

**CITY OF CEDAR SPRINGS
CITY COUNCIL
Kent County, Michigan**

ORDINANCE NO. XXX

AN ORDINANCE TO AMEND Chapter 40 – ZONING. OF THE CODE.

THE CITY OF CEDAR SPRINGS ORDAINS:

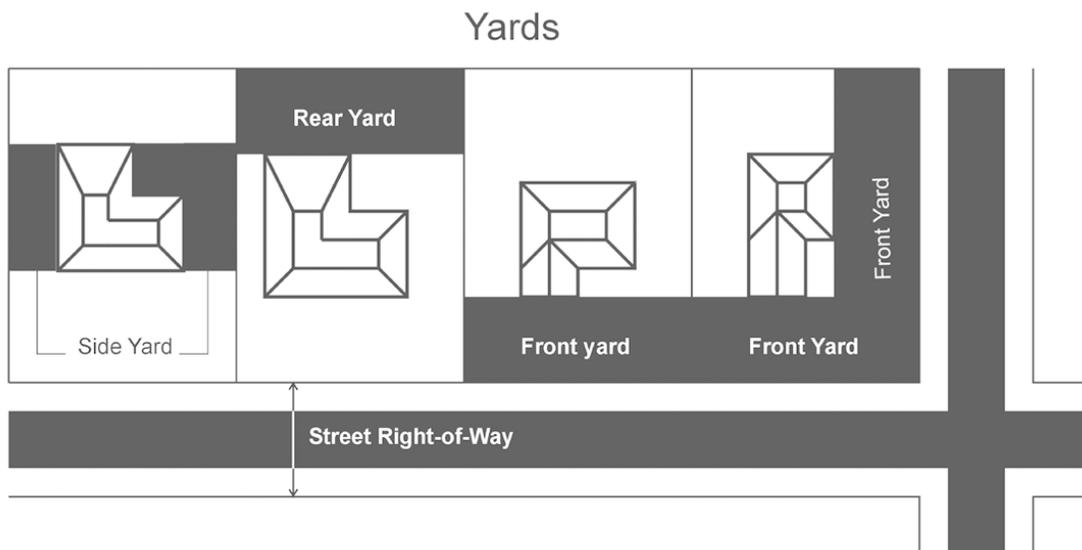
Section 1. Amendment to Chapter 40, Section IV. Division 2 to modify Sec. 40-446 Walls and Fences

That the Code of the City of Cedar Springs is amended to modify Sec. 40-446 Walls and Fences to read as follows:

Sec. 40-446 – Walls and fences.

The purpose of this section is to promote the public health, safety and welfare by establishing minimum standards for the creation, installation and maintenance of all walls and fences in the City of Cedar Springs. Walls and fences can have a significant impact on the use, value and attractiveness of land, buildings and neighborhoods. Walls and fences are also often used to moderate loud or obnoxious sounds, lights, odors or pollutants and help create privacy but should not interfere with natural light, air movement or water drainage. The standards in this section are considered to be the minimum necessary to achieve the goals and objectives noted above.

- (a) For purposes of this section, the terms “front yard,” “rear yard,” and “side yard” shall be defined as indicated in the diagram below and further defined in Sec. 40-440-Yards of this Code.



(b) For the purposes of this section only, the terms “fence” and “wall” can be used interchangeably and both refer to a structure that encloses an area generally created by connecting posts by boards, rails or netting or by a continuous foundation affixed to the ground.

(c) Walls and fences in the City are defined as being either see-through or solid, different rules apply to a see-through or a solid wall or fence:

1. See-through, cyclone, chain-link, wrought-iron or picket walls or fences must have openings of at least fifty percent (50%) in each square foot of fencing, so that light and vision may pass through the wall or fence on either side. All such walls or fences may be referred to as “see-through” in this ordinance.
2. Any wall or fence with less than fifty percent (50%) of opening in each square foot shall be considered solid, opaque, substantially opaque or privacy wall or fence. All such fences or walls may be referred to as “solid” in this ordinance.
3. No wall or fence may install or use privacy fence slats or fence tape that are added to a see-through fence to create a solid or opaque appearance.

