



Legislation Details (With Text)

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Title: Amending Toledo Municipal Code (TMC), Part Eleven, Subsection 1105.0301 and 1105.0302 regarding Fences and Hedges in Residential Districts; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Plan Commission Report, 2. Video: City Council 10/24/2023

Date	Ver.	Action By	Action	Result
10/24/2023	1	City Council	Suspension	Pass
10/24/2023	1	City Council	Emergency	Pass
10/24/2023	1	City Council	Passage	Pass

Zoning & Planning Committee

Amending Toledo Municipal Code (TMC), Part Eleven, Subsection 1105.0301 and 1105.0302 regarding Fences and Hedges in Residential Districts; and declaring an emergency.

SUMMARY & BACKGROUND:

Good fences make good neighbors". Many know this famous line from the poem "Mending Wall" by Robert Frost. Although the poem is about self-imposed barriers, some would argue that the quote as a standalone line is a true statement. Civilizations have built fences for millennia to define "what is ours" from "what is theirs". From the Roman construction of Hadrian's Wall to the Soviet's Berlin Wall, fences have been constructed to identify one territory from another and to provide a clear demarcation of land ownership. This method of identifying land has evolved into today's method of choice to clearly identify residential property boundaries. Many homes have fences, and with good reason. Fences protect and shield in a variety of ways. They prevent family pets from escaping into streets, restrict children from playing where they may get hurt, and serve as a wall to protect a property from trespassers. A "good fence" may be a metaphor for the lack of meaningful relationships in our society to Mr. Frost, but for the average homeowner, it is assurance that their property and loved ones are safe.

One of the most common topics residents call their jurisdiction's planning department about is fences. Replacing a fence in disrepair or erecting a new fence to designate a property line are everyday requests staff answer to. The Toledo Zoning Code outlines fence regulations for Residential Zoning Districts, and states a homeowner may have a fence up to three and half feet (3 ½') in height in the front yard, four feet (4') in height in the side yard, and seven feet (7') in height in the rear yard. If someone wishes to have a fence taller than what is allowed by right, they have to submit a request to the Board of Zoning Appeals. The Board reviews the request, and votes either in favor of a waiver or against a waiver.

Staff of both the Division of Building Inspections and the Plan Commission have noticed that residents will frequently call and ask about an avenue to allow a taller fence in the side yard. The side yard is the land

between the front building façade and the rear building façade, extended out to the property line. In 2022, the Division of Building Inspections received 32 applications for a Zoning Appeal. Almost a third of the requests (9) were for taller side yard fences to match the rear yard fence. This trend has continued into 2023, with 7 cases between January and August of this year for taller side yard fences. Due to this pattern, staff determined it would be in the best interest of the City to complete a study of other Ohio City Zoning Codes and summarize the standard requirement is for side yard fencing in Residential Districts.

The Zoning Codes from other Cities were all similar in their regulations on fence height. All jurisdictions reviewed allow up to at least a six foot (6') tall fence in the side and rear yards. In fact, the City of Toledo is one of just a few cities in Ohio with a height limit specifically called out for fences in the internal side yard. Cities reviewed include Columbus, Cincinnati, Cleveland, Dayton, Findlay, Youngstown, and Perrysburg.

City	Front Yard Fence Height Limit	Side Yard Fence Height Limit	Rear Yard Fence Height Limit
Toledo	3 ½ feet	4 feet	7 feet
Cincinnati	4 feet, at least 50% transparent	6 feet	6 feet
Columbus	2 ½ feet, can be greater than 2 ½ feet if 75% transparent	6 feet	6 feet
Cleveland	4 feet, at least 50% transparent	6 feet	6 feet
Dayton	3 ½ feet, must be at least 25% transparent	6 feet, 8 feet if 50% transparent	6 feet, 8 feet if 50% transparent
Perrysburg	4 feet	6 feet	6 feet
Youngstown	3 feet	6 feet	6 feet
Findlay	4 feet, must be 50% transparent	8 feet	8 feet

In addition to other Zoning Codes in Ohio, the International Code Council recommends in the 2021 International Zoning Code for fences to be no taller than three and a half feet (3 ½') in the front yard and no taller than six feet (6') in the rear and side yards for Residential Districts. The International Code Council is a recommending body which publishes code guides for jurisdictions to adopt.

Staff have also noticed errors and confusing language in the TMC regarding fencing. The location of different height regulations for fencing is based on the required setbacks in the Zoning District, rather than based on the yard areas. The difference between a required setback and a yard area is that the setback is the same distance for each property in the same Zoning District, while the yard is based on where a building is located on a property. For example, in the RS6-Single Family Residential District, the minimum front setback is twenty-five feet (25') from the front property line. If a house in this District is thirty feet (30') from the front property line, the literal interpretation of the code states that the fence can be no taller than three and a half feet (3 ½') up to 25 feet from the front property line, but the remaining 5 feet to the house would be the required side setback. Additionally, the visual aide with the section identifies yards, not setbacks. The regulations need to be corrected.

