

CHAPTER 86 - FENCE ORDINANCE

86.01 DEFINITIONS: For the purpose of this ordinance, certain terms are herewith defined as follows:

ADJACENT GRADE Adjacent grade shall be construed as the average grade measured at a point three feet on each side of the fence. In the case of a fence on a retaining wall, adjacent grade shall be the grade of the top of the wall.

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

HEIGHT The *average* distance between the top element in the fence and the adjacent grade *over* a straight section of fence with no corners.

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.

86.02 REQUIREMENTS: It shall be unlawful for any person, firm, or corporation to construct or cause to *have* constructed any fence upon any property within the corporate limits of the City of Marquette, except in accordance with the requirements and restrictions herein provided.

86.03 PERMIT: Any person desiring to build or cause to be built a fence upon property within the corporate limits of the City of Marquette shall first apply to the Zoning Department for a permit to do so. Application for such permit shall contain any and all information, including drawings, required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this ordinance or the laws of the State of Michigan. Any permit issued under the provisions of this ordinance in which construction has not been completed within six (6) months from the date of issuance, shall expire. Permit extensions may be granted by the Zoning Administrator not to exceed one (1), six (6) month extension. Permit fees shall be set by the City Commission annually.

86.04 REQUIREMENTS BY ZONING DISTRICT:

(a) RS - Single Family Residential, RG -General Residential, and RM - Multiple Family Residential.

Height Fences shall not exceed six feet in height.

Exceptions Where a fence is within 10 feet of an adjoining lot containing a one or two family dwelling; it shall not exceed four feet in height between the rear line of that dwelling and its front property line as defined in the zoning ordinance. On the street sides of corner lots, a fence may not exceed four feet in height between the rear of the dwelling and the corner on either street frontage. If the adjoining lot is vacant but could contain a one or two family dwelling, the fence shall not exceed four feet in height between the rear yard line (defined in the zoning ordinance) and the front property line. A fence in a required front yard may not exceed four feet in height.

Construction A six foot high fence may be of solid construction. A fence limited to four feet may not have more than 50% of the fence area of solid matter or of closed construction

Exception A screening fence authorized or required by City ordinance or administrative board or official, or by State law may be of solid construction.

(b) OS - Office, BC - Community Business CR - Conservation Recreation DD
Deferred Development

Height Fences shall not exceed six (6) feet in height.

Construction Fences may not have more than 50% of the fence area of solid
Matter or closed construction.

Exception A screening fence authorized or required by City ordinance or
administrative board or official, or by State law, may be of solid construction.

(c) BG - General Business, I - Industrial.

Height - Fences shall not exceed 10 feet in height,

Construction - Fences may not have more than 50% of the fence area of solid
matter or of closed construction.

Exception A screening fence authorized or required by City ordinance or
administrative board or official, or by State Law, may be of solid construction.

86.05 Requirements applicable to all fences.

(a) All fences must be located on the private property of the person, firm, or
corporation constructing the fence, and shall not extend toward the
street beyond the front property line.

(b) Fences shall be constructed with boards, chain link construction, or other
suitable material firmly connected to posts sunk in the soil at least two feet or
more as necessary to properly support the fence.

(c) Except where partition fences between two properties may be erected by
written agreement between the owners thereof, the boards, 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.

(d) No fence shall be constructed, maintained, or placed on any property in the
City of Marquette of metal construction or otherwise, which is charged or
connected with an electrical current in such manner as to transmit said current
to persons, animals, or things which intentionally or unintentionally might come
In contact with it.

(e) Barbed wire is prohibited in the City of Marquette except as permitted by
the Board of Zoning Appeals on approved protective measures fences.

(f) Where a fence is made up of individual strands of wire, rope, or similar
material smaller than one inch in width, thickness, or diameter, the strands must
be strung, between posts, parallel with the grade of the land, must be evenly
spaced between the top and bottom of the posts, and must be no more than
six inches apart.

(g) No fence located at a street intersection may exceed three feet in height
within a clear vision triangle formed by measuring 25 feet along each property
line from the corner of the right of way.

(h) Concertina wire, and similar types of fence with sharp edges designed to
injure, are prohibited in the City of Marquette.

86.06 Special Purpose Fences

(a) Swimming pools: All swimming pools with a water depth of two feet or
greater at any point shall be enclosed with a six foot high fence, not closer than
four 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 grade than four feet and
otherwise made inaccessible from the outside to small children.

(b) Protective Measures Fence: A protective measures fence may only be erected upon a finding by the Board of Zoning Appeals of the need for such fence. The Board's established procedures for filing fee, notice, and hearing shall be followed. The applicant does not need to demonstrate hardship, only the need for the fence. In approving such a fence the Board shall determine that the definition of a protective measures fence is met and that there is no reasonable alternative to the erection of the fence. A protective measures fence shall not exceed 12 feet in height in the I - Industrial district, 10 feet in height in the BG - General Business, DD Deferred Development, and CR - Conservation districts, and 8 feet in height in all other districts. The owner of a protective measures fence may be granted permission to erect necessary and reasonable barriers along the uppermost edge of such fence including barbed wire.

86.07 MAINTENANCE OF NUISANCES: Fences must 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 or Zoning Official shall notify the owner of the property on which such a fence is located of the existence of such a nuisance. The owner must then abate said nuisance within six days after receiving such notice. In the case of immediate danger to life or property the Administrator may require immediate abatement.

86.08 UNSAFE FENCES: Fences containing barbed wire, concertina or similar wire, individual strand fences not meeting the spacing requirements of section 86.05 (f), and *electric* fences are hereby declared hazardous to public safety. The Zoning Administrator may order the removal of such fences when they are located in a residential zoning district. Such fences located in other zoning districts may not be maintained or repaired and must be removed when they become dilapidated. EXCEPTION - Barbed wire which is part of a protective measures fence approved under this or a previous ordinance is exempt from this requirement

86.09 APPEALS: Upon appeal in writing by the owner or owner's agent of any property, the Board of Zoning Appeals of the City of Marquette, after notice and a hearing in accordance with the established procedure of the Board, may in its sound discretion and in the interests of the public health, safety, and welfare, reduce or remit the requirements of this ordinance in individual cases. The Board may not permit a kind of fence which is forbidden by this ordinance.

86.10 REPEALING CLAUSE: All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed.

86.11 SAVINGS CLAUSE: If any section, subsection, sentence, clause, or phrase of this ordinance may, for any reason, be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

86.12 VIOLATION AND PENALTY: Any person violating or failing to comply with the provisions of this ordinance shall be responsible for a civil infraction. Each day a violation continues shall be deemed a separate offense.

ord#473 12-14-98