

**SOO TOWNSHIP
FENCE ORDINANCE
ORDINANCE NO. ___ / ___ OF 2004**

AN ORDINANCE TO REGULATE THE INSTALLATION AND MAINTENANCE OF FENCES IN SOO TOWNSHIP, CHIPPEWA COUNTY, MICHIGAN; TO PROVIDE FOR APPLICATION AND ISSUANCE OF PERMIT, ESTABLISHING GRADE AND OTHER REQUIREMENTS; AND TO PROVIDE PENALTY FOR VIOLATION.

SOO TOWNSHIP ORDAINS:

Section 1. Prohibition and Permit Requirement.

The installation, erection and/or maintenance of a fence is hereby prohibited except in strict compliance with this Ordinance. A permit to be issued by the Soo Township Zoning Administrator shall be obtained prior to installation or erection of any fence.

Section 2. Definitions.

- A. "Fence" means any structure of wood, metal, masonry, plastic, or other synthetic materials designed, used and erected and affixed to the real estate for the purpose of enclosing or separating any portion of the real estate from adjoining land whether or not such fence is located on the boundary line of the property to which it appertains. Provided, however, this shall not include fences erected and used as enclosures wholly within the confines of the property to which it appertains for the purpose of segregating an animal runway, or similar enclosures upon the property. Fence may be located in easement, except as otherwise prohibited by this Ordinance.
- B. "Person" means an individual, firm, corporation, partnership, association, limited liability company, limited partnership, or any other legal entity.
- C. "Property Owner" for purposes of this Ordinance, means any person, firm, corporation, association or other legal entity which owns or otherwise has any possessory interest in real property situated in Soo Township which would lawfully entitle them to erect a fence upon such property.
- D. "Township Board" means the Soo Township Board.
- E. "Zoning Administrator" means the Soo Township Zoning Administrator.

Section 3. General Requirements for Fence.

No fence shall be installed, erected or maintained except in strict compliance with the following requirements:

- A. Metal Fences. Such fences shall consist of new materials manufactured and/or treated in a manner to prevent rust and corrosion.
- B. Wood Fences. Such fences shall be constructed of new materials and painted, stained or preserved in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents. For example only, a so-called rustic or stockade type fence shall be treated and/or maintained in a manner to represent the best appearance of that type of fence.
- C. Plastic or other Synthetic Material Fences. Where any of these materials are used as a fence, or part thereof, only new such materials shall be used and they shall be treated and maintained in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents. Further, such materials shall be of a design and constructed or integrated with the fence to which they are a part in a manner that will not be destroyed or torn apart from the fence by climatic elements. For example only, metal or synthetic material slats inserted in a fence shall be done in a manner not to allow them to be blown away, or removed by wind or other weather conditions.
- D. Masonry Fences. Except as otherwise provided in any other Soo Township Ordinance requiring such fences or walls, this type of fence shall only be permitted with the written approval of all property owners abutting the sides of the property upon which the fence is to be erected.
- E. Barbed Wire Prohibited; Exceptions. No property owner shall install, construct, maintain or permit the installation, construction or maintenance of barbed wire fence, partial or wholly upon property owned, occupied or controlled by such property owner. Provided however, that the Zoning Administrator determines such barbed wire will not endanger the public health, safety or welfare, barb wire cradles may be authorized for protective purposes as follows:
 - 1. In agricultural zoned districts only when used to enclose livestock, or in residential zoned districts where horses or livestock are allowed in accordance with Soo Township Zoning Ordinance.

2. In public utility installations in any zoning district, providing said barbed wire cradles are placed no less than eight (8) feet above grade level.
3. In industrially zoned districts, provided said barbed wire cradles are placed no less than eight (8) feet above grade level.
4. May be installed in commercially zoned districts where outdoor storage is allowed, if reviewed and recommended to the Township Board after approval by the Township Planning Commission when there are unique and exceptional circumstances, providing said barbed wire cradles are no less than eight (8) feet above grade level.