Based on the number of applications to the Board of Zoning Appeals for side yard fence waivers, the review of fence height limits in Ohio cities, and the recommended regulations for fences in the International Zoning Code, staff recommend TMC§1105.0301 be amended. The side yard height limit shall be increased to six feet (6'), and the rear yard fence height shall be decreased to six feet (6'). The front yard height limit of three and a

half feet (3 ½') is appropriate, and should be unamended. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code, Part Eleven, Subsection 1105.0300, which reads as follows:

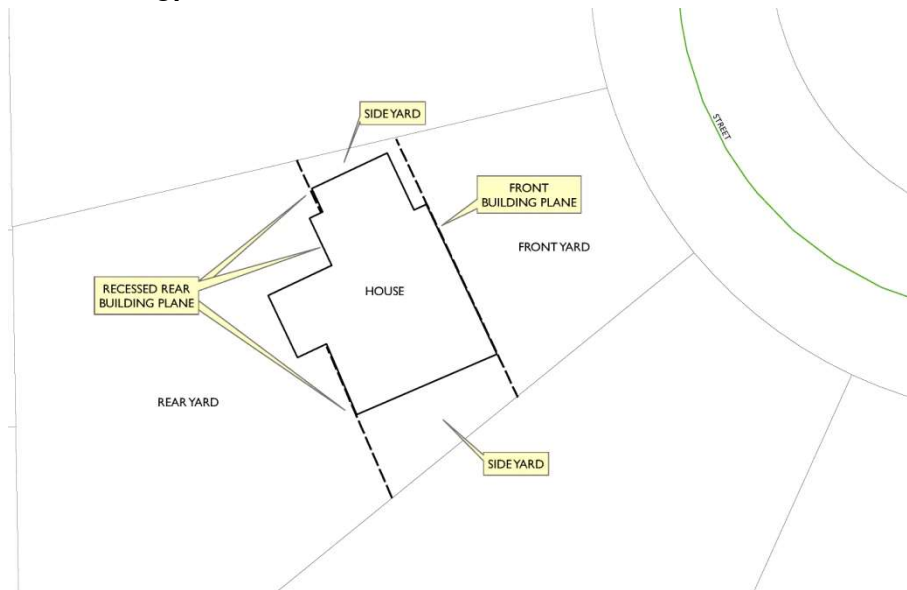
1105.0300| Fences and Hedges

Fences and hedges shall be permitted in any required setback.

1105.0301 Residential Districts

The following standards apply in all Residential districts:

- A. Fences or hedges may not exceed 3½ feet in height in the required front setback.
- B. Fences may not exceed 4 feet in height in the required side setback adjacent to the main building and projected to the required front setback. Any recess in the rear building plane shall not be considered part of the required setback.
- C.



Fences may not exceed 7 feet in height in any other location on a lot.

- D. No part of any fencing may extend into the public right-of-way.

1105.0302 Commercial and Industrial Districts

- A. The following standards apply in all Commercial and Industrial districts:
 - 1. Fences may not exceed 3 ½ feet in height in the required front setback.
 - 2. Fences may not exceed 10 feet in any other location on a lot.
 - 3. No part of any fencing or swing gate may extend into the public right-of-way.

Be amended to read as follows:

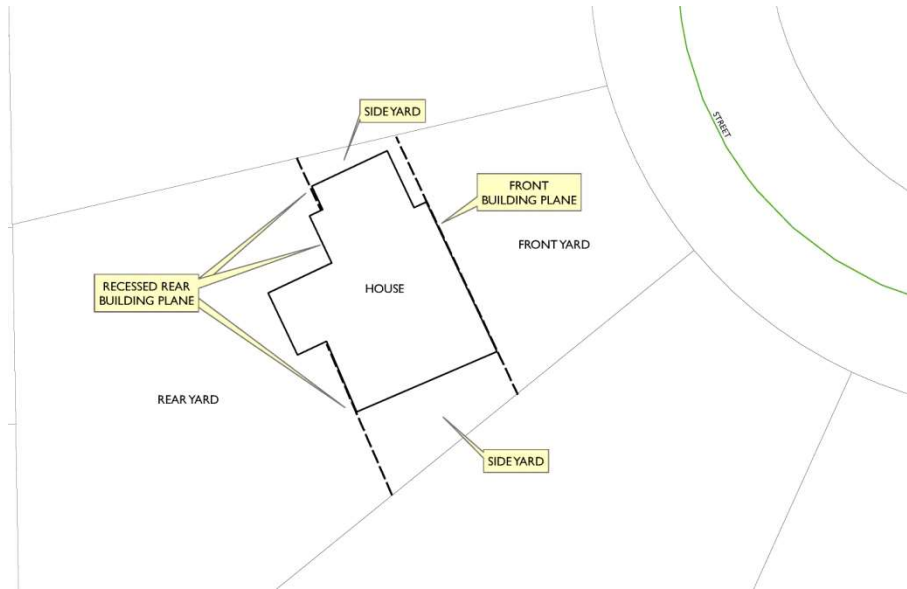
1105.0300| Fences and Hedges

Fences and hedges shall be permitted in any required setback.

1105.0301 Residential Districts

The following standards apply in all Residential districts:

- B.** Fences or hedges shall not exceed 3½ feet in height in the front yard.
- C.** Fences shall not exceed 6 feet in height in the side yard or rear yard.
- D.** If the site does not have a primary structure, the area between the front property line and the required front setback listed in Sec. 1106.0100 is defined as the front yard.



- E.** No part of any fencing shall extend into the public right-of-way.

1105.0302 Commercial and Industrial Districts

- F.** The following standards apply in all Commercial and Industrial districts:
 - 1.** Fences shall not exceed 3 ½ feet in height in the front yard.
 - 2.** Fences shall not exceed 10 feet in any other location on a lot.
 - 3.** No part of any fencing or swing gate shall extend into the public right-of-way.
 - 4.** If the site does not have a primary structure, the area between the front property line and the required front setback listed in Sec. 1106.0100 is defined as the front yard.

SECTION 2. That this Ordinance hereby is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and that this Ordinance must be immediately effective in order to provide for the orderly development of the area and to protect the land values in the area.

Vote on emergency clause: yeas 12, nays 0.

Passed: October 24, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger

Matt Cherry

Clerk of Council

President of Council

Approved:

October 24, 2023
Wade Kapszukiewicz
Mayor