

CHARTER TOWNSHIP OF RUTLAND

BARRY COUNTY, MICHIGAN

ORDINANCE NO. 2019-166

ADOPTED: FEBRUARY 13, 2019

EFFECTIVE: MARCH 1, 2019

An Ordinance to amend various sections of Chapter 220 (Zoning) of the Rutland Charter Township Code of ordinances generally pertaining to fences and signs.

THE CHARTER TOWNSHIP OF RUTLAND

BARRY COUNTY, MICHIGAN

ORDAINS:

PART I---AMENDMENTS PERTAINING TO FENCES

SECTION 1

**AMENDMENT OF § 220-17-7 (PERTAINING TO FENCES AND HEDGES/WALLS
SERVING AS A FENCE)**

§ 220-17-7 of the Rutland Charter Township Code, pertaining to fences and hedges, is hereby amended to replace all of the existing content with new content reading as follows:

§ 220-17-7. Fences, hedges, and walls.

- A. Zoning Compliance Permit Requirement. Except as exempted herein, no fence shall be installed unless a zoning compliance permit for the specific proposed fence project has been obtained from the Zoning Administrator pursuant to § 220-16-2.B of this Code. Each application for a zoning compliance permit for a fence shall include a site diagram showing all of the following information:
1. The lot lines of the subject property, and the dimensions of same.
 2. The location of the proposed fence, relative to lot lines, including the distance from each lot line; and on a lake lot the distance from the waterfront.
 3. A photograph or other visual depiction of the exact style(s) of fence for which the permit is requested.

The applicant shall stake on the subject premises the actual location of all proposed fencing in a manner sufficient to be clearly and conspicuously visible to the Zoning Administrator.

This zoning compliance permit requirement shall not apply to any types of fencing exempted from this section as listed in subsection H below, or otherwise specifically exempted herein from a permit requirement.

In reviewing and acting upon a zoning compliance permit application for a fence, the Zoning Administrator is entitled to rely on the depiction of the subject premises on the diagram submitted by the applicant, including the depiction of lot lines relative to the location of the proposed fence. However, if the Zoning Administrator has tangible evidence sufficient to reasonably question the accuracy of the site diagram, or the placement of the proposed fence relative to a lot line, the Zoning Administrator may decline to take action on the permit application unless and until the applicant supplements the application with a professional survey establishing the exact location of any relevant lot line, and the surveyor has installed appropriate field markers sufficient to visually delineate any such lot line.

B. Location Requirements. All types of fences in all districts are subject to and shall comply with the following location requirements:

1. No fence shall be placed on property owned by another person, unless the owner of that property has consented to such placement of the fence in a written and legally enforceable document. Note: in placing a fence on or in the immediate proximity of a lot line it is the responsibility of the party erecting the fence, not the Township, to allow sufficient space for maintenance without trespassing, or make appropriate arrangements with the adjoining property owner with respect to maintenance access.
2. No fence shall be placed within any part of a public street right-of-way, or any other public way; except for the type of temporary fencing erected by a governmental authority as specified in subsection H.1, or other fencing erected by a governmental authority with jurisdiction over such public area.
3. No fence shall be placed in or over any lake or other public waterway.
4. Minimum setback requirements do not apply to fences, except as otherwise specified in this section or elsewhere in this Chapter; including, for example, the setback requirements applicable to lake lots as specified in subsection C below, and the street right-of-way setback requirement for fences and other types of screening on premises used for commercial or industrial purposes as specified in § 220-17-5.B.
5. Fencing shall not be located on any lot within 15 feet of a public street right-of-way; except for open-style fencing not exceeding four feet in height.
6. Fencing shall not be located on any corner lot within 25' of a public street right-of-way; except for open-style fencing not exceeding four feet in height, or fencing that is at least 50% open/transparent and not exceeding three feet in height.