(d) Walls and fences in residentially zoned or commercially zoned districts:

1. Walls and fences located in the front yard of a residential or commercial zoned district property:
 - i. Solid fences or walls must not exceed three (3) feet in height.
 - ii. See-through fences or walls must not exceed four (4) feet in height.
2. Walls and fences in the side or rear yard of a residential or commercial zoned district property
 - i. Solid fences or walls must not exceed six (6) feet in height.
 - ii. See-through fences or walls must not exceed five (5) feet in height.
3. Pre-existing see-through fences or walls on commercially zoned properties may install a tight-fitting high density polyethylene privacy screen in order to comply with screening requirements imposed by the Planning Commission. High density polyethylene privacy screening is not permitted on residential zoned properties and is not permitted without approval of the Planning Commission. High density polyethylene privacy screening is not an acceptable alternative to the installation of other purpose-built solid fencing options for new fencing.

(e) Walls and fences in residentially zoned districts on corner lots:

1. This subpart shall only apply to single family residential homes that are located on corner lots in a residentially zoned district. This subpart shall not apply to two-family or multi-family uses in any district or any residential use located in a commercial or industrial zoning district.
2. A corner lot is a lot which has road or street frontage on at least two sides of the lot, creating two distinct front yards, one along each of the two frontages as defined in Sec. 40-440.
3. For the purposes of this subpart only, the owner of such a single-family residential home located on a corner lot may request that the zoning administrator designate one of their front yards as a secondary front yard. The secondary front yard designation shall only apply to the part of the front yard which lies between the side or rear yard and the road or street frontage and shall not apply to any area located between the façade of the home and the road or street frontage.
4. The zoning administrator shall designate the requested secondary front yard unless doing so would be detrimental to the overall aesthetics or safety of the City or its citizens because of:

- i. The requested secondary front yard abuts a high traffic volume or high-speed road or street.
 - ii. The location of the property driveway or other access to the property
 - iii. The location of the front door, front porch or other architectural elements indicate a different intended front yard orientation.
 - iv. The location of existing accessory structures or fencing.
 - v. Any other safety or aesthetics issue or problem that can be articulated by the zoning administrator.
5. Walls and fences in the secondary front yard
 - i. Solid or opaque fences or walls must not exceed six (6) feet in height.
 - ii. See-through fences or walls must not exceed four (4) feet in height.
6. All fences located on a corner lot shall be subject to and shall conform to the “fence prohibitions” requirements of subpart (i) herein.
7. No accessory structure may be placed in a secondary front yard unless it is placed behind a fence that is at least four (4) feet tall. If an accessory structure is placed in the secondary front yard behind a fence and the fence is subsequently removed, the accessory structure must also be removed from the front yard.

(f) Walls and fences in industrial zoned districts:

1. No wall or fence may be located in the front yard except as may be approved by the planning commission.
2. No wall or fence may exceed eight (8) feet in height in any industrial zoning district.
3. All walls or fences abutting a residentially zoned property or a property used for residential purposes, or when used to screen parking or outdoor storage areas, the wall or fence shall be of a solid or opaque construction, see-through fencing is not permitted.
4. Walls and fences in the industrial zoning district may use barbed wire or twist (barb) selvege:
 - i. The wall or fence must be at least six (6) feet tall but may not exceed eight (8) foot tall at any point above the adjacent grade, inclusive of any barbed wire, cradle, arm or twist (barb) selvege.
 - ii. Barbed wire must be installed on arms or cradles extending vertically or inward over the owner’s property and shall not be extended outward towards the property of another or towards any public right of way or property.
 - iii. No barbed wire or twist (barb) selvege is permitted on any fence that abuts a residentially zoned property or any property used for residential purposes.
 - iv. Only barbed wire or twist (barb) selvege is permitted, no concertina wire, razor wire or other types of security fencing is permitted.
 - v. Barbed wire may only be installed in a straight and linear fashion, installation of barbed wire in a coiled or circular fashion is strictly prohibited.

(g) Permanent Fence Rules and Requirements

1. These rules apply to all permanent fence installations. Temporary fences are permitted as stated under Subpart (h). Garden fences are permitted as stated under Subpart (j).

