

ORDINANCE NO. 2023-06-19-02

AN ORDINANCE AMENDING CHAPTER 127 Building Construction

WHEREAS, the Village of Oakwood ("Oakwood") is a non-home rule municipality in accordance with the Constitution of the State of Illinois of 1970;

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the public health, safety and welfare of its citizens;

WHEREAS, Village has determined that, because of inadequate services and to promote safety from fire, windblown hazards, and other dangers; to conserve the taxable value of land and buildings throughout the Village; that congestion in the public streets may be lessened or avoided; and that the public health, safety, morals, and welfare of the Village be otherwise promoted.

NOW, THEREFORE, BE IT ORDAINED by the Village Board of Trustees of the Village of Oakwood as follows:

1. PURPOSE. This ordinance is adopted for personal and property protection such that the public health, safety, comfort, morals, and welfare may be otherwise promoted, and;
 - (A) To regulate and limit the height and bulk of buildings hereafter to be erected.
 - (B) To establish, regulate and limit the buildings or setback lines on or along any street, trafficway, drive or parkway.
 - (C) To regulate and limit the intensity of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings.
 - (D) To regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses.
 - (E) To guide the Village of Oakwood in planning districts (according to use of land and buildings, height and bulk of buildings, intensity of the use of lot areas, area for open space or other classification) as may be deemed best suited to carry out the purposes of this ordinance.
 - (F) To prohibit use of, modification of, or construction of buildings or structures incompatible with the character as may be deemed best suited to carry out the purposes of this ordinance.
 - (G) To prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.
2. APPLICATION AND COMPLIANCE. Any building or accessory building construction or addition, or exterior modification, improvement, replacement, or repair must comply with the International Building Code 2021, the International Residential Code 2021, and the National Electrical Code 2022; and any related references contained therein.
3. Included Structures.
 - (A) Any building or accessory building construction or addition, or exterior modification, improvement, replacement, or repair valued at more than \$1000 must comply with the regulations herein.

- (B) Any fence construction, addition, or replacement of any value must comply with the regulations herein.
 - (C) Any parking space construction, addition, or replacement of any value must comply with the regulations herein.
 - (D) Any signage construction, addition, or replacement of any value must comply with the regulations herein.
4. Exemptions.
- (A) Interior building modification, improvement, replacement, or repair, except structural or plumbing.
5. Permits. It is unlawful to construct or alter any building or structure in the Village when the cost of such construction exceeds \$1000 or when the effect of such construction or alteration is to enlarge the capacity or affect the bearing walls of any building or the roof thereof without having first secured a permit therefor.
- (A) Commercial permit fee. When such construction is commercial or industrial and not residential in nature, the fee for said permit shall be set at \$1.50 per \$1,000 of the projected cost. There will be a minimum of \$300 per commercial or industrial project should the cost not be in excess of \$200,000.
6. Request for Approval. Requests for approval to commence work on any private or public property within the Village of Oakwood (hereafter "Permit Application) shall be submitted at the Village of Oakwood Village Hall and shall be accompanied by plans and specifications showing the work to be done. Such plans shall be verified by the signature of either the owner of the premises or the architect or contractor in charge of the construction.
- (A) Any site visits required for permit approval will be conducted M-F, 8:00am CST to 4:00pm CST. Permit applicants are required to i.) schedule onsite visits with the Village of Oakwood, ii) provide unfettered access to the site as necessary to complete the permit application review, iii) complete all required paperwork required by the Village of Oakwood, and iv) ensure utilities are identified by a qualified person prior to any scheduled site visit.
7. Approval of Requests. The applications with plans shall be examined by the Board of Trustees or their designee to determine whether the proposed construction or alternations complies with the restrictive covenants, including setback lines, if any; the International Building Code (IBC), which is incorporated in this section by reference as if specifically set forth in this section and is adopted as the standards for construction of all buildings constructed or altered hereafter; or any other applicable provisions of any ordinances or resolutions adopted by the Board of Trustees. Upon approval by either the Board of Trustees or their designee, a permit shall be issued to the applicant. Approvals of requests shall be in writing with approved and signed permit cards after proper review and approval, subject to any public hearings, notices, or periods of review required by the State of Illinois or by order of this Ordinance.
8. Violations. All Permit Applications are by default in a state of unapproved until such approval is given in writing. No work may commence until such time as the approval is given in writing. Anyone, private citizen, or contractor, commencing work within the application of

this ordinance and without written approval is in violation of this ordinance, and may be issued a Stop Work Notice, and may be thereafter fully prosecuted under the laws of this State.

