

ORDINANCE NO. 5

TOWNSHIP OF TILDEN

MARQUETTE COUNTY, MICHIGAN

AN ORDINANCE REGULATING FENCES IN THE TOWNSHIP OF TILDEN

Section 1: Definitions:

For the purpose of this Ordinance, the following terms are herewith defined.

Fence: Any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including living hedges, bushes or shrubs, encircling wholly or any portion of any area.

Protective Measures Fence: A fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

Zoning Districts:

R-1 – Residential One

RR – Rural Residential

SD – Seasonal Dwelling

RP – Resource Production

MR – Mineral Resource

Section 2: Requirements:

From and after the date of adoption of this Ordinance, it shall be unlawful for any property owner or occupant to construct or cause to have constructed or to repair or replace any fence upon any property within the limits of Tilden Township except in accordance with the requirements and restrictions in this Ordinance.

Section 3: Permit:

Any person desiring to build or cause a fence to be built, planted, constructed, repaired or replaced upon property within the limits of Tilden Township shall first apply to the Zoning Administrator for a permit to do so. Application for such permit shall contain the following:

- a. Name and address of landowner;
- b. Lot number, parcel tax ID number, or street address where fence is or will be located;
- c. Photographs of existing fence, if any;
- d. Drawing (plan view) of location of proposed new or replacement fence in relation to existing structures, lot lines and adjacent public right-of-ways;
- e. Drawing, photographs or text description of proposed fence;
- f. Summary of repairs proposed to be made to existing fence;
- g. All other information that may be required after the Zoning Administrator reviews the above.

Every permit issued under the provisions of this Ordinance shall require completion of the installation, repair or replacement of the fence within six (6) months from the date of permit issuance. Failure to complete the work within the six (6) month period shall void the original permit and require either issuance of a permit extension not to exceed six (6) months, or removal of the partially installed fence. If a permit extension is issued and the fence is not completed, repaired or replaced within the extended permit, the Landowner shall remove all work done under the original permit and the extension within 30 days after expiration of the extension permit. A flower, fruit or vegetable garden less than 40 square feet in area shall not require a permit under this Ordinance.

Section 4: Permit Fee:

Permit fees shall be set by the Township Board for issuance of an original permit and for an extension permit.

Section 5: Zoning District Requirements:

- a. In residential zoning districts R-1, RR and SD, the following conditions shall apply:
 - i. Height. Fences shall not exceed six (6) feet in height.
 - ii. Exceptions. On street sides of corner lots, a fence may not exceed four (4) feet in height. A fence in a front yard shall not exceed four feet in height and may not have more than 50% of the fence area opaque.
 - iii. Living Fence. A fence of living hedges, bushes or shrubs shall not exceed the eave height of the dwelling roof between the front line of the dwelling and the rear property line as defined in the Zoning Ordinance. Dead or diseased hedges, bushes or shrubs shall be removed.
- b. In zoning districts MR and RP, the following conditions shall apply:
 - i. Height. Fences shall not exceed eight (8) feet in height.
 - ii. Construction. Fences shall not have more than 50% of the fence area opaque.
 - iii. Exception. A screening fence, as authorized or required by any Township Ordinance or by any Township administrative board or official, or by State law may be opaque. A protective measures fence may be allowed pursuant to Section 7 below.

Section 6: General Fence Requirements:

- a. Every fence must be located on the private property of the property owner or occupant constructing or installing the fence. A fence shall not be constructed in, on, or across any public street, alley, sidewalk or public easement.
- b. Every fence constructed or installed contiguous or adjacent to an alley shall not be closer than three (3) feet to the alley right-of-way line.
- c. Fences shall be constructed with boards, chain link, or other suitable material firmly connected to posts sunk in the soil at least two (2) feet or more as necessary to properly support the fence.
- d. The board, chain link, or other material used in the building of a fence shall be fixed to that side of the posts nearest to the property line.
- e. Electrically charged fences may only be constructed, installed or maintained on parcels larger than five (5) acres. An electrically charged fence must be posted with at least three (3) conspicuous warning signs, giving notice that the fence is electrically charged.
- f. Barbed wire, concertina wire, and similar types of fence with sharp edges designed to injure are prohibited on all fences, except in the MR district and except as permitted by the Board of Zoning Appeals on approved protective measure fences.
- g. A fence made up on individual strands of wire, rope or wooden boards must be parallel with the adjacent grade of the fence line. The individual strands of wire, rope or wooden boards must be evenly spread between the top and bottom of the posts, and must be no more than six (6) inches apart.

Section 7: Special Purpose Fences:

- a. Swimming Pools. All permanent swimming pools with a water depth of three (3) feet or greater at any point shall be enclosed with a six (6) foot high fence, not closer than four (4) feet from the pool's edge on any side. Gates in the fence shall have a self-latching catch or lock located not closer to the base of the fence than four (4) feet and inaccessible from the outside to small children.
- b. Protective Measures. A protective measures fence may only be erected upon a review and finding by the Board of Zoning Appeals of the need for such fence. A protective measures fence shall not exceed twelve (12) feet in height and may only be placed in Mineral Resource (MR) districts.

Section 8: Fence Maintenance:

- a. All fences existing prior to adoption of this Ordinance, and any fences permitted under this Ordinance shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, imperils life or property, shall be deemed a nuisance. The Zoning Administrator shall notify the owner of the property on which such fence is located of the existence of such nuisance. The owner must then abate said nuisance within fifteen (15) days of sending such notice.

- b. An abatement under Section 2 above requiring repairs to 50% or more of a fence existing prior to the adoption of this Ordinance shall require total replacement of the entire existing fence. Replacement fences shall meet all of the requirements of this Ordinance.
- c. Fences existing at the time of adoption of this Ordinance containing barb wire, concertina, or similar wire shall be removed upon notification from the Zoning Administrator. Such fences are deemed unsafe and are prohibited in the Township of Tilden, except in the MR district, which are allowed under Section 6 above.

Section 9: Appeals:

Upon appeal in writing by the owner or owner's agent of any property and payment of a \$100 appeal fee to the Tilden Township Treasurer, the Board of Zoning Appeals of Tilden Township may, after notice and a hearing, in the Board's discretion, change or alter the requirements of this Ordinance in individual cases. The Board shall only have the power to change or alter the requirements in this Ordinance where such action will not be contrary to the public interest or public safety and where, owing to special circumstances or conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulties or undue hardship. The Board may not allow any kind of fence which is prohibited under this Ordinance.

Section 10: Violation and Penalty:

Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses, and violations of approved site plans, shall constitute a civil infraction. Any person or entity that admits responsibility or is adjudged to be responsible for a violation of this Ordinance, or fails to comply with any of its requirements shall, upon admission or judgment thereof, pay a civil fine of not more than Five Hundred Dollars (\$500.00), plus costs and other sanctions, for each infraction.

Each day such violation continues shall be considered a separate offense. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Ordinance committed by a violator within any twelve (12) months period, for which the violator admits responsibility or is determined to be responsible. The imposition and payment of any civil penalty shall not exempt the violator from compliance with the provisions of this Ordinance.

Adopted: