall apply to existing as well as proposed fences.

5.7.7.3 In nonresidential districts, no fence or wall shall exceed six feet in height.

5.7.7.4 Method of measurement of a fence or wall. The height of a fence or wall shall be measured from existing or natural ground level at the base of the fence, except that, where there is a retaining wall, the height measured from the average of the ground levels at each side of the retaining wall, and further except that any fence or wall on the uphill side of such retaining wall may be at least four feet high, not withstanding provisions 5.7.7.1 and 5.7.7.3 above.

5.8. Performance standards.

5.8.1 *Performance standards for all uses.* All uses shall be subject to the following performance standards. To ensure compliance, detailed plans may be required by the building inspector before the issuance of a building permit. Where parameters