

ORDINANCE

An Ordinance to amend Section 16.350 of the Manitowoc Municipal Code regulating Fences and Walls.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 16.350 is amended to read as follows:

“16.350 Fences and Walls.

(1) Permit Required. ~~In residential districts and as an accessory to a dwelling in any zone, no person shall construct, build, erect or cause to be constructed, built or erected any fence or wall without first having obtained a permit for such building, construction or erection. That permit shall be obtained from the City Building Inspection Department. The fee for said permit shall be as set forth by resolution of the Common Council.~~

Purpose.

The purpose of this chapter is to regulate the materials, location, height, and maintenance of fencing and walls, in order to prevent the creation of nuisances and to promote the general welfare of the public.

(2) Height Limitations.

~~(a) In residential districts and as an accessory to a dwelling in any zone, fences and walls not more than six feet in height are permitted in any required side or rear yard and in excess of six feet with the permission of the Inspection Supervisor. In the required front yard, however, fences and walls shall be limited to a height of not more than four feet.~~

~~1. In the case of a corner lot, a four foot high fence is permitted from the required front corner vision triangle on the street side yard to the rear corner of the primary residential structure; a fence up to six feet high is permitted from this point along the side street property line to rear property line. Fences abutting or adjacent to driveways shall not be placed to obstruct the driveway approach vision triangle.~~

~~(b) No fence, shrub, hedge, decoration or wall shall be over the height of three feet above the highest sidewalk grade, if within 15 feet along property lines at any intersection involving public streets, alleys, and public or private driveways. The intent of this provision is to maintain a visual open area in a triangle formed by two 15-foot sides which would run parallel to such streets, alleys or driveways.~~

~~(c) No fence or wall of any kind shall be over the height of six feet without the permission of the Inspection Supervisor.~~

Definitions.

a) Fence. An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a

boundary, means of protection, privacy screening or confinement, attached or anchored to the ground but not including hedges, shrubs, trees, or other natural growth.

b) Public Right of Way. Land owned by the City and includes, but is not limited to, that land area between the front lot line and the curb or pavement; that land over which the City has an easement; that land constituting the paved or otherwise improved portion of any highway, street and alleyway; and that land constituting any undeveloped or unimproved highway, street or alleyway on any recorded plat of survey and/or certified survey map.

c) Vision clearance. Means a triangular space at the street corner of a corner lot, or at the intersection of a public alley with a street, unoccupied, driveway, from 3 feet to 10 feet above grade at right-of-way line, except as otherwise specifically authorized. Such space shall be determined by measuring from the point of intersection of the public right of way lines along each street lot line, or street lot line and alley line, as the case may be, the distance required for the zoning district in which the lot is located, forming a triangle by striking an imaginary line between said points of measurement.

d) Wall. A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light.

e) Wall, retaining. A man-made barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

(3) ~~Construction.~~

~~(a) Snow fences may be used temporarily, but in no case shall snow fences be left standing longer than six months.~~

~~(b) It shall be unlawful for any person to construct or maintain any barbed wire or razor wire fence or fences or enclosures built of barbed wire or razor wire on any lot or tract of land within the City of Manitowoc, except that barbed wire above the height of six feet may be permitted for agricultural, industrial, or commercial security reasons, with permission of the Director of Building Inspection.~~

~~(c) It shall be unlawful for any person to construct or maintain any electrical fence within the City of Manitowoc.~~

~~(d) Fences constructed in a manner in which a supporting framework or posts can be construed to represent a back side shall be installed so that the front side faces the adjacent or abutting property.~~

Permit Requirements.

a) In all districts and as an accessory to a structure in any zone, no person shall construct, build, erect or cause to be constructed, built or erected any fence or wall without first having

obtained a permit for such building, construction or erection. A permit shall be obtained from the City Building Inspection Department. The fee for said permit shall be as set forth by resolution of the Common Council.