- (A) Any person, firm, or corporation found guilty of violating any provision of this chapter shall, in addition to any other remedy allowed by this chapter, be fined not less than \$750 for each offense. Each day that a violation occurs or continues shall constitute a separate offense. In addition to any fine imposed hereunder, the violator shall be ordered to pay all the costs incurred by the Village in prosecuting the violation, which shall include but not be limited to the costs associated with any court proceedings or any appeal therefrom and reasonable attorney's fees.
- (B) Any work conducted without approval may require the property owner to correct at their own expense. The Village is not liable for loss of used materials and labor.
- (C) In case of any violations of this chapter, the Village President, on behalf of the Village, is authorized to institute an appropriate action or proceeding at law to exact the penalty (fine) provided in Subsection (A). In addition, the Village President may seek to proceed at law or in equity against the party responsible for the violation for the purpose of ordering said party to restrain, correct or remove the structure in violation or refrain from any further execution of work.
- (D) It is the obligation of the property owner to ensure that all work conducted under this Ordinance is done so in complete compliance with this Ordinance and any laws of the State of Illinois.

9. Notice of Violation. Upon determining that a violation of this chapter exists, the Oakwood Chief of Police or designee shall serve a written notice of such violation by personal service or by first class mail to the owner(s) at his/her/their last known address, and a copy of such notice shall be sent to the occupant (when applicable) of the property where the violation exists. If such owner or occupant cannot be located after reasonable inquiry, posting in a conspicuous place on the subject property shall be sufficient notice.

- (A) Such violation notice shall describe all violations and shall direct the owner or the occupants of the property to abate or remove such violation within a period determined to be reasonable by the Oakwood Chief of Police. The notice shall state further that:
 - i. By allowing a violation of this chapter to occur, the Village may pursue legal action to collect fines and costs allowed by this chapter,
 - ii. The failure of such owner or occupant to abate the violation(s), as required by the notice, within the time allowed by the notice, shall be deemed an implied consent for the Village to abate or remove such violation, and
 - iii. Such implied consent shall be deemed to form a contract between such owner and the Village for the abatement or removal.
- (B) In addition to any penalties provided for in this chapter, the Village shall, in enforcement cases, charge an inspection/enforcement fee of \$100 per structure to cover a portion of its administration costs. This expense shall be assessed against the owner

and/or occupant of any property which receives notice from the Village, regardless of whether the Village or its agents are required to abate the violation.

- (C) If a violation of this chapter is not abated or removed after notice pursuant to this section and within the time specified in the notice, the Village President may initiate any reasonable effort to cause the abatement or removal of such violation. The responsible owner or occupant shall reimburse the Village for any costs incurred as a part of its abatement efforts.
- (D) Costs and expenses under this chapter include but are not limited to the actual costs and expenses in time of Village employees or Village-authorized contractors and in materials concerning the actual actions of abatement of the violation pursuant to this chapter, transportation to and from the property, title searches or certifications, preparation of lien documents, foreclosure and other related expenses, including but not limited to reasonable attorneys' expenses and court costs.
- (E) If the costs of abating, administrative expenses and removing the nuisance remain unpaid forty-five (45) days after billing the responsible party, the Village, at its option, may file a lien upon the real estate where the violation was abated or removed, or commence proceedings in the Circuit Court seeking a personal judgment from the owner of such property where the violation was abated or removed, or from an occupant where applicable.

