

Ordinance 61-2003

AMENDING THE TALLMADGE CODIFIED ORDINANCES BY CREATING CHAPTER 1181, WHICH SHALL DEFINE AND REGULATE FENCES AND WALLS

WHEREAS, this Council desires to establish regulations controlling the use of fences and walls whereby the lot owner in any zoned district may have the privilege of privacy within his own lot with due consideration to the environment of his neighbor, the appearance of the community, and the safety of the public and the individual; and

WHEREAS, Planning and Zoning Commission considered this matter on July 3, 2003 and made recommendation to Council; and

WHEREAS, a public hearing on this zoning regulation was held by Council on July 10, 2003.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That there is hereby created and adopted within the Tallmadge Codified Ordinance Chapter 1181, which shall read as follows:

1181.01 PURPOSE.

The purpose of this Chapter is to establish regulations controlling the use of fences and walls whereby the lot owner in any zoned district may have the privilege of privacy within his own lot with due consideration to the environment of his neighbor, the appearance of the community, and the safety of the public and the individual.

1181.02 SCOPE.

- (a) This Chapter shall apply to all zoned districts as the same are defined by the Zoning Ordinance and official zoning map of the City.
- (b) The fence and wall regulations herein shall not apply to any permanent fence or wall structure that complies with the current Building Code.

1181.03 DEFINITIONS.

“Fence” or “Wall” means any structure composed of wood, steel, iron, masonry, stone, plastic, vinyl, or other material erected in such a manner and positioned as to enclose or partially enclose any property or any part of any property. Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing property or of separating property from adjoining property, shall not be included within the definition of the word “fences” or “walls”.

1181.04 PERMITTED FENCES AND WALLS.

- (a) Fences or walls erected within the minimum front yard setback shall not exceed 3½ feet in height.
- (b) Fences or walls erected, other than within the minimum front yard setbacks, shall not exceed 7 feet in height.
- (c) Corner lots where both sides of the lot face the street shall be treated as a front yard as relates to this ordinance.
- (d) Fence or wall height shall be determined by its height at natural grade.
- (e) Fences and walls shall not obstruct the clear site distances at intersections. Fences and walls shall not be constructed within a triangle of 25 feet from the intersection of the right-of-way lines.
- (f) Fences or walls constructed in Commercial and Industrial Districts shall be limited to 10 feet in height. Such fences or walls may contain barbed wire, provided that the barbs shall be located no less than 7 feet above the ground or supporting area and shall not project over adjoining properties or right-of-way lines.
- (g) Snow fences may be erected between November 1 and March 31. All snow fences shall be removed by April 15. A zoning certificate shall not be required for snow fences.
- (h) Temporary fences or walls used during building construction or renovation shall not be subject to this Chapter.

1181.05 PROHIBITED MATERIALS.

Fences or walls shall not be made of or contain:

- (a) Chicken wire, except as used for animal-resistant garden enclosures.

- (b) Scrap materials.
- (c) Corrugated or sheet metal, except in Commercial or Industrial Districts.
- (d) Electrical current, except for horses and cattle in an agricultural use area and not within 10 feet of the right-of-way.
- (e) Barbed wire, spikes, or other materials intended or likely to cause bodily harm, except as permitted in Commercial and Industrial Districts.

1181.06 GENERAL REQUIREMENTS.

Notwithstanding anything contained herein to the contrary and in addition to any other requirement, the following provisions shall apply:

- (a) Fences or walls, which enclose athletic fields or courts, shall not exceed twelve feet in height.
- (b) A fence or wall of permitted height and design may be constructed along or upon common property lines and across any utility easement so as to allow maximum use of the area to be enclosed. Fences or walls placed on utility easements shall provide access to manholes, utility boxes, cleanouts, or other apparatus that may be used from time to time for maintenance of the utility. Fences or walls in drainage easements shall require prior approval of the City Engineer to allow for proper flow of water.
- (c) When a fence or wall obstructs access to a utility box, manhole, or other public apparatus for maintaining utilities, the owner shall be required to remove such fence or wall at his expense without remuneration from the City.
- (d) The height of the fence or wall shall not include the posts, except, however, the posts may not exceed the fence or wall height by more than six inches.
- (e) The entirety of each different material used in the construction of a fence or wall shall display its natural color or shall be painted or stained a single tint or shade of a single color.
- (f) Except when constructed of materials that have been designed or manufactured to remain untreated, all fences or walls shall periodically be treated with paint or chemicals so as to retard deterioration.
- (g) All fences and walls shall not contain in or upon themselves the following:
 - (1) Graffiti.
 - (2) Advertising.
 - (3) Lettering or numbering, except house numbers, which shall not exceed 3 inches in height.
- (h) Fences and walls shall be constructed in a workmanlike manner and shall be secured to the ground or supporting area in a substantial manner.
- (i) All fences or walls shall be maintained in good repair, structurally sound, and sanitary so as to not pose a threat to public health, safety, and welfare. If any fence or wall is found not to be in the state of good structural repair, it shall be removed, replaced, or repaired as required within 30 days notice.
- (j) Any existing fence or wall must be removed if the new fence or wall will be in the same place.
- (k) All fences or walls shall be constructed with the posts facing the fence or wall installer's structure, except if an existing fence or wall on the adjacent property is in place with the posts facing outward, the fence or wall installer has the option of constructing the fence or wall with the posts facing outward toward the adjacent fence or wall.

1181.07 SWIMMING POOL FENCES AND WALLS.

Swimming pool fences and walls shall comply with the adopted Building Code under which it was constructed.

1181.08 ZONING CERTIFICATE, INSPECTION, AND FEE.

- (a) Any fences or walls, which may be permitted, shall require the issuance of a zoning certificate issued by Building and Zoning Department with fee as established pursuant to Section 1199.05.
- (b) Each property owner shall determine property lines and ascertain that the fence or wall thus constructed does not deviate from the plans as approved by the Building and Zoning Department issuing zoning certificates and does not encroach upon another lot or parcel of land. The Building and Zoning Department shall furnish such inspection as is deemed necessary to determine that the fence or wall is constructed in accordance with plans submitted for the certificate, provided however, that the issuance of such certificate by the Building and Zoning Department shall not be construed to mean the Building and Zoning

Department has determined the fence or wall is not encroaching upon another lot, nor shall it relieve the property owner of the duties imposed herein.

1181.09 COMPLIANCE REQUIRED; CONFLICTING PROVISIONS.

To the extent that the provisions of this Chapter are included in or similar to restrictive covenants contained in any deeds of record or recorded plats or approved subdivisions, or the contents of an approved zoning plan, then the contents of such restrictive covenants, approval of plats or subdivisions or plans shall control to the extent they are not in conflict with this Chapter.

SECTION 2. That Sections 1191.14 and 521.07 of the Tallmadge Codified Ordinances are hereby repealed. Those sections have been consolidated in Chapter 1181.

SECTION 3. That all ordinances or resolutions or portions thereof inconsistent with this legislation are hereby repealed.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975 that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.