F. Electric Current Prohibited; Exception. No property owner shall install, construct, maintain or permit the installation, construction or maintenance upon property owned, occupied or controlled by such property owner, any fence electrically charged or connected to an electrical current in such a manner as to transmit such current to the form of a shock to person or animals that may come in contact with such fence. Provided however, that a fence that is electrically charged or connected to an electrical current may be used in an agriculturally zoned district or residentially zoned district where horses or livestock is allowed in accordance with the Soo Township Zoning Ordinance, when:

1. Such fence is used to enclose or restrain the movement of livestock, and;
2. Such fence charger shall be approved by the Underwriters Laboratories, and;
3. Such charger must be installed according to the manufacturers' recommendations, and;
4. Such charger shall not exceed six (6) volts, and;
5. Such fence is clearly marked with signs warning of electrical current, as may be required by the Zoning Administrator, and;
6. The Zoning Administrator determines that such electrically charged fence will not endanger the public health, safety or welfare.

- G. Placement, Height and Location. All fences shall conform to the following location and height requirements.
1. Industrial Districts (I-1, I-2, I-3). In all industrially zoned districts, fences may be constructed up to eight (8) feet in height. Such fences shall not be constructed in any required front yard area. Barbed wire cradles may be placed on top of fences in this zoning district in accordance with Section 3(E) of this Ordinance.
 2. Agricultural Districts (AG). In agricultural districts, fences may be constructed up to six (6) feet in height.
 3. Residential Districts (R-1, R-2, R-3, R-4), and all Commercial Districts (C-1, C-2). In residential districts, and all commercial districts, fences may be constructed up to six (6) feet in height, except as otherwise provided in this Ordinance.
 4. Any fence which is of the type of material and for the purpose of obscuring the property which it surrounds may be of a greater height, if in the discretion of the Zoning Administrator, it is determined that such greater height will not endanger the public health, safety or welfare of Soo Township and its inhabitants.
 5. Waterfront Districts. In waterfront districts, fences may be constructed up to six(6) feet in height. The fence shall conform with any applicable state and federal regulations. The fence shall not be an obscuring fence.
 6. Forestry Districts. In forestry districts, fences may be constructed up to six (6) feet in height.
- H. Private Swimming Pool Fences. Such fences surrounding private swimming pools in residential districts may be six (6) feet in height, and any fence used for that purpose shall contain a security-type lock to control ingress and egress into the swimming pool area.
- I. Privacy Screens. This type of structure, which is erected for other than a swimming pool area and not upon the property lines for enclosure of the land, may be erected without a permit under this Ordinance. Provided, however, this type of structure shall be subject to the other requirements of this Ordinance.
- J. Maintenance of Fences. All fences shall be maintained in a manner to prevent rust, corrosion and deterioration or otherwise so as to not become

a public or private nuisance, dilapidated or a danger to adjoining property owners and the public.

1. All fences shall be kept neatly painted, stained, sealed or preserved, and such treatment shall be of the same contiguous color, stain or other treatment.
 2. All fences must be located entirely on the private property of the property owner constructing the same. Maintainable fences shall be at least two(2) feet from the property line.
 3. All supporting post, cross-members, and hardware of all fences shall face toward the interior of the lot of the property owner erecting the fence, except in the case of an opaque fence, which shall be uniform in appearance as viewed from both sides.
 4. No fence shall be constructed or maintained on or in any flood plain, greenbelt, creek or planting easement.
- K. Existing Fences. Any fence existing upon the effective date of this Ordinance may not be enlarged, extended or replaced except in strict compliance with all of the requirements of this Ordinance

Section 4. Issuance of Permit and Requirements Thereof.

The Zoning Administrator shall issue a fence permit under the terms of this Ordinance upon written application by the property owner or his authorized agent on forms to be provided by the Zoning Administrator. The application for permit shall be accompanied by a general plan showing the location of the proposed fence and a written statement setting forth the type and manner of construction contemplated and materials to be used, along with such permit fee as may be prescribed by Resolution of the Township Board. In addition, the following particular requirements shall apply:

- A. Grade. The grade for the bottom line of the fence shall be subject to approval by the Zoning Administrator. If the Zoning Administrator determines the existing grade and/or present topography of the property is proper, no specific grade or elevation shall be established and the permit will include approval of such existing grade or present topography. In the event that the existing grade or present topography is not proper for the erection of a fence, the Zoning Administrator shall require the owner to establish elevation grades by its own engineer or land surveyor and furnish such grades to the Zoning Administrator for inclusion as a part of the permit.

