

City of Battle Creek  
Chapter 1298 Fences  
Approved by Planning Commission 7/27/16  
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Chapter 1298 Fences

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**1298.01 SHORT TITLE.**

This chapter may be referred to and cited as the "Fence Ordinance of the City of Battle Creek" or just the "the Fence Ordinance."  
(Ord. 36-84. Passed 12-18-84.)

**1298.02 PURPOSE.**

The purpose of this chapter is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties to light, air and view.  
(Ord. 36-84. Passed 12-18-84.)

**1298.03 DEFINITIONS.**

In addition to the definitions contained in Chapter 1230, as used in this chapter:

- (a) Fence. A vertical structure forming a ~~permanent~~ barrier, or a group of bushes or shrubs aligned in such a way to form a barrier, on either the whole or any portion of a given area, or a group of bushes or shrubs aligned in such a way to form a barrier on either the whole or any portion of a given area. ~~For purposes of this code, retaining walls are not considered a fence.~~
- (b) Height. The vertical distance measured from the natural grade of where the fence is placed to the upper-most portion of the fence.
- (c) Permanent. Any part of the fence requiring any tools or machinery for installation or removal regardless of the length of time the fence is to remain.
- (d) Yards. Open space that is on the same lot with a building, specified locations defined as follows:

- (1) "Front yard". ~~T means~~ the area between the front of the principal structure and the street right-of-way, for the full width of the lot. For the purpose of this chapter, a corner lot, double frontage lots, and waterfront lots, 25 feet or less from the secondary street right-of-way, water way, or first supporting member of the principal structure, whatever distance is less, shall be considered a front yard. ~~The remaining property shall be considered a rear or side yard for fencing purposes.~~
- (2) "Rear yard". ~~The means any~~ area adjacent to a principal structure that is not a front yard or a side yard.
- (3) "Side yard." ~~I means~~ the area between the side of a principal structure, that extending between the front building line and the rear building line, and the interior side lot line.

#### **1298.04 CONSTRUCTION; 04 PERMIT REQUIRED; APPLICATION; FEE.**

- (a) No person shall construct or cause to be constructed any permanent fence upon property within the City without first obtaining a permit therefor, unless otherwise stated. A permit shall not be required for painting or for repairs not affecting more than 25% of the fence performed within a one-year period provided that the height, location, and style of the repairs do not change.
- (b) A fee in the amount established by the City Commission shall be paid for such permit and shall be submitted along with the application for the permit.
- (c) ~~Application for such a permit shall be made to the Community Services Department and shall contain all required information, including site drawings, showing the location of the proposed fence in relation to any structure, street or alley, as well as the proposed height of the fence, for the purpose of determining whether or not the erection of such fence will be contrary to any of the provisions of this Zoning Code or any law of the State. A permit is not required for~~ A fee in the amount established by the City Commission shall be paid for such permit and shall be submitted along with the application for the permit. No permit is required for a fences used for agricultural purposes where agriculture is the principal use, fences that can be installed or removed without the means of tools or machinery, or for shrubs or hedges planted to serve as a fence.

#### **1298.05 GENERAL PROVISIONS FOR ALL FENCES**

- (a) Location. No fence shall be located in a public right-of-way.
- ~~(a)~~(b) In no circumstance shall any fence be erected or maintained within 25 feet of the corner property line at a street intersection so as to interfere with traffic visibility across the corner of streets or alleys. All fences in the front yard shall have a surface area 50% or more of which is opaque or non-transparent.
- ~~(b)~~(c) Decorative architectural features on fences shall not be included in the measured height of a fence so long as they do not extend more than nine inches above the maximum height and have a minimum spacing of five feet between features.
- ~~(c)~~(d) Legally existing, nonconforming fences will be required to comply with this section when any change or repair is made to the fence affecting more than 25% of the fence surface within a one-year period. This provision does not include the painting of a fence.

- (e) For purposes of this chapter, retaining walls are not considered a fence; however, ~~if any such retaining wall exceeds~~ four feet in height requires a minimum four foot tall fence erected along the highest elevation of the wall. For terraced retaining walls, any section of retaining wall that is over four feet in height where there is less than a three foot wide landing, there shall be a minimum four foot tall fence erected along the highest elevation of subject property grade.
- (f) Solid fences or walls are required to completely conceal and enclose dumpsters with a capacity of 2 yards or more, and must extend at least six inches above the height of the dumpster being concealed.
- ~~(d) 30" in height it must comply with the building code for any required guard rails.~~
- ~~(e)~~(g) Construction fences not to exceed eight feet in height to secure the construction site are permitted for a period of 1 year or while a construction permit is open, whichever timeframe is less.
- (h) Snow fences are permitted between November 1st and May 31st at a height and location for permanent fences in the district where the property is located.

~~(f)~~

#### 1298.06 GENERAL PROVISIONS BY ZONING DISTRICT AND USE.

(a) Agricultural Districts.

- ~~(1) No restrictions are imposed to limit the size, type or location of fences in an agricultural district when used for agricultural purposes.~~

~~(2) No permit is required for a fence used for agricultural purposes in an agricultural district.~~

~~(3) Above ground electric fences and barbed wire fences are permitted for agricultural purposes in an agricultural zone.~~

(b) Residential Districts and properties used for residential purposes regardless of Zoning District.

- ~~(1) No fence in a front yard shall exceed four feet in height or have a surface area 50% or more of which is opaque or non-transparent. and n~~ No fence in any rear or side yard shall exceed six feet in height.

(c) Commercial and Office Districts.

- (1) No fence in a front yard shall exceed four feet in height ~~and nor have a surface area 50% or more of which is opaque or non-transparent.~~ No fence in any side or rear yard shall exceed eight feet in height unless the fence is used to enclose outdoor retail displays, is contiguous to the principal use, and is not more than twenty~~20~~ feet tall.

~~(2) Solid fences or walls are required to completely conceal all dumpsters and trash receptacles and must extend at least six inches above the height of the receptacle being concealed.~~

- ~~(3)~~(2) Fences, walls, and/or plantings of complete concealment type measuring six feet in height shall be constructed ~~at or~~ the common side or rear lot line between all building and parking areas whenever a commercial or office use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with

the commercial or office use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Zoning Administrator.

~~(4)~~(3) Storage yards for motor vehicles for salvage shall be governed by Section ~~1272.03~~(1272.03(p)).

(d) Industrial Districts.

(1) No fence in a front yard shall exceed six feet in height. No fence in any side or rear yard shall exceed ten feet in height unless the fence is used to enclose outdoor storage areas, is contiguous to the principal use, and is not more than 20 feet tall.

~~(2) Solid fences or walls are required to completely conceal all dumpsters and trash receptacles and must extend at least six inches above the height of the receptacle being concealed.~~

(2) Fences, walls, berms, and/or plantings of complete concealment type measuring six feet in height shall be constructed ~~at~~<sup>on</sup> the common side or rear lot line between all buildings and parking areas whenever an industrial use abuts a residential zone or residential use regardless of what yard it is in and shall be installed concurrently with the industrial use of land or building. If the proposed concealment method includes materials other than a fence, the proposed design of such concealment method shall be submitted to the Community Services Department with a permit application for review and approval by the Zoning Administrator.

(3) Storage yards for motor vehicles for salvage shall be governed by Section 1272.03(p).

~~(3)~~

**1298.07 CONSTRUCTION AND MAINTENANCE.**

- (a) Any fence or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, is hereby deemed a violation of this code. A fence may not interrupt traffic patterns, parking spaces, maneuvering lanes, drainage areas, or cause visibility obstructions to cars or pedestrians at driveways and sidewalks.
- (b) Fence posts must be set firmly in the ground and at a depth that will support the structure of the fence.
- (c) Fences may be constructed from wrought iron, vinyl, wood pickets, stone, brick, chain link, or any other generally accepted fencing material. In no instance shall a fence be constructed from pallets, twigs, pressed board, plywood, scrap lumber or other nontraditional fencing material without the Zoning Administrator's approval.
- (d) The owner of any fence shall maintain a fence by painting, treating, trimming, repairing or removal, as necessary to maintain the fence in a safe and reasonably attractive conditions. A fence that is dangerous to public safety, health or general welfare as determined by the Zoning Administrator is considered a violation and the City may commence proceedings for the abatement thereof.

**1298.08 PROHIBITED FENCING.**

- (a) No fence erected within the City limits shall be electrically charged in any manner unless the fence is buried beneath the ground unless authorized or permitted elsewhere in this chapter.
- (b) No fence shall be constructed of barbed wire, razor wire, concertina strands, single wire, cattle fencing, or similar materials; provided however that a fence which includes barbed wire strands may be used to enclose hazardous materials or land uses, or where such additional security is appropriate for land used for commercial or industrial purposes, in the discretion of the Zoning Administrator, provided that only three strands are used, not more than a total of nine inches in height. [Above ground electric fences and barbed wire fences are permitted for agricultural purposes in an agricultural zone.](#)

~~(b)~~

#### **1298.09 EXCEPTIONS.**

- (a) The height and location restrictions of this chapter shall not apply to schools, public recreation areas, public utilities, or any other use that the Zoning Administrator deems necessary to preserve the safety and protection of the public.
- (b) Any conflict between this section and any ordinance, statute, or regulation regarding fences around swimming pools shall be controlled by that ordinance, statute, or regulation regarding swimming pools.
- (c) Fences around public property and public and private recreation areas to enclose tennis courts, basketball courts, schools, church playgrounds, or other similar areas are permitted at a height not to exceed ten feet high, provided that all yard setbacks are maintained and that no obstruction to visibility is created thereby.