2. All walls and fences located in a front yard or secondary front yard must be placed a minimum of three (3) feet inside any front lot-line, easement line, right of way line or sidewalk, whichever being most distant from the public road or street.
3. All fences, walls or landscape screens or parts thereof must be located entirely on the property of the person constructing the fence, except as might otherwise be permitted in this ordinance.
4. The height of all walls and fences shall be measured from the average grade of the ground surrounding the fence which shall not be artificially altered to increase the height of the fence.
5. All regulations of the applicable building code provisions shall apply to swimming pools and the method of enclosing the swimming pool for the safety of the public.
6. Fencing material shall be all weather, high-quality, low maintenance and must be made of composite, chain-link, metal, wood, vinyl, brick, stone or other material approved of by the Planning Commission. All fencing material shall be specifically designed to be used for fencing and shall not be constructed of junk, scrap, salvage or other materials not designed for use as a fence. Permanent fences may not be built or constructed from any of the prohibited temporary fencing types detailed in subpart (h).
7. The interior posts of a fence shall face the property owner and the finished or decorative side shall face outward toward the adjacent property or right-of-way.
8. Walls and Fences shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, fasteners, supporting frames, etc., free from deterioration, insect infestation, rot and rust. All fences shall be kept neatly finished, including all metal parts and supports that shall remain free of rust and shall be made of a rust resistant material. Walls and fences that are bent, leaning or fallen over or have missing pickets, panels or posts are not considered to be in a state of good repair.
9. Walls and fences installed around governmental or utility property may utilize barbed wire and/or twist (barb) selvege.
10. Walls and fences installed in any commercial zoning district may utilize barbed wire and/or twist (barb) selvege following the same rules as properties located in an industrial zoned district if and only if:
 - i. The property does not abut a primary single family or two-family residential use, and;
 - ii. The property cannot be adequately protected by a wall or fence without barbed wire and/or twist (barb) selvege. Inadequate protection must be shown by submission of police reports, insurance reports or other information indicating losses, anticipated concerns and/or video or photographic evidence showing multiple trespassing events, and;
 - iii. The installation of such barbed wire and/or twist (barb) selvege on a parcel in a commercial zoning district must be approved of by a majority vote of the Planning Commission following a review of the presented information at a public meeting.

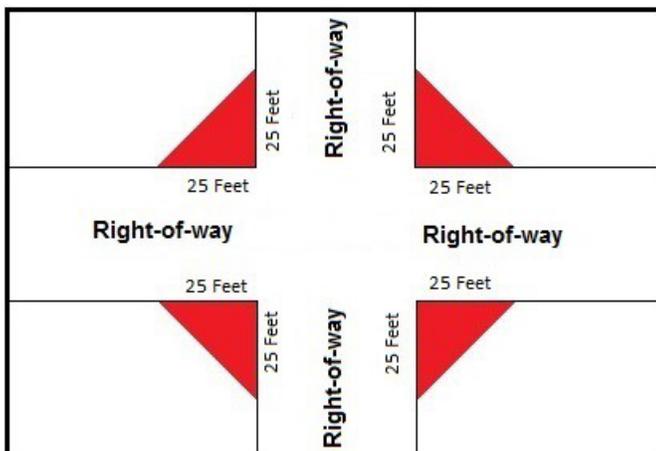
(h) Temporary Fences

1. Temporary fences are fences that are erected for a specific limited period of time not to exceed six (6) months in length. Any fence erected for more than six (6) months or erected with the intention that the fence remain for more than six (6) months shall be considered a permanent

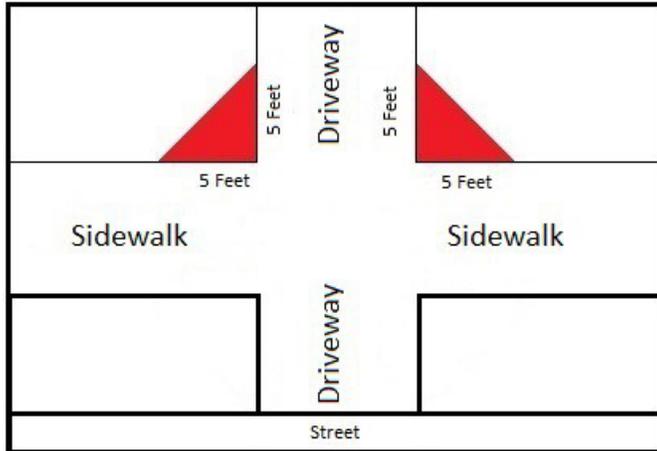
- fence and shall be required to follow all rules and requirements related to permanent fences.
2. Temporary fences erected for less than four (4) days, temporary fences erected as part of a City-approved event and temporary fences erected as part of a City approved construction project are exempt from permitting under this ordinance. Such fences that are exempt from permitting must still follow the requirements and prohibitions in subparts (g) and (i) herein excepting the allowed use of safe temporary fencing materials that are otherwise prohibited as a permanent fencing material.
 3. The height and location of temporary fencing shall meet the requirements of the zoning district and yard within which it is located.
 4. Temporary fences erected for more than four (4) days but for less than six (6) months and are not otherwise exempt shall require a permit from the City. The Zoning Administrator shall review such permit requests to determine whether:
 - i. The proposed fence is temporary or permanent in nature.
 - ii. The proposed fence is recurring, intermittent or seasonal in nature.
 - iii. The proposed fence is for a defined temporary event or time frame.
 - iv. The proposed fence is being used to thwart the purposes or intentions of this ordinance.
 - v. The proposed fence is being used for an illegal or vexatious purpose.
 - vi. The proposed fence is the minimum type and amount of temporary fencing necessary to accomplish the stated goals for the temporary fence.
 5. Temporary fences shall be immediately removed at the end of their permitted time of use.
 6. Temporary fences shall not be erected in such a way that they constitute a nuisance or danger to the public which such final determination shall be made by the zoning administrator.

(i) Fence prohibitions

1. No wall or fence shall be established or maintained on any lot which, in the opinion of the zoning administrator, will obstruct the view of a vehicle driver approaching an intersection between roads or driveways. Such unobstructed area shall mean at minimum a triangular area formed by the street right of way lines and a line connecting them at points twenty-five (25) feet from the intersection of the street right of way lines or in the case of a rounded property corner from the intersection of the street right of way lines extended as shown in the figure below.



2. No wall or fence shall be established or maintained on any lot which, in the opinion of the zoning administrator, will obstruct the view of a vehicle driver approaching an intersection between a sidewalk and a driveway. Such unobstructed area shall mean at minimum a triangular area formed by the driveway and sidewalk lines and a line connecting them at points five (5) feet from the intersection of the lines.



3. No wall or fence may use or consist in whole or part of coils of barbed wire, twist (barb) selvage, concertina wire or razor wire except as may be otherwise specifically permitted in this ordinance.
 4. No wall or fence may have razored edges, broken glass, affixed spikes, projecting nails or other pointed or sharp instruments of any kind or description attached; walls, fences and gates shall not be constructed so as to create a hazard to the public by the projection of any sharp or pointed instrument or member.
 5. No wall or fence may be allowed to remain a hazard or nuisance to the public, any fence or wall that is determined to be a hazard or nuisance to the public shall immediately be notified of such hazard or nuisance and be directed to correct such nuisance or hazard.
 6. No fence may be charged or connected with an electrical current.
 7. Except for garden fences, no permanent wall or fence may use fencing made of a material such as chicken wire, wire fence, woven wire, welded wire, deer/game fence, wire strand, snow fence, plastic safety fence, flexible plastic fencing, sheep fence, temporary pet fencing, trellis or lattice or any other such agricultural fencing materials.
 8. No permanent wall or fence may consist in whole or part of woven or flexible plastic or other similar materials, commonly known as snow fencing
 9. No permanent wall or fence may consist of metal opaque paneling or sheets (i.e. barn siding, roofing material, corrugated metal etc.).
- (j) Garden fences are a special type of fence and subject to the following requirements.
1. Garden fences are semi-permanent fences that are erected specifically to protect growing plants other than sod or yard grass.
 2. Garden fences are only permitted in side or rear yards and shall not be erected in any front yard.
 3. Garden fences shall not exceed three (3) feet in height and shall enclose no more than a maximum of four-hundred (400) square feet.