- B. Corner Lot. No obscuring fence shall be located nearer than ten (10) feet to the right-of-way line on the side street or road. A chain link or other non-obscuring fence may be permitted along the exterior side lot line, provided that said fence is unobscured within the triangular area formed at the point of intersection of the side and rear lot lines. Such triangular area shall be formed by a straight line drawn between said lot lines at a distance along the rear lot line of ten (10) feet and exterior side lot line of twenty-five (25) feet from their point of intersection. Said triangular area shall not contain obscuring hedges, shrubs, trees or other plantings which exceed a height of eighteen (18) inches.
- C. The proposed fence conforms to the requirements of this Ordinance and all applicable requirements of the Soo Township Zoning Ordinance.

Section 5. Hardship Cases and Appeal.

In cases where the requirements of this Ordinance would be a hardship on the property owner, or where the particular circumstances and conditions on the property involved, or where the type of fence contemplated by the general provisions of this Ordinance, would not adequately and reasonably fit the purpose intended by a fence in the location contemplated, the Zoning Administrator may issue a special permit designed to accommodate all reasonable circumstances. Provided, however, no permit in variance of the express terms of this Ordinance shall be issued where the fence would create a hazard to, interfere with, or detract from the public health, safety and welfare of the inhabitants of Soo Township. In any such case, the Zoning Administrator may refer the matter to the Township Board for its determination. If the property owner is aggrieved by the decision of the Zoning Administrator, such property owner may appeal to the Township Board for a waiver of such requirements as the owner deems necessary for his property, and the Township Board shall review the matter and make such decision as it finds necessary and appropriate, consistent with the public health, safety and welfare of Soo Township.

Section 6. Property Owner Agreements.

Any agreements between property owners concerning the subject matter of this Ordinance shall be subject to the provisions of this Ordinance. Soo Township shall not be responsible for the enforcement of any such agreement.

Section 7. Nuisance.

A violation of Section 3 of this Ordinance is hereby declared to be a public nuisance, a nuisance per se, and hereby is further declared to be offensive to public health, safety and welfare.

Section 8. Penalty.

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 9. Enforcement Officer.

The Township Supervisor or other official designated by the Township Board hereby is designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 10. Civil Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, Soo Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 11. Severability.

This Ordinance and each section, sub-section, paragraph, sub-paragraph, part, provision, sentence, word and portion thereof are hereby declared to be severable. If any section, sub-section, paragraph, part, provision, sentence, word and/or portion is adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, such invalidity or unenforceability shall not effect any remaining portion or application of this Ordinance that can be given effect without the invalid portion or application.

ORDINANCE CERTIFICATION

At a regular meeting of the Soo Township Board, Chippewa County, held in the Soo Township Hall, located at 639 Three and One-half Mile Road, Sault Ste. Marie, Michigan on July 14, 2004, at 7:30 P.M.

PRESENT: Jim, Molitor, Harold Osborn, Larry Perron, Cheryl Thoresen

ABSENT: None

It was moved by Harold Osborn and supported by Cheryl Thoresen that the following Ordinance be adopted:

(See attached SOO TOWNSHIP ORDINANCE)

YES: Andree Watson, Cheryl Thoresen, Larry Perron, Harold Osborn, Jim Molitor

NO: None


ORDINANCE DECLARED ADOPTED. SOO TOWNSHIP

By: 

James Molitor, Supervisor

I, the undersigned, the clerk of the Township of Soo, Chippewa County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Soo Township Board of said County at its regular meeting held on July 14, 2004, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of the meeting were kept and will be made available as required by said act; this ordinance was published in the Evening News on August 8, 2004 and was filed with the county clerk on August 12, 2004.

Dated: August 12, 2004


Andree Watson, Clerk