- C. Additional Location Requirements Applicable to Fencing on Lake Lots. The following location requirements shall apply to fencing on lake lots, in addition to the location requirements otherwise applicable to all premises as specified in subsection B above:
1. On a lake lot no fence shall be located within the minimum required front yard (lake side) setback area applicable to the zoning district within which the lot is situated (see § 220-15-1 Schedule of Regulations); except for open-style fencing not exceeding four feet in height from grade at any point, or fencing that is at least 50% open/transparent and not exceeding three feet in height from grade at any point.
 2. On a lake lot no fence shall be located within the minimum required rear yard (street side) setback area applicable to the zoning district within which the lot is situated (see § 220-15-1 Schedule of Regulations); except for open-style fencing not exceeding four feet in height from grade at any point, or fencing that is at least 50% open/transparent and not exceeding three feet in height from grade at any point.
- D. Height Limits. The following requirements relating to the permissible height of fences shall apply as stated:
1. In any Residential District no fence shall exceed a height of six feet, or such lesser height limit as may be specified in this Chapter for specific circumstances, such as lake lots, and corner lots.
 2. In any district a fence associated with a land use for which a fence height limit is specified elsewhere in this Code shall not exceed such specified height limit. Example: see § 220-17-9 pertaining to junk yards and similar businesses.
- E. Permissible/Prohibited Types of Fencing. The following fence regulations apply in all districts, except as otherwise indicated:
1. Otherwise permissible fencing shall be constructed of a solid material, such as wire, wrought iron, wood, vinyl, or other similar material designed to retain its shape and configuration upon proper installation.
 2. Barbed wire fencing is prohibited in all districts, except in conjunction with the lawful keeping of livestock in the Agricultural/Open Space Preservation District or such other district where the keeping of livestock is a lawful use.
 3. Electrified fencing is prohibited in all districts, except in conjunction with the lawful keeping of livestock in the Agricultural/Open Space Preservation District or such other district where the keeping of livestock is a lawful use.
 4. Fencing consisting of tarps or fabric material is prohibited in all districts.

5. Sharp projections on fences are prohibited in all districts. Picket-style fences, where otherwise permissible, shall have blunt-end or ball-type finials, or an angle at the top of not less than 90 degrees, or a top rail.
- F. Maintenance/Repair and Removal Requirements. The following requirements apply to all types of otherwise permissible fencing, in all districts:
1. All fences shall be kept in a well-maintained condition at all times, which shall include keeping the fence straight/upright, staining/painting as appropriate, repairing or replacing sagging or damaged parts and loose components, so as to cause the fence to not be unsightly or dilapidated.
 2. Unmaintained and/or abandoned fences shall be repaired or removed within 14 days of written notice given by the Zoning Administrator.
- G. Limitations on Changes to Existing Fencing. Existing fencing that does not comply with one or more requirements of this section, but which was existing and lawful on the effective date of this section (as amended by Ordinance No. 2019-167), may be continued as a lawful nonconforming structure in accordance with applicable provisions in Article XXII of this Chapter governing lawfully established nonconforming structures. Accordingly, as provided by § 220-22-3, ordinary repair and maintenance work may be undertaken as is necessary to keep a nonconforming fence in sound condition, but no such work shall include structural alterations which are likely to extend the otherwise reasonably anticipated useful life of the fence; and any such nonconforming fence shall not be expanded, extended, enlarged, or otherwise altered except as specified in § 220-22-5. When a nonconforming fence has been removed or otherwise discontinued, it shall not be reestablished except in full conformance with all applicable requirements of this section and Chapter.
- H. Exemptions. The following types of fencing are exempt from any requirements of this section, including the zoning compliance permit requirement:
1. Fencing and fence-like barriers installed in a public street construction zone by or with the authorization of the governmental entity with jurisdiction over that public street.
 2. Temporary fencing surrounding or otherwise protecting an otherwise permissible construction or excavation site, not exceeding the duration of the construction/excavation project.
 3. Temporary wood or plastic/vinyl snow fences not exceeding four feet in height erected to limit snow drifting and/or protect vegetation, and in place not earlier than November 1 or later than April 1.
- I. Definitions. For purposes of this section, or elsewhere in this Chapter, the following terms shall have the specified meaning.