4. Garden fences shall not be used to mark or enclose any property line and shall not be erected or placed closer than ten (10) feet to any more than two (2) property lines per parcel.
5. Garden fences shall not be used to create a dog or pet run. All areas enclosed by a garden fence shall remain free of pet waste.
6. Garden fences may use woven wire, woven plastic, trellis or lattice or other fencing types approved by the zoning administrator. Garden fences shall be of an earth-tone color being, black, white, brown, tan, green or other approved colors. Orange, red, yellow and other bright or fluorescent colors are not permitted.
7. Garden fences may not be constructed of or possess elements such as razored edges, broken glass, affixed spikes, projecting nails or other pointed or sharp instruments of any kind which pose a danger to the health and well-being of the general public.
8. Garden fences meeting all the requirements of this subpart are exempt from permitting but in no case shall be permitted to constitute a nuisance or create danger for the general public.
9. Garden fences shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, fasteners, supporting frames, etc., free from deterioration, insect infestation, rot and rust. All fences shall be kept neatly finished, including all metal parts and supports that shall remain free of rust and shall be made of a rust resistant material.

(k) Permit requirements

1. Prior to the construction of any wall or fence, an application for a permit to construct the wall or fence must be filed with the city. No wall or fence shall be constructed without first obtaining approval of a submitted permit application from the zoning administrator or approval from the planning commission. Permits are not required for any fencing specifically exempted from permitting under this ordinance
2. The zoning administrator and/or planning commission shall have the authority to require submission of a certified land survey or other documents as part of and prior to the approval of any wall or fence permit application. The zoning administrator and/or planning commission may require the property be staked or marked based on a land survey prior to permit approval or installation. The property owner remains liable for the correct placement of all fences and walls, regardless of whether the City required the submission of a land survey or not.
3. The fee for the permit application shall be established by City Council.

(l) Fences and walls currently in existence that do not conform to the provisions of this article are nonconforming fences that shall not be permitted to increase, expand, alter or change except to become conforming to the requirements herein. Such fences and walls, when repaired or replaced, shall conform to all provisions of this article.

(m) Fences shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the city shall serve upon the owner, agent or person in control of the property upon which such fence is located, a written notice describing the unsafe condition and specifying the required repairs or modifications to be made to render the fence safe or requiring the unsafe fence or any portion thereof to be removed, and shall provide a time limit for such repair, modification or removal. Failure of the property owner to render the fence safe shall be a violation of this ordinance.

- (n) All fences, walls or landscape screens must be located entirely on the property of the person constructing the fence, wall or landscape screen, provided, however, that if the adjoining property owners jointly apply for and sign a fence permit or with written notarized consent of the adjacent property owner a fence may be erected on the common property line or on the property of the other, as specifically described in the signed writing.
- (o) The city shall not be responsible for the enforcement of any agreement relative to mutual or separate payment for the cost of construction of fences, nor shall the city be responsible for the determination of the location of any fence which is constructed on lot lines.
- (p) Appeals of the zoning administrator under this ordinance shall be to the Zoning Board of Appeals as final authority. Fees for filing an appeal shall be set forth in a resolution of Council.
- (q) Violations. Any violations of this ordinance shall be deemed a municipal civil infraction and any violating condition may be abated by injunctive or other equitable relief in addition to any fees, fines and costs as outlined in Section one (1) of the Cedar Springs Code of Ordinances.

Section 2 Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed to the extent that they conflict or are inconsistent with this ordinance.

Section 3. Savings Clause. The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason, such declaration does not void any or render inoperable other part or portion of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect upon its publication in The Cedar Springs Post, a newspaper of general circulation in the City of Cedar Springs, consistent with state law and the City Charter.

YEAS: Councilmembers: _____

NAYS: Councilmembers: _____

ABSENT: Councilmembers: _____

ABSTAIN: Councilmembers: _____

Ordinance no. XXX-

Dated

Rebecca Johnson, City Clerk

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Council of the City of Cedar Springs at a Regular Meeting held XXX and that public notice of the meeting was given pursuant to and in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended.