

ORDINANCE NO. 1-2013
AN ORDINANCE REGULATING FENCES IN THE TOWNSHIP OF ISHPEMING

THE TOWNSHIP OF ISHPEMING ORDAINS:

Section 1 . Definitions.

For the purpose of this Ordinance, the following terms are herewith defined.

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

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.

Section 2 . Requirements.

From and after the date of adoption of this Ordinance, it shall be unlawful for any property owner or occupant to construct or cause to have constructed or to repair or replace any fence upon any property within the limits of Ishpeming Township except in accordance with the requirements and restrictions in this Ordinance.

Section 3 . Permit.

Any person desiring to build or cause a fence to be built, planted, constructed, repaired, or replaced upon property within the limits of Ishpeming Township shall first apply to the Zoning Administrator for a permit to do so. Application for such permit shall contain the following.

- a) name and address of landowner;
- b) lot number, parcel tax I.D. number, or street address where fence is or will be located;
- c) photographs of existing fence, if any;
- d) drawing (plan view) of location of proposed new or replacement fence in relation to existing structures, lot lines, and adjacent public rights-of-way;
- e) drawing, photographs, or text description of proposed fence;
- f) summary of repairs proposed to be made to existing fence;
- g) all other information that may be required after the Zoning Administrator reviews the above.

Every permit issued under the provisions of this Ordinance shall require completion of the installation, repair or replacement of the fence within six (6) months from the date of permit issuance. Failure to complete the work within the six (6) month period shall void the original permit and require either issuance of a permit extension not to exceed six (6) months, or removal of the partially installed fence. If a permit extension is issued and the fence is not completed, repaired or replaced within the extended period, the Landowner shall remove all work done under the original permit and the extension within 30 days after expiration of the extension permit. A flower, fruit or vegetable garden less than 40 square feet in area shall not require a permit under this ordinance.

Section 4 . Permit Fee.

Permit fees shall be set by the Township Board for issuance of an original permit and for an extension permit.

Section 5 . Zoning District Requirements.

- a) In Residential Zoning Districts R1, R2, R3, R4, RR1, RR2, LS/R, the following conditions shall apply:

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

Exceptions. On the street sides of corner lots, a fence may not exceed four (4) feet in height. A fence in a front yard shall not exceed four feet in height and may not have more than 50% of the fence area opaque.

Living Fence. A fence of living hedges, bushes or shrubs shall not exceed the eave height of the dwelling roof between the front line of the dwelling and the rear property line as defined in the Zoning Ordinance. Dead or diseased hedges, bushes, or shrubs shall be removed.

- b) In Zoning Districts Commercial (C), Low intensity Commercial (C-1), Industrial (I), Resource Production (I) and Mineral Resource (MR).

Height. Fences shall not exceed eight (8) feet in height.

Construction. Fences shall not have more than 50% of the fence area opaque.

Exception. A screening fence, as authorized or required by any Township Ordinance or by any Township administrative board or official, or by State law, may be opaque. A protective measures fence may be allowed pursuant to Section below.

Section 6 . General Fence Requirements.

- a) Every fencer must be located on the private property of the property owner or occupant construction or installing the fence. A fence shall not be constructed in, on, or across any public street, alley, sidewalk, or public easement.
- b) Every fence constructed or installed contiguous or adjacent to an alley shall not be closer than three (3) feet to the alley right-of-way line.
- c) Fences shall be constructed with boards, chain link construction, or other suitable material firmly connected to posts sunk in the soil at least two (2) feet or more as necessary to properly support the fence.
- d) The board, 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.