1. “fence” means as generally defined in § 220-2-2 (A structural barrier constructed of wood, metal, stone, brick or masonry, or other durable materials, of either solid or open-style construction, erected or otherwise serving to enclose an area of land, or as a property boundary demarcation or dividing device, or as a visual screening device, or performing a similar function. This definition is not intended to include growing trees, shrubs, or other similar live vegetative material; except as specified in subsection J below with respect to hedges).
 2. “open style fencing” means fencing of a type such as chain link, or woven/welded wire, which is fully open/transparent except for the wire components of the fencing.
 3. “at least 50% open/transparent” means the style/design of the fence is such that solid vertical or horizontal components are sized and/or alternately spaced so as to achieve a see-through effect structure with uniform spacing of the vertical or horizontal components. Examples of this type of fencing include split-rail fencing, and picket fencing where the pickets are alternately spaced as specified above.
- J. Hedges. All the provisions of § 220-17-7.A-I shall also apply to any vegetative hedge intended to serve as a fence, or otherwise having that effect, based on the definition of “fence” in subsection I.1 above.
- K. Walls. All the provisions of § 220-17-7.A-I shall also apply to any wall intended to serve as a fence, or otherwise having that effect, based on the definition of “fence” in subsection I.1 above.

SECTION 2

AMENDMENT OF § 220-2-2 PERTAINING TO DEFINITIONS

§ 220-2-2 of the Rutland Charter Township Code (Definitions) is hereby amended to delete the last sentence of paragraph A of the definition for “Lot Line, Front”, and read as follows:

LOT LINE, FRONT —

- A. Where a lot abuts only one public street, or lawful private road/shared driveway, the front lot line shall be the line separating the lot from the right-of-way of the street or lawful private road/shared driveway; except where a lot has frontage on a lake, river, or other navigable waterway, the front lot line shall be the boundary line abutting the water.

SECTION 3

AMENDMENT OF § 220-9-9 PERTAINING TO BUILDING DESIGN AND ARCHITECTURAL STANDARDS IN MU MIXED USE DISTRICT

§ 220-9-9 of the Rutland Charter Township Code (Building Design and

Architectural Standards in MU Mixed Use District) is hereby amended to revise subsection C.8 to read as follows:

“8. Refuse containers. All refuse containers shall be located within a four-sided solid fence enclosure not exceeding six feet in height, constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated, and screen the refuse containers from view on any adjoining premises or public street. Refuse container enclosures shall not be located in a front yard.”

SECTION 4

AMENDMENT OF § 220-17-11 PERTAINING TO BUILDING DESIGN AND ARCHITECTURAL STANDARDS APPLICABLE TO SPECIFIED TYPES OF USES IN THE AG/OS AND RESIDENTIAL DISTRICTS

§ 220-17-11 of the Rutland Charter Township Code (Building Design and Architectural Standards applicable to specified types of uses in the AG/OS and Residential Districts) is hereby amended to revise subsection C.10 to read as follows:

“10. All refuse containers shall be located within a four-sided solid fence enclosure not exceeding six feet in height, constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated, and screen the refuse containers from view on any adjoining premises or public street. Refuse container enclosures shall not be located in a front yard.”

PART II---AMENDMENTS PERTAINING TO SIGNS

SECTION 5

AMENDMENT OF § 220-18-3 PERTAINING TO DEFINITIONS OF TERMS USED IN ARTICLE XVIII (SIGNS)

§ 220-18-3 of the Rutland Charter Township Code, pertaining to definitions of terms used in Article XVIII (Signs), is hereby amended to revise the existing definition of “electronic message board” to read as follows:

“ELECTRONIC MESSAGE BOARD - A sign or sign structure that uses electronic means to display a fixed or changing display/message or series of messages by electronic means.”

