

E. FENCES

1. Definitions

For the purpose of this Chapter, certain fence-related terms are defined as follows:

- a. *Building Line*: A line formed by the face of the building and, for the purposes of this Ordinance, a minimum building line is the same as a front setback line.
- b. *Fence*: A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a fence for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.
- c. *Grade*: The average elevation/level of lot lines of the property in question. Street Grade is the top of the curb or the top of the edge of the pavement or traveled way where no curb exists.
- d. *Lot Lines*: Any line bounding a lot, including the following:

- FRONT LOT LINE. The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.
 - REAR LOT LINE. The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.
 - SIDE LOT LINE. Any line other than front or rear lot lines.
 - e. *Pool Private:* Any artificially constructed basin or other structure for holding water for use in swimming, diving, and other aquatic sports and recreation. The term SWIMMING POOL does not include any plastic, canvas, or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24" deep.
 - F *Private:* Not publicly owned or otherwise regulated by the State of Michigan either by statute or by rules and regulations of one of its administrative bodies.
2. Permits
- a. Permits required: No fence shall be erected or altered without first obtaining a permit from the City. Permits shall be valid for 12 months from the time they are issued.
 - b. Application: Written application for such permits shall be made upon forms provided for by the City Clerk, which shall contain:
 - (1) Name, address, and telephone number of the property owner.
 - (2) Address of the property proposed to be fenced.
 - (3) Names and addresses of adjacent property owners.
 - (4) Type of fence to be erected, including the kind and size of posts, proposed length and height, and types of material to be used.
 - c. Determination of Property lot lines: It shall be the obligation and sole responsibility of persons obtaining fence permits under this Section and erecting fences to determine property or lot lines. The issuance of a fence permit shall in no way be construed as a determination of the correct, valid, or legal location for the fence or prejudice in any way the rights of adjacent or abutting property owners.
 - d. Fence regulations do not apply to public playgrounds, playfield, parks, school grounds or recreation areas.
3. Fees
- A fee established by the City Commission shall be paid with each application for a permit filed.
4. Restrictions on Fence Construction. This Section shall apply to all classes of property.

- a. Any fence erected in an area from the front lot line and ten (10') feet toward the rear lot line shall not have a height greater than thirty-six (36") inches. From the ten (10') foot point to the front building line, the height shall be restricted to five (5') feet. Shrub plantings as fences shall be maintained at or below these height restrictions so as to not encroach on the adjacent property or right-of-way. Shrub plantings may require trimming to comply with visual requirements in subsection (c) or (d) below.
- b. Any fence erected for the side yard or the rear yard shall not have a height exceeding six (6') feet and shall not be erected closer to the front lot line than the front building line of the structure. Shrub plantings shall be maintained at or below these height restrictions. Trees and shrub plantings as fences shall be maintained so as not to encroach on the adjacent lot or right-of-way.
- c. Clear Vision at Street Intersections. To protect clear vision at intersections, fences, walls, berms, shrubs, hedges and other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any street right-of-way lines at a distance along each line of thirty (30') feet from their point of intersection shall not exceed thirty-six (36") inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight (8') feet above street grade.
- d. Clear Vision when Driveways and Alleys meet Streets. To protect clear vision at intersections, fences, walls, shrubs, berms, hedges or other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any driveway and any existing or proposed sidewalk, alley, street or public right-of-way at a distance along each line of fifteen (15') feet from their point of intersection shall not exceed thirty-six (36") inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight (8') feet above street grade.
- e. Fences in proximity to fire hydrants: Any fence that comes within 36 inches of a fire hydrant shall conform to requirements of the International Fire Code to assure unfettered access in case of emergency. Disagreements over requirements shall be resolved by the Auburn Williams Township Fire Department.
- f. No spike, nail, pointed device or pointed extension of a fence component shall be placed atop or extended from a fence. It shall not contain barbed wire, electric current or charges of electricity.
- g. No fence shall be located nearer than one (1') foot to the property line, except by written mutual agreement of the adjoining property owners, which agreement shall be filed with the City Clerk at the time of application for a permit.

- h. Gates in fences shall not open over public property.
- i. All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.
- j. Fences over four (4) feet in height must have posts at least three (3) feet into the ground.
- k. Materials: fences must be built with chain link fence, standard fence wood, prefabricated vinyl fence, masonry materials, or metal such as wrought iron. Fences may not be built with scrap lumber, chicken wire, wire mesh, wood pallets, or other unapproved materials.
- l. Masonry walls higher than 24 inches will require engineering drawings for construction that assure the safety of such walls before a permit will be issued.
- m. Fence posts, with the exception of posts for chain-link fence, lateral supports, and framework not a specific part of decoration, shall be inside the fence, facing inward toward the property enclosed by the fence.
- n. Snow Fence: A snow fence shall be allowed between November 1 and April 1 without permit. Such fences shall be subject to ordinance requirements relative to clear vision, other safety issues, and proximity to lot lines. Any fence in violation of those requirements shall be brought into compliance immediately upon the request of the City.
- o. Pool fencing:
 - (1) Required: All private pools shall be enclosed by a fence that shall be at least four (4') feet in height above grade and of a type not readily climbable by children. A dwelling or accessory building may be used as part of such an enclosure.

A pool with sides at least four (4') feet in height above grade may be exempt from complete enclosure by a fence as specified in this Section if the ladders, steps, or similar means of access to such pool or attached deck area is enclosed within a fence with one (1) or more gates constructed as specified in this Section.

A pool with sides at least four (4') feet in height above grade may be exempt from complete enclosure by a fence as specified in this Section if the ladders, steps, or similar means of access to such pool can be raised, removed, or secured so as to prevent access.

- (2) Access: Each gate in such fence and all doorways giving direct access to the enclosure shall be secured when the pool is not in use.

Likewise, ladders, or steps giving access to above-ground pools shall be removed or raised to prevent access when the pool is not in use.

- (3) Inspection and Compliance: The City or its designated agents shall have the right, at any reasonable hour, to inspect any fence surrounding any pool for the purpose of determining compliance with this Code.

Pools, installed or erected before the date of this ordinance shall be made to comply with this Section within ninety (90) days after the ordinance's adoption.

5. Maintenance

- a. Generally: All fences shall be maintained in a sound and safe condition. Any fence that through lack of repair, type of construction, location, deterioration, or other reason, imperils life or property shall subject the property owner to the penalty provisions of Section 402.

b. Nonconforming Fences

The lawful use of a fence existing at the effective date of this ordinance may be continued although such use does not conform with the provisions of this Chapter or the ordinance it replaces. A nonconforming use in this Chapter may be changed, repaired or altered provided that it is not to an extent greater than fifty percent (50%) of the total lineal footage, with the exception that any repairs, changes or alterations made to fences in the required clear vision area shall comply with this Chapter.

6. Parallel Fences

Fences parallel to one another shall be prohibited unless special provision is made to specifically provide for proper maintenance of both fences; this shall include provision for adequate distances between the fences and construction design details.

Fencing panels and posts shall not be structurally attached to an existing fence where a safety concern can be identified by the City's building inspector.

7. Penalty. Any person, firm or corporation, or anyone acting in behalf of such a person, persons, firm or corporation, who shall violate any of the provisions of this Chapter, or who fails to comply with any of the regulatory measures or conditions adopted pursuant hereto, shall, upon conviction thereof, be subject to a fine or not more than one hundred dollars (\$100.00) or imprisonment in the County jail for a period not to exceed ninety (90) days or both, such fine

and imprisonment is at the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Chapter and shall not preclude the City from bringing separate civil legal action to enforce compliance with this Chapter.

8. Appeals. Any person directly or indirectly affected by the strict application of the provisions of this Chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.
9. Nonapplicability. This Chapter shall not apply to construction fences as authorized and required in the Building Code.