

Ordinance No. 2006-007

An Ordinance amending sections 17.03 7. E. 2. and 17.06 4. of the Town of Delafield Code of Ordinances regarding retaining walls and fences

The Town Board of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Part 1: Section 17.02 2. is hereby amended to create and modify the following definitions:

Retaining Wall. A vertical structure used to hold back earth or keep earth from sliding.

Farming Operation. One or more parcel(s) of land under a single ownership and/or management upon which natural fibers, animals and/or plants for human or animal consumption are produced for profit.

Part 2: Section 17.03 7. E. 2. is hereby repealed and recreated to read as follows:

2. Construction of retaining walls shall be regulated under section 17.06 4. C. of the Zoning Code

Part 3: Section 17.06 4. A. and B. are hereby modified to read as follows:

4. STRUCTURES OTHER THAN BUILDINGS

- A. **Structures other than Fences and Retaining Walls.** Structures, other than fences and retaining walls, not classified as buildings shall be subject to the setback, offset, height and open space requirements of this chapter, except as may be specifically otherwise provided.
- B. **Fences.** Fences and other architectural screening devices where anchored to supports embedded in the ground shall be considered permanent structures and shall be subject to the following:
 1. No fence or other architectural screening device as described above may be constructed unless a zoning permit is first secured through the building inspection department, except a fence to enclose a farming operation.
 2. Any such structures not in excess of three feet in height may be permitted anywhere on the lot consistent with the standards set forth in this chapter, subject to acquiring a zoning permit as specified in 1 above.

3. Any such structure greater than three feet and up to and including six feet in height may be permitted anywhere behind the face of the principal structure extended to the side lot line, subject to acquiring a zoning permit as specified in 1 above.
4. Any such structure greater than three feet in height located between the road right-of-way and the face of the principal structure extended to the side lot lines may be permitted with the approval of the Plan Commission.
5. Any such structure greater than six feet in height may be permitted, provided it conforms to the height, offset and setback requirements of the district in which it is located, subject to the approval of the Plan Commission; however, any such structure may be permitted closer to the required offset from the adjoining lot line with the written consent of the adjoining property owners and subject to the approval of the Plan Commission.
6. Any fence shall be erected so that the finished side faces the abutting property.

Part 4: Section 17.06 4. C. is hereby created to read as follows:

- C. **Retaining Walls.** Retaining walls shall be considered permanent structures and shall be subject to the following, in addition to the requirements of Section 17.03 7. of the Code of Ordinances:
 1. Any retaining wall located within five (5) feet of an adjoining property line may be permitted subject to:
 - a. A hearing before the Plan Commission at which the adjoining neighbor has been given notice at least 10 days prior to the meeting of the time and place of the hearing by the applicant. The applicant shall certify in writing to the Town Clerk at least 7 days prior to the meeting that notice has been provided to the adjoining owner.
 - b. Submission of plans showing the location and elevation of the retaining wall, materials, and schedule for building the retaining wall. Submission of a drainage plan may also be required if requested by the Town Engineer.
 - c. Plan Commission approval.
 2. Any retaining wall, 2 feet in height or less, located greater than five feet from the adjoining property line may be permitted without the approval of the Code Enforcement Officer or Plan Commission.
 3. Any retaining wall greater than 2 feet in height and located greater than 5 feet from the adjoining property line may be permitted with the approval of the Code Enforcement Officer. If, in the opinion of the Code Enforcement Officer, the retaining wall may adversely affect drainage, aesthetic values to the surrounding area or safety, the Code Enforcement Officer may require that the applicant gain approval through the Plan Commission.

Part 5: Existing Sections 17.06 4. C., D., E., F., G., and H., shall be re-lettered due to the insertion of Section C. described in Part 4 above.

Part 6: Severability

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Part 7: Effective Date

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

This ordinance passed this 23rd day of May, 2006

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD:



Paul L. Kanter, Town Chairman

ATTEST:



Mary T. Elsner, CMC
Town Clerk