~~(4) **Fences Required for Swimming Pools, Hot Tubs and Spas.** Private swimming pools, hot tubs, and spas shall be maintained in a clean and sanitary condition and in good repair. Swimming pools, hot tubs and spas shall be located not less than five feet from any side or rear lot line. Swimming pools, hot tubs, and spas containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.~~

General Requirements.

a) **Construction.** All fences and walls shall be constructed, built or erected in strict compliance with this chapter, site specific permit conditions, and the following requirements:

i. The owner or applicant shall be responsible for properly locating all property lines before constructing, building, or erecting any fence or wall.

ii. Lot pins/markers shall not be tampered with. Any violations of this requirement shall be subject to the penalty provisions outlined within state statutes.

iii. Fences shall be installed with the finished side facing the adjacent property or public right-of-way, and the fence posts must be located on the inside of the fence facing the property on which the fence is located.

iv. No fence or wall shall be installed in any yard that will shield any window or opening in a habitable space of a dwelling. A minimum distance of three feet shall be maintained between any fence or wall and any such window or opening in a dwelling.

v. No fence or wall shall be erected within two feet of another fence or wall (parallel), whether on the same or an adjacent property.

vi. No fence or wall shall be erected within the public-right-way.

b) **Materials Allowed.** Fences and walls shall be constructed, built, or erected of high-quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron, chain link and plastic.

c) Materials Prohibited. It shall be unlawful for any person to construct or maintain any fence or wall:

i. Constructed of used or discarded materials in disrepair, including pallets, tree trunks, trash, junk, or materials not specifically manufactured for fences or walls, such as railroad ties, wooden doors, landscape timbers, or utility poles.

ii. Constructed using chain link-type fence with the cut or salvage end of the fence exposed at the top.

iii. Constructed of chicken wire or similar woven material, except when used for gardening-type purposes.

iv. That creates a hazard to users of the street, sidewalk, or to nearby property.

v. That is an electrical fence.

vi. That is barbed wire or razor wire.

Exception: Barbed wire or razor wire used on top of a six-foot-high fence may be permitted by the Building Inspection Supervisor for agricultural, industrial, or commercial security reasons. Notwithstanding the above, barbed wire or razor wire shall not be used along a property line abutting a residentially zoned area.

(5) Maintenance and Repair. Every fence shall be kept in a good state of maintenance and repair or shall be removed by the owner.

Height Regulations. Fences and walls may be erected, placed, or maintained in any yard along or adjacent to a lot line in accordance with the requirements identified in this chapter.

a) Height Measurement. Fence or wall height is measured from the finished grade. For fences that have a uniform deviation (i.e., where the fence post is higher than the fence wall, or where the fence wall is higher than the fence post) the fence wall shall be used to measure the height of the fence.

Exception: Posts, columns, or other similar vertical fence or wall supports shall be allowed to extend a maximum of 6" above the fence wall for decorative caps or solar lights. To maintain this exception, material shall not span from one post support to another above the maximum fence height allowed.

b) Height Limitations. In any zoning district and as an accessory to a structure in any zone, fences and walls shall be limited in height as follows:

i. Front Yard. The maximum height of a fence or wall within the required front yard setback shall not exceed four feet.

ii. Side and Rear Yards. The maximum height of a fence or wall within the required side and rear setbacks shall not exceed six feet.

iii. Vision Clearance. All fences, hedges, shrubbery, and walls are subject to applicable requirements of MMC 15.110 through 15.230 and shall comply with the vision triangle requirements of the zoning district in which they are constructed, built, or erected.

iv. Corner Lot; In the case of a corner lot, a four-foot-high fence is permitted from the required front corner vision triangle on the street side yard to the front corner of the primary residential structure; a fence up to six feet high is permitted from this point along the side street property line to rear property line.

v. No fence or wall of any kind shall be over the height of six feet without the permission of the Building Inspection Supervisor.

(6) Other Provisions.

~~(a) Fences are also subject to applicable requirements of MMC 15.110 through 15.230. No setback, except as provided in subsection (6)(b) of this section, is required between the fence and property line.~~

~~(b) Notwithstanding subsection (6)(a) of this section, in districts zoned residential, and as an accessory to a dwelling, unless approved in writing by the Director of Building Inspection or his/her designee, and the impacted adjacent property owner, no fence or wall shall be erected within two feet of any property line adjacent to any adjoining property which has a permanent driveway appurtenant thereto, nor shall any fence or wall be erected within two feet of another fence or wall, whether on the same or an adjacent property. The requirement contained herein shall not apply to fences or walls that were constructed, built or erected prior to the effective date of the ordinance codified in this section. No fence shall be erected closer than 12 inches to any adjacent public sidewalk.~~