SECTION 6

AMENDMENT OF § 220-18-3 PERTAINING TO DEFINITIONS OF TERMS USED IN ARTICLE XVIII (SIGNS)

§ 220-18-3 of the Rutland Charter Township Code, pertaining to definitions of terms used in Article XVIII (Signs), is hereby amended to add the following new defined terms reading as follows:

“ILLUMINATION (OR ILLUMINATED) - The lighting of the surface of a sign so as to allow the sign to be seen and read by one or more exterior beams of light. This term is not intended to apply to a type of sign where the sign message is itself internally illuminated, such as an electronic message board type of sign.”

“VISIBLE - A sign message that is capable of being seen by an individual of normal visual acuity when traveling in a motor vehicle, where the context of the usage of the term applies to sight from a roadway; or a sign message that is capable of being seen by an individual of normal visual acuity when standing on premises, when the context of the usage of the term applies to sight from a stationary position.”

SECTION 7

AMENDMENT OF § 220-18-8 PERTAINING TO GENERAL STANDARDS AND REQUIREMENTS APPLICABLE TO OTHERWISE PERMISSIBLE TYPES OF SIGNS

§ 220-18-8 of the Rutland Charter Township Code pertaining to general standards and requirements applicable to otherwise permissible types of signs, is hereby amended to revise subsections B and C of same to read as follows:

- “B. Setbacks/location. All signs shall be setback at least 10 feet from all lot lines and any public street or private road right-of-way; and shall otherwise not be located so as to obstruct the clear sight area, or otherwise prevent the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, and merging traffic.
- C. Illumination. Where signage is otherwise allowed to be illuminated, the illumination:
1. shall not be flashing;
 2. shall be arranged so that light is deflected away from adjacent properties and so no direct source of light is visible to any driver or pedestrian located in a public street or private road right-of-way or from any premises in a residential district or used for residential purposes;
 3. shall not be so illuminated that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

In addition, all exterior lighting of signs shall be downward facing.”

SECTION 8

AMENDMENT OF § 220-18-8.H PERTAINING TO DESIGN STANDARDS AND USE LIMITATIONS FOR ELECTRONIC MESSAGE BOARDS

§ 220-18-8.H of the Rutland Charter Township Code pertaining to the design standards and use limitations for electronic message boards where otherwise permissible in the MU District, only, is hereby amended to add new subsections 4 and 5 thereto reading as follows:

- “4. An electronic message board billboard shall not be located within 500 feet of any street intersection controlled by a traffic signal light. The Zoning Administrator may reduce this intersection setback distance to not less than 300 feet where the sign permit applicant requests such reduction, and presents evidence upon which the Zoning Administrator can rely to reasonably determine a reduced setback distance from the specific intersection at issue will not adversely affect public safety due to the configuration of the specific intersection and the proposed orientation of the billboard relative to the intersection in such a manner as to minimize the visibility of the electronic message board billboard from the intersection, or due to other conditions specific to that intersection sufficient to avoid the unsafe distraction of drivers at or approaching that intersection by the periodic changing of messages on the electronic message board billboard. The Zoning Administrator shall consult with the Barry County Road Commission and/or Michigan Department of Transportation, as applicable, before making any determination on a reduced intersection setback request pursuant to this provision.
5. An electronic message board billboard shall not be located within 500 feet of any residential dwelling. The Zoning Administrator may reduce this dwelling setback distance to not less than 300 feet where the sign permit applicant requests such reduction, and presents evidence upon which the Zoning Administrator can reasonably rely to determine a reduced setback distance from the specific dwelling at issue will not adversely affect the health and welfare of occupants of the dwelling due to the location of the specific dwelling and the proposed orientation of the billboard relative to the dwelling in such a manner as to minimize the visibility of the electronic message board billboard from the dwelling, or due to other conditions specific to that electronic message board and/or dwelling sufficient to avoid unreasonable detriment to occupants of the dwelling by the periodic changing of messages on the electronic message board billboard.”

SECTION 9

REPEAL OF CONFLICTING ORDINANCES; EFFECTIVE DATE

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. This Ordinance shall take effect on the eighth day after publication or on such later date as may be required by law.