- e) Electrically charged fences may only be constructed, installed, or maintained on parcels larger than five (5) acres. An electrically charged fence must be posted with at least three (3) conspicuous warning signs, giving notice that the fence is electrically charged.
- f) Barbed wire, except in the Rural Residential (RR-2) and Mineral Resource (MR) and except as permitted by the Board of Zoning Appeals on approved protective measure fences, is prohibited on all fencing.
- g) A fence made up of individual strands of wire, rope or wooden boards must be parallel with the adjacent grade of the fence line. The individual strands of wire, rope, or wooden boards must be evenly spread between the top and bottom of the posts, and must be no more than six (6") inches apart.
- h) Barb wire, concertina wire, and similar types of fence with sharp edges designed to injure, are prohibited, except as allowed under Sections and herein.
- i) The good side of the fence shall be towards the neighbors.

Section 7 . Special Purpose Fences.

- a) Swimming Pools. All permanent swimming pools with a water depth of three (3') feet or greater at any point shall be enclosed with a six (6') foot high fence, not closer than four (4') 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 base of the fence than four (4') feet and inaccessible from the outside to small children.
- b) Protective Measures. A protective measures fence may only be erected upon a review and finding by the Board of Zoning Appeals of the need for such fence. A protective measures fence shall not exceed twelve (12') feet in height and may only be placed in Industrial, (I) and Mineral Resource (MR) districts.

Section 8 . Fence Maintenance.

- a) All fences existing prior to adoption of this Ordinance, and any fences permitted under this Ordinance, shall 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 shall notify the owner of the property on which such fence is located of the existence of such nuisance. The owner must then abate said nuisance within fifteen (15) days of sending such notice. In the case of immediate danger to life or property, the Zoning Administrator may require immediate abatement.
- b) An abatement under Section above requiring repairs to 50% or more of a fence existing prior to the adoption of this Ordinance shall require total replacement of the entire existing fence. Replacement fences shall meet all of the requirements of this

Ordinance.

- c) Fences existing at the time of adoption of this Ordinance containing barb wire, concertina, or similar wire shall be removed upon notification from the Zoning Administrator. Such fences are deemed unsafe and are prohibited in the Township of Ishpeming, except in the M District, which are allowed under Section above.

Section 9 . Appeals.

Upon appeal in writing by the owner or owner's agent of any property and payment of a \$100 appeal fee to the Ishpeming Township Clerk, the Board of Zoning Appeals of Ishpeming Township may, after notice and a hearing, in the Board's discretion, change or alter the requirements of this Ordinance in individual cases. The Board shall only have the power to change or alter the requirements in this Ordinance where such action will not be contrary to the public interest or public safety and where, owing to special circumstances or conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulties or undue hardship. The Board may not allow any kind of fence which is prohibited under this Ordinance.

Section 10 . Violation and Penalty.

Civil Infraction: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses, and violations of approved site plans, shall constitute a civil infraction. Any person or entity who admits responsibility or is adjudged to be responsible for a violation of this Ordinance, or fails to comply with any of its requirements, shall, upon admission or judgment thereof, pay a civil fine of not less than One Hundred Dollars, plus costs and other sanctions, for each infraction.

- 1) Each day such violation continues shall be considered a separate offense. As used in this section "repeat offense" means a second (or any subsequent) municipal civil infraction within any twelve month period, for which the violator admits responsibility or is determined to be responsible.
- 2) The increased fine for a repeat offense under this Ordinance shall be as follows:
 - (a) The fine for any offense which is a first repeat offense shall be not less than One Hundred Fifty Dollars (\$150.00), plus costs and other sanctions for each infraction; and
 - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than Three Hundred Dollars (\$300.00), plus costs and other sanctions for each infraction.

Section 11. Violations Declared Nuisances.

Uses of land and dwellings, buildings or structures, including tents and trailer coaches, used erected, altered, razed, or converted in violation of any provision or regulation of this ordinance are hereby declared to be a nuisance per se. In addition to the other civil remedies provided in this ordinance, the Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this

ordinance. The imposition and payment of any civil penalty shall not exempt the violator from compliance with the provisions of this Ordinance.

Adopted this 14th day of May, 2013.

ISHPEMING TOWNSHIP BOARD

By: James Nankervis, Supervisor

Attest: Susan E. Jandron, Clerk