Minimum Setbacks.

a) Fences and walls are not subject to setback requirements between the fence or wall and the property line, except as provided in subsections (6)(b) – (6)(d) of this section.

b) From public right-of-ways. No fence or wall shall be erected closer than 12 inches to any adjacent public sidewalk or, in the absence of a sidewalk, from the public right-of-way.

c) From an adjacent property's driveway. Notwithstanding subsection (6)(a) of this section, unless approved in writing by the Building Inspection Supervisor or his/her designee, no fence or wall shall be erected within two feet of any permanent driveway on an adjacent property.

d) From alleys. Fences or walls must be a minimum of 5-feet from the alley property line.

If the alley does not support traffic, the fence must be located a minimum of 12 inches from the public right-of-way property line.

(7) Storage of Materials Prohibited. No materials shall be stored on a fence or wall nor between a fence or wall and a property line if the fence or wall is located adjacent to said property line.

(8) Swimming Pools, Hot Tubs, and Spas Fencing. Barriers around a swimming pool, hot tub or spa are deemed to be necessary for safety and shall be erected to comply with the provisions of this chapter, other applicable ordinances, and adopted codes.

a) All existing and hereafter constructed swimming pools, hot tubs, and spas containing water more than 18 inches in depth shall be completely surrounded by a fence not less than 48 inches in height above finished level measured on the side of the barrier away from the pool, with a maximum vertical gap of four inches. Gates and doors in such barrier shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches above the bottom of the gate, the release shall be located on the pool side of the gate.

b) Where an above-ground residential pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, the following shall apply:

i. An above-ground pool wall, itself, shall be permitted to be the barrier where the pool structure is on grade and the wall is at least 48 inches above grade for the entire perimeter of the pool and complies with the requirements of Subsection (a).

ii. Where the means of access is a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access or the ladder or steps shall be surrounded by a barrier that meets the requirements of this section.

iii. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four-inch-diameter sphere.

c) Exceptions. Swimming pool, hot tub, and spa fencing shall not be required under any of the following circumstances:

i. Locking and solid structural covers. Such covers shall be in compliance with ASTM F 1346 and shall be in place whenever the pool, hot tub, or spa is not in use and/or unsupervised.

ii. Completely enclosed within a building.

iii. The Inspector Supervisor has determined that the pool, hot tub, or spa does not affect the safety, health, or welfare of the residents of the community and does not annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(9) No Permit Required. The following types of fences are exempt from permit requirements, but shall comply with all other provisions of this subsection.

- a) Agricultural/farm fences limited to agriculturally zoned or used districts.
- b) Decorative fences not exceeding two feet in height. Such fences shall not be placed in any manner that presents a hazard to pedestrians on any public right-of-way or private sidewalk.
- c) Fences used for the protection of an excavation, construction sites, protection of plants during grading and construction, are permitted for a time period consistent with an approved building permit.
- d) Garden fencing which shall not exceed four feet in height and shall not be located closer than three feet to any property line. The Building Inspection Supervisor may grant an exception and allow greater height on a case-by-case basis.
- e) Snow fencing shall be permitted in all districts, not exceeding four feet in height, provided it is removed between May 1 and November 1 of each year. No snow fence shall extend into the street right-of-way line unless installed by the City or a contractor having a permit from the City.
- f) Underground electrical animal containment fences.

(10) Maintenance.

Every fence and wall shall be kept in a good state of maintenance and repair or shall be removed by the property owner.

(11) Loss of Nonconforming Status.

Any fence or wall which exists at the time of the adoption of this ordinance, but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire fence or wall conform with the provisions of this chapter.

Section 2. This ordinance shall take effect the day after publication.

INTRODUCED _____ ADOPTED_____

Justin M. Nickels, Mayor

APPROVED_____

Fiscal Impact:	Anticipated no greater than \$300 in expenses relating to ordinance publishing and municipal code updating. No additional tax levy or 2025 budget amendments required.
Funding Source:	General Fund
Finance Director Approval:	/SMA
Approved as to form:	/EGN

This Ordinance was drafted by Eric G. Nycz, City Attorney