

## Ordinance No. 248

### Port Huron Township Fence Ordinance

An Ordinance providing for the health, safety and general welfare of the residents of Port Huron Township, adopted to replace Section 40-737 Fences of the Charter Township of Port Huron Code of Ordinances, adding new definitions and regulating the erection and replacement of fences within Port Huron Township due to the increased need for additional security options and the number of fences that have recently been erected in non-conformity to the existing ordinance during the closure of the Township Hall and the recent concerns regarding the Covid19 pandemic.

THE CHARTER TOWNSHIP OF PORT HURON, ST. CLAIR COUNTY, MICHIGAN, ORDAINS:

Section 1: The following definitions shall be added to the Port Huron Township Zoning Ordinance, Sec.40-3 or shall be amended therein, as appropriate:

Section 2: Section 40-737 Fences, as listed below, shall replace the existing Section 40-737 Fences of the Charter Township of the Port Huron Zoning Ordinance in entirety.

#### **40-737 Fences.**

Every fence constructed or erected in the township shall comply with the regulations of this chapter. No fence shall be erected or constructed until a permit has been issued in accordance with the provisions of this section.

#### **(1) GENERAL REQUIREMENTS.**

a. Intent. The intent of the revision of the fence regulations is due to the increased need for additional security options and the number of fences that have recently been erected in non-conformity to the existing ordinance during the closure of the Township Hall and the recent concerns regarding the Covid19 pandemic.

b. Definitions. The following definitions of fencing shall be added to the zoning ordinance for regulation purposes.

1. A “decorative” fence will be considered any fence with a scalloped or other erratic cutout design on the top and sides along with other designs or log or structurally stacked horizontal members that do not exceed the height limitation for the location specified as allowed per the ordinance. Vinyl fences with decorative panels shall also be considered decorative for the purposes of this ordinance.

2. For the purposes of this ordinance, shrubbery and/or trees shall not be defined as a “fence”. Other regulations listed elsewhere in the ordinances to control the location of plantings are still applicable and such regulations shall be enforced where listed.

3. The word "Department" as used in this ordinance shall include the definition of the Building Official, the Zoning Administrator, or their Designee, such as a "Code Enforcement Officer or similar appointed position.

c. Fence Materials. Fences shall consist of materials commonly used in conventional fence construction, such as plastic, wood or metal. Razor wire shall not be permitted. Electric and barbed wire fences are not permitted except where erected entirely inside of another permitted, conforming fence, on properties approved for agricultural uses for the containment of livestock, in compliance with all ordinance restrictions listed elsewhere in the ordinance.

d. Finished appearance. If, because of the design or construction, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot with the following exceptions:

1. When a fence is approved for construction under a joint permit as provided for in this section, the joint permit holders shall determine the preferred orientation of the more finished side of the fence along the common property lines of the joint permit holders.

2. An owner of abutting property may waive the right for the more finished side of a fence to face his abutting property. Such waiver of right must be in the form of a written consent statement, signed by the owner of the property where the fence would face under the normal requirements of this section. The written consent statement shall be attached to the permit application and maintained with permit records by the Department.

e. Obstruction to use of adjoining property. No fence shall be erected where it would prevent or unreasonably obstruct the use of adjacent property, nor shall a fence be erected where it would obstruct or prevent the continued safe use of an existing driveway or other means of access to adjacent property. In enforcing this provision, the Department may require a fence to be set back a minimum distance, as noted elsewhere in the ordinance from a driveway, street, sidewalk or property line in order to provide for the safe passage of pedestrians, bicyclists or vehicular traffic or other safety related concerns.

f. Fence maintenance. Fences shall be maintained in good condition. All fences shall be the responsibility of the owner of the property on which it is placed. Rotten or broken components shall be replaced, repaired or removed, as necessary or required. Surfaces shall be painted, stained or otherwise treated with materials to protect and preserve the fence and provide an attractive finish. If a fence is found to be in need of repair, the Department shall issue orders to complete such repairs. Failure to comply with written notice to the property owner of record by the Department shall be deemed a violation of this chapter and subject to a Municipal Civil Infraction.

g. General Location requirements. Any fence shall be located entirely on the property for which the permit is issued. No fence, or portion thereof, including electric fences and/or barbed wire, may extend into or over another's property, right-of-way, or an established walkway such as a sidewalk, with the exception of gates as noted elsewhere in this ordinance. Gates or sections of the fence may swing into or over a private walkway provided there are no hazardous sections such as barbed wire which may cause serious intentional bodily harm. However, adjoining property owners may jointly apply for a fence permit, in which case the Department may permit it to be constructed on their common property line. A fence shall not be attached to or touch a fence located on another owner's lot without the express

written agreement of the owners of both fences. In every case, fences must be constructed with adequate posts and other supports so that each fence is capable of maintaining a rigid and upright position in compliance with the locations described in the original application.

h. Corner clearance. Fences located adjacent to a street or driveway shall be designed to provide unobstructed sight distance for drivers in accordance with section 40-665(4) as currently referenced.

i. Nonconforming fences. Fences approved after passage of this ordinance revision or that can be documented on the St. Clair County Geographic Information System as being erected prior to the 2010 Ariel photography flyover may be replaced as documented on the photos or on a previously approved permit application may be replaced as approved or documented. However, any future additions to the fence locations and heights will be required to conform to this chapter.

## (2) REVIEW AND APPROVAL PROCEDURES.

a. Application for permit. An application for a permit to construct a fence shall be filed with the Department. No fence shall be erected or constructed until a permit has been issued in accordance with the provisions of this section. If a fence is proposed in conjunction with a development that requires site or sketch plan review, then the fence shall be shown on the plans. The plans shall be reviewed in accordance with normal site or sketch plan review procedures. The application shall be accompanied by drawings and other information that illustrate the dimensions, design and location of the proposed fence. The following minimum information shall be included on the drawing submitted in support of a fence permit application:

1. Fence location.
2. Distance from lot lines and site improvements.
3. Materials, sizes and methods used in construction.
4. Location of all structures within 25 feet of the proposed fence.
5. Location of all existing fences within 10 feet of the proposed fence.
6. Location of all driveways within 25 feet of the proposed fence.
7. Location of all sidewalks within 25 feet of the proposed fence.

b. Permit Issuance. The Department or their designee may determine other additional information that is reasonably necessary to provide a complete review of the proposed fence and issue the permits. Such additional information shall be provided by the applicant as may be required to ensure compliance with the regulations set forth in this chapter and be inspected by the Department, to ensure the fence is in compliance with all requirements listed.

c. Permit Costs. Each fence permit application shall be accompanied by a fee, at permit issuance, to recover the reasonable costs for review and permit issuance. The amount of the fee shall be fixed by resolution of township board and posted in the building department. If the fence is constructed before

an application for a permit is obtained, the fee shall be increased to an amount equal to twice the fee that is required if the permit application and fee were obtained prior to construction of the fence. The Department shall grant a permit to construct a proposed fence upon finding that the proposed fence fully complies with all applicable regulations.

d. Survey required. In the event lot lines for the subject property cannot be located to the satisfaction of the department, they may withhold issuance of the permit until the lot lines are located and permanent stakes are installed by a licensed surveyor.

e. Appeal of a decision. Upon determination that the permit application or the requirements of the proposed fence do not meet the requirements listed in the ordinance or an application is denied by the Planning Commission or the Department, the applicant may appeal the decision to the Zoning Board of Appeals.

f. Penalties. Any failure to comply with any part of this Ordinance, or to maintain and/or protect the safety of the animals, the property, and/or neighboring property shall be considered a violation of the Ordinance and subject to a Municipal Civil Infraction, and/or other action as deemed necessary by the Township.

### (3) FENCE REGULATIONS IN RESIDENTIAL ZONING DISTRICTS.

a. Locations and height. Fences in residential districts shall not exceed 6' in height. Fences shall only be located as noted below and shall be subject to the following additional regulations:

1. Three, (3') feet high decorative fences shall be permitted in any area of a legal parcel surrounding a residence, subject to all other restrictions listed.

2. Up to Four, (4') feet high fences shall be permitted in all side and rear yard setback locations and may only be placed in front of a residence, up to and parallel with the front yard setback allowed for a covered or uncovered porch.

3. Up to six (6') feet high fences shall be permitted in the following locations.

i. Anywhere in the allowed rear and side yard setbacks of a residence.

ii. Up to and parallel with the front of a residence or the attached garage to the adjacent side yard lot line.

iii. Up to and parallel with the front of a residence or detached accessory structure, that extends into a front yard setback, only when approved by the Planning Commission thru the submittal of a Sketch Plan application.

iv. Up to and/or parallel with the adjacent rear yard setback of the residence on the side yard setback on that side of the property.

b. Fences abutting Rights of Way. Fences located along the side lot line abutting a street on a corner lot shall be located no closer than one foot to the edge of the sidewalk or on the lot line if there is no sidewalk adjacent to the lot line. Where 2 residences both have abutting rear yards, or where there are vacant lots or no adjacent residences with frontage on the right of way, a 6' high fence shall be permitted.

c. Fences enclosing public areas. Fences that enclose public parks, playgrounds or similar public areas located within a residential district shall not exceed six feet in height, measured from the surface of the ground, without Sketch Plan review and approval by the Planning Commission.

d. Screening. A maximum of 6' high fencing or screening shall be allowed to be erected on the top of decks, pools and other similar occupied raised platforms located in a side or rear yard setback upon the issuance of a zoning permit, provided the base structure is in compliance with the minimum setback requirements listed in the ordinance for the structure.

#### (4) FENCE REGULATIONS IN NONRESIDENTIAL ZONING DISTRICTS.

##### a. Location.

1. Except as otherwise permitted in this section for industrial facilities, fences shall be permitted in the rear or side yards of nonresidential districts; provided, that no fence shall extend closer toward the front of the lot than any portion of the principal structure.

2. A fence may also be installed in the front yard of a lot located in non-residential districts for the purpose of providing security for goods, supplies and vehicles stored on the industrial lot, provided an application for the security fence shall be submitted for review and approval consistent with the Site Plan or Sketch Plan approval procedures of the zoning ordinance. Reasonable conditions for the placement of such fences may be included when such fence is approved.

3. Fences located along the side lot line abutting a street on a corner lot shall be located no closer than one foot to the edge of the sidewalk or on the lot line if there is no sidewalk adjacent to the lot line.

4. Fences on corner lots shall comply with the corner clearance requirements listed in section 40-665(4).

b. Height. Fences in commercial and industrial districts shall not exceed eight feet in height without special use approval by the planning commission.

c. Barbed wire. Barbed wire may not be attached to the top of a fence in an industrial or commercial district, without special use approval by the planning commission.

d. Signs attached to fences. Signs advertising the availability of services or products shall not be attached to any fence. The only sign that may be attached to a fence shall indicate the name of the individual or company that constructed the fence and that sign shall not exceed 2 square feet in area.

e. Conflict with wall requirements. This section shall in no way alter or affect the requirements for walls as set forth in other sections of this chapter.

Section 3. Appeals. Appeals from the regulations in this ordinance must be brought before the Port Huron Township Zoning Board of Appeals, consistent with the procedures for appeals to that Board of Appeals as set forth in this Zoning Ordinance. At the option of the Township, a dispute over the application of the provisions of this Ordinance may be submitted for a review from the appropriate County, State or Federal agency to determine if any violations of law or unreasonable conditions exist.

The land owner shall be responsible for all fees and compliance with all applicable laws and/or regulations.

Section 4. Penalties. Any failure to comply with any part of this Ordinance, or to maintain and/or protect the safety of the animals, the property, and/or neighboring property shall be considered a violation of the Ordinance and subject to a Municipal Civil Infraction, and/or other action as deemed necessary by the Township.

Section 5. Severability. Should any provision or part of the Ordinance within be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect.

The above Ordinance was introduced for consideration by Township Board Member Reno, and was seconded by Township Board Member Dudas, the vote being as follows:

YEAS: Reno, Dudas, Riehl, Livingston, Shonka, Davis, Lewandowski

NAYS: None

ABSTAIN/ABSENT: None

ORDINANCE DECLARED ADOPTED:

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By: Benita Davis, Clerk  
Charter Township of Port Huron

CERTIFICATION

I hereby declare that the above is a true copy of an Ordinance adopted by the Charter Township of Port Huron Board at a board meeting held on **Monday, May 3, 2021**, at the Charter Township of Port Huron Hall, pursuant to the required statutory procedures.

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Benita E. Davis, Township Clerk  
Charter Township of Port Huron

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