

First Reading: March 11, 2013  
Second Reading: April 8, 2013  
Third Reading: Waived April 8, 2013

PASSED: April 8, 2013  
BY: Bardach

ORDINANCE NO. 2013-07

ORDINANCE ESTABLISHING REGULATIONS FOR THE INSTALLATION  
AND MAINTENANCE OF PRIVACY PANELS

**WHEREAS**, Amberley Village is a community with unique and valuable attributes of natural beauty, vegetation, and open spaces which preserve the rural and pastoral character of the community, which helps to support and promote high property values;

**WHEREAS**, Council recognizes that a balance must be struck between maintaining the natural beauty of the Village and allowing property owners to install fencing or other barriers to ensure their individual privacy and security;

**WHEREAS**, Council deems it necessary to enact regulations governing the use of privacy panels, privacy fences, or privacy screens, to allow property owners to provide for limited privacy and security while maintaining adequate visibility to and through private property, preserving the character of residential areas, avoiding undue negative impact on the interests of adjoining properties, and preventing visual blight or the blocking of view corridors;

**NOW, THEREFORE, BE IT ORDAINED BY THE** Council of Amberley Village, State of Ohio, seven (7) members elected thereto concurring:

**SECTION 1:** Section 154.02 of the Municipal Code of Ordinances is amended to read as follows:

**§ 154.02 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY STRUCTURE.** A permanent or portable structure on the same lot with, and of a nature incidental and subordinate to, the use of the principal structure.

**BASEMENT.** That portion of a building, the floor of which is wholly or partly below the adjoining grade.

**BUILDABLE AREA.** The portion of a lot remaining after required yards and setbacks have been provided.

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***BUILDING.*** Any structure for the shelter, support, or enclosure of persons, animals, or property of any kind. ***BUILDING*** includes the term ***STRUCTURE***.

***BUILDING, HEIGHT OF.*** The vertical distance from grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the top of the highest gable of pitched or hip roof.

***CARPORT.*** A structure with floor and roof and one or more open sides to provide shelter for a motor vehicle.

***CONDITIONAL USE.*** A use of land which may be permitted provided that the Board of Zoning Appeals determines that it is in the interest of the public health, safety and general welfare in accordance with the provisions of § 154.661.

***DISTRICT.*** Any section of the village for which there are uniform regulations governing the height, area, and use of buildings and of land.

***DRIVE, PRIVATE.*** A nondedicated street or common driveway restricted as to use.

***DWELLING.*** Any building or portion thereof, designed or used exclusively for residential purposes.

***DWELLING, ONE-FAMILY.*** A building designed for or occupied exclusively by one family.

***FAMILY.*** One or more persons occupying a single dwelling unit, provided that all members are related by blood, adoption or marriage, and further provided that domestic servants employed on the premises may be housed on the premises.

***FAMILY PETS.*** Small animals kept in or around a family home and are customarily animals such as dogs, cats and small furry animals and does not include any animal except a dog which when grown to maturity weighs more than 30 pounds.

***FARM.*** An undivided parcel of land used primarily for agricultural and livestock purposes containing one or more dwellings and such accessory structures as may be required by use of the property. Only products produced on the premises may be sold thereon.

***FARM ANIMAL.*** A farm animal is any type of animal customarily raised for profit except riding horses which are not maintained for commercial purposes.

***FENCE.*** A barrier intended to enclose or restrict access to an area or mark a boundary constructed of wood, wire, or other material supported on posts.

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***GARAGE, PRIVATE.*** An accessory structure or building, or a structure or building that is a part of or attached to a dwelling, located in a residence district, and which is designed or used for storage of automobiles, other motor driven vehicles or trailers.

***GRADE.*** The average level of the finished surface of the ground adjoining a building.

***HOME OCCUPATION.*** A professional or business activity conducted in a dwelling unit.

***LOT.*** Includes the words ***PLOT, PARCEL,*** and ***PREMISES,*** and is a parcel of land of at least sufficient size to meet minimum zoning set back requirements for use, coverage, and area, and to provide such yards, and other open spaces as are herein required, and intended for buildings. The total area to be occupied by such buildings and accessory structures shall not exceed 50% of the total area of such lot. Such lot shall have frontage or contact (private drive or panhandle lot) on a dedicated public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot or record;
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- (4) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Zoning Code.

***LOT, CORNER.*** A lot abutting on two or more streets at their intersection, provided the interior angle formed thereby is 135 degrees or less.

***LOT, DOUBLE-FRONTAGE*** or ***THROUGH LOT.*** A lot other than a corner lot abutting on two streets.

***LOT, INTERIOR.*** A lot other than a corner lot with only one frontage on a street.

***LOT FRONTAGE.*** That portion of a lot adjacent to a street or private drive. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets or private drives shall be considered frontage.

***LOT LINES.*** Lines bounding a lot.

***LOT MEASUREMENTS.*** Shall include the following:

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(1) The **DEPTH** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) The **WIDTH** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. However, width between side lot lines at their foremost point (where they intersect with the right-of-way) shall not be less than 80% of the required lot width, except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

**LOT, PANHANDLE.** A lot being otherwise landlocked, having a portion of its area extending in a narrow strip to a frontage on a street or drive for the purpose of providing an access to it.

**LOT OF RECORD.** A lot which is part of a subdivision recorded in the office of the Hamilton County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**NONCONFORMING USE.** A non-permitted activity in a structure on a lot or in a district.

**NONCONFORMITY.** A non-permitted land area or structure setback.

**PARCEL, PREMISES.** See **LOT**.

**PARKING SPACE, OFF-STREET.** A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public or private street and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be designed, maintained, and regulated so that no parking or maneuvering incidental to parking shall be on any public or private street, or walkway, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the village.

**PETITION.** A proposal to amend or modify the Zoning Code that has been filed with the Clerk of Council, accompanied by a proposed ordinance effecting the change desired and by such other information and data as the Planning Commission shall designate. **PETITION** as used in this chapter shall not mean or pertain to a proposed change to the Zoning Code initiated by Council or the Planning Commission.

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**PRIVACY PANEL.** *A “privacy panel” is an accessory structure intended to limit or restrict the visual sight lines from adjacent public or private property, whether natural or manufactured. Contrary to a fence, a privacy panel is not intended to enclose or restrict access or mark a boundary, but is instead intended to screen a portion of a lot from view for privacy or security.*

**RIGHT-OF-WAY.** A publicly owned strip of land 50 feet or more in width between property lines which provides or is intended to provide public vehicular and/or pedestrian traffic.

**SET-BACK.** The distances from structures to right-of-way and/or lot lines.

**SIGN.** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. However, the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, name of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignia of any government, except when displayed in connection with commercial promotion;
- (3) Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings;
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and the ceiling next above it.

**STORY, HALF.** A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

**STREET.** A paved or improved area which provides for public vehicular traffic.

**STREET LINE.** The right-of-way line (lot front line: on either side of a street.)

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including buildings, walls, fences, swimming pools, radio towers, patios, and porches, but not including driveways,

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sidewalks, or other facilities, the sole purpose of which is to provide customary access to any structures.

**STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls.

**TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

**USED or OCCUPIED.** Includes the words "intended," "designed" or "arranged to be used or occupied."

**VARIANCE.** A relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Zoning Code would result in unnecessary and undue hardships or practical difficulties. A variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district which are not on the applicant's property or uses in an adjoining zoning district.

**YARD.** A required open space between the principal building and the adjoining lot lines unoccupied and unobstructed by any structure or portion of a structure. However, fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstructions of visibility.

**YARD, FRONT.** A yard extending between side lot lines across the front of a lot adjoining a public street.

(1) In any required front yard, no fence or wall shall be permitted, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between heights of 30 inches and ten feet.

(2) In the case of double frontage lots, front yards of the required depth shall be provided on all frontages.

(3) In the case of corner lots, a front yard of the required depth shall be provided on both frontages.

(4) The depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line,

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in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lines would have met without such rounding. Front and rear front yard lines shall be parallel.

**YARD, REAR.** A yard extending across the rear of the lot between inner side yard lines.

(1) In the case of double frontage lots there will be no rear yards, but only front and side yards.

(2) In the case of corner lots there will be one rear yard and one side yard to be proposed by the property owner and approved by the village.

(3) The depth of a required rear yard shall be measured at right angles to a straight line adjoining the rear most points of the side lot lines. Front and rear yard lines shall be parallel.

**YARD, SIDE.** A yard extending along the full depth of the lot, and being the least distance between the side lot line and the principal building. The width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

**WALL.** Walls (other than retaining walls) shall not exceed four and one-half feet in height.

**SECTION 2:** Section 154.14 of the Municipal Code of Ordinances is amended to read as follows:

**§ 154.14 FENCES, WALLS, AND HEDGES.**

(A) Notwithstanding other provisions of this Zoning Code, fences, walls, and hedges not exceeding four and a half feet in height may be permitted in any required side or rear yard or along the edge of any yard, provided that no fence or wall, along the sides or front edge of any front yard or in any part of a front yard shall be permitted. Hedges not over two and a half feet in height may be permitted in a front yard.

(B) Privacy panels are permitted in a rear yard located directly behind, and attached to or immediately adjacent to, the principal structure. The finished side of a panel shall face adjacent properties. The unfinished side of a panel, with any exposed posts or supports, shall face in toward the principal structure of the subject property. The construction and appearance of privacy panels shall be aesthetically pleasing and appropriate for the location. Materials such as brick, block, lumber, vinyl, natural materials or landscaping, shall be used and are to be similar or complementary in appearance and style to the principal structure. Alternate materials may be considered for

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approval by the Village Manager. Privacy panels are subject to the Village Property Maintenance Code. Privacy panels shall be located as close as possible to the object or area intended to be screened so as to allow for limited screening but also minimize adverse effects on neighboring properties and sight lines. The maximum height of a privacy panel, as measured from the bottom of a panel, shall be no more than six feet. The maximum height of a privacy panel as measured from the ground or deck surface shall be no more than six and a half feet. The maximum length of a privacy panel, whether constructed singularly or in combination, is 16 linear feet.

**SECTION 3:** If any section, paragraph, subsection, clause or provision of this ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this ordinance as a whole, or any other part hereof.

**SECTION 4:** That this Ordinance shall take effect and be in force at the earliest date allowed by law.

Passed this 8<sup>th</sup> day of April, 2013.

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Mayor J.K. Byar

Attest:

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Nicole Browder, Clerk of Council

Ordinance Vote:

Moved: Bardach Second: Wolf

Byar	Aye
Wolf	Aye
Hattenbach	Aye
Muething	Aye
Bardach	Aye
Warren	Aye
Doering	Aye

I, Clerk of Council of Amberley Village, Ohio, certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, the forgoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

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Nicole Browder, Clerk of Council