- i. Lien

- 1. When the Village exercises its right to file a lien upon the real property where the violation was abated or removed, the Village may file a notice of lien in the office of the Recorder, Vermilion County, Illinois. Such notice shall consist of a sworn statement setting out:
 - a. A description of the real estate sufficient for identification,
 - b. The amount of money representing the costs and expenses incurred or payable for the service, and
 - c. The date or dates when such cost or expense was incurred by the municipality.
 - 2. Upon payment of the cost and expense by the owner or any person interested in such property, after the notice of lien has been filed, the lien shall be released by the Village and the release may be filed with the Recorder. The lien may be enforced by proceedings of foreclosure, as provided by law. Interest on the lien shall accrue at the rate of 6% per annum.
 - ii. Personal judgment. When the Village exercises its right to obtain a personal judgment against an owner or occupant for the cost of abatement or removal of a violation, the Village shall file an action in the Circuit Court against any person or persons to whom notice was sent. The action shall be based

upon the implied consent by those persons to abatement or removal of the violation. The action authorized by this chapter shall be in addition to and without waiver of any other remedy allowed by this chapter and state statutes.

10. It shall be unlawful to erect, construct, alter, extend, repair, remove or demolish any structure regulated by this chapter contrary to or in conflict with or in violation of any of the provisions of this chapter. All individuals conducting such work must also comply with the following:
 - (A) Any individual or individuals hired for services in the Village of Oakwood, and not hired as an independent contractor, is hired as an employee of the property owner and said property owner shall assume the responsibilities and liability for services of the same as if they were provided the services themselves, and must provide applicable licensure, insurance and bonding, including worker's compensation insurance and automobile liability insurance.
 - (B) All independent contractors hired for services in the Village of Oakwood applicable to this Ordinance must be registered with the Village prior to commencing work and must provide applicable licensure, insurance, and bonding.
11. Appeal. The person who owns or controls any property, after being notified that a violation exists on his/her property, may appeal that determination in the manner set forth herein. Appeal of such determination shall be taken by filing a written appeal not more than fifteen (15) calendar days following the date of in-person delivery or of mailing of the notice of the violation provided for above in this section. The appeal shall be addressed to the Village Board of Trustees, through the office of the Village Clerk. The appeal will be reviewed and voted on at the next scheduled voting session by the Village Board of Trustees.

If the Notice To Remove Violation is not reversed as provided for herein, the Village of Oakwood Chief of Police shall notify or cause an Oakwood Police Department Officer to notify the person who owns or controls any property in writing by in-person delivery or by certified mail, that the Village Board of Trustees failed to accept the appeal and the property ordinance violation must be eliminated, at the expense of such person, within fifteen (15) calendar days of the date such notice is sent.

If the Notice to Remove Violation is reversed as provided for herein, the Village of Oakwood Chief of Police shall notify or cause an Oakwood Police Department Officer to notify the person who owns or controls any property in writing by in-person delivery or by certified mail, that the Village Board of Trustees succeeded in accepting the appeal and the Notice To Remove Violation is rescinded.

12. Removal Of Violation. If the violation is not removed within thirty (30) calendar days, as provided above, or in the event of appeal, within fifteen (15) calendar days following notice that the Village Board of Trustees failed to reverse the determination, and there is no cooperation or agreeable solution, the Village President may cause an ordinance violation case to be filed in court and seek fines and an injunction requiring removal of the violation; or may

cause the removal of the violation by the Village and the cost of such removal shall be charged against the owner and the property on which the obstruction occurred. The owner or person in charge of the property shall pay said cost of removal within thirty (30) calendar days of receipt of a statement of said cost.

13. REVOCATION OF PERMITS:

The Village Board of Trustees may revoke any permit issued by it upon failure of the holder thereof to comply with any provision of this ordinance, but only after a hearing before the Village Board of Trustees is held no less than fifteen (15) days after notice is given to the permit holder.

14. All ordinances, resolutions, and orders or parts of such in conflict with this Ordinance are repealed to the extent of such conflict.

15. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 19th DAY OF June, 2023.

AYES: Fegett, Light, Parr, Trimmell, Fritz

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS WSE US 19 DAY OF 6, 2023.



ATTEST:

Conner Jones
Clerk

WSE US

Mayor