Robin Hawthorne, Clerk
Charter Township of Rutland

RUTLAND CHARTER TOWNSHIP

BARRY COUNTY, MICHIGAN

**NOTICE OF ADOPTION/SUMMARY OF ORDINANCE AMENDING CHAPTER 220
(ZONING) OF THE RUTLAND CHARTER TOWNSHIP CODE**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF RUTLAND, BARRY COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that Ordinance No. 2019-166 was adopted by the Rutland Charter Township Board at its February 13, 2019 meeting. The sections of this Ordinance amend various provisions of Chapter 220 (zoning) of the Rutland Charter Township Code of ordinances, as summarized below:

SECTION 1: AMENDMENT OF § 220-17-7 (PERTAINING TO FENCES AND HEDGES/WALLS SERVING AS A FENCE)---replaces all of the existing content with new content, including requirements pertaining to a zoning compliance permit for fencing, location requirements for fences, additional location requirements applicable to fencing on lake lots, fence height limits, permissible/prohibited types of fencing, maintenance/repair and removal requirements for fencing, limitations on changes to existing fencing, exemptions for certain types of fencing from the specified requirements, definitions of fence-related terms; and applying various of the requirements for fences to any vegetative hedge or wall intended to serve as a fence or otherwise having that effect.

SECTION 2: AMENDMENT OF § 220-2-2 PERTAINING TO DEFINITIONS--- revises the existing definition for “Lot Line, Front” by deleting the last sentence pertaining to waterfront setback areas (now addressed in § 220-17-7.C.1 pursuant to Section 1 of this Ordinance).

SECTION 3: AMENDMENT OF § 220-9-9 PERTAINING TO BUILDING DESIGN AND ARCHITECTURAL STANDARDS IN MU MIXED USE DISTRICT---revises subsection c.8 relating to enclosure/screening of refuse containers (height and view from adjoining premises/public street).

SECTION 4: AMENDMENT OF § 220-17-11 PERTAINING TO BUILDING DESIGN AND ARCHITECTURAL STANDARDS APPLICABLE TO SPECIFIED TYPES OF USES IN THE AG/OS AND RESIDENTIAL DISTRICTS---revises subsection c.10 relating to enclosure/screening of refuse containers (height and view from adjoining premises/public street).

SECTION 5: AMENDMENT OF § 220-18-3 PERTAINING TO DEFINITIONS OF TERMS USED IN ARTICLE XVIII (SIGNS)---revises the existing definition of “electronic message board” to use more current terminology.

SECTION 6: AMENDMENT OF § 220-18-3 PERTAINING TO DEFINITIONS OF TERMS USED IN ARTICLE XVIII (SIGNS)---adds new defined terms “illumination (or illuminated)” and “visible”.

SECTION 7: AMENDMENT OF § 220-18-8 PERTAINING TO GENERAL STANDARDS AND REQUIREMENTS APPLICABLE TO OTHERWISE PERMISSIBLE TYPES OF SIGNS---revises subsections b and c with respect to sign setback/location and sign illumination, respectively, to avoid signs preventing motorists from having a clear and unobstructed view of traffic on a public street or private road, and to avoid sign illumination that obscures or interferes with an official traffic sign, device, or signal.

SECTION 8: AMENDMENT OF § 220-18-8.H PERTAINING TO DESIGN STANDARDS AND USE LIMITATIONS FOR ELECTRONIC MESSAGE BOARDS---adds new subsections 4 and 5 relating to location requirements for electronic message board types of billboards where otherwise permissible in the MU District, relative to any street intersection controlled by a traffic signal light, and any residential dwelling, respectively.

SECTION 9: REPEAL OF CONFLICTING ORDINANCES; EFFECTIVE DATE--- repeals conflicting ordinances/parts of ordinances; provides for the ordinance to take effect on the 8th day after publication or on such later date as may be required by law.

This ordinance in its entirety has been posted in the office of the Township Clerk and on the Township website (www.rutlandtownship.org).

A copy of the ordinance may also be purchased by contacting the Township Clerk as indicated below during regular business hours of regular working days, and at such other times as may be arranged.

Robin J. Hawthorne, Clerk
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