



# City of East Grand Rapids, Michigan

## CITY OF EAST GRAND RAPIDS NOTICE OF PUBLIC HEARING

A public hearing will be held at the date, time, and place below to discuss amendments to Chapter 83 of the East Grand Rapids code of ordinances in regard to fences and walls and Section 3.38 of Chapter 32 in regard to "clear vision" areas around driveways.

The draft amendments may be viewed in the Public Works Administration office at the Community Center, or by linking from this notice at [www.eastgr.org/notices](http://www.eastgr.org/notices).

The City Commission welcomes your views in this matter. You may express your views at the scheduled meeting or by writing to the Mayor and City Commission at 750 Lakeside Drive SE, East Grand Rapids, MI 49506 or by email to the City Clerk at [kbrower@eastgr.org](mailto:kbrower@eastgr.org). To be included in the hearing, written communications must contain the sender's name and address.

If you have any questions regarding this request, please contact the undersigned at (616)940-4817, or [amizikar@eastgr.org](mailto:amizikar@eastgr.org).

Date: Tuesday, August 3, 2019  
Time: 6:00 p.m.  
Place: East Grand Rapids Community Center Commission Chambers  
750 Lakeside Drive SE, East Grand Rapids, MI 49506

Aleksander P. Mizikar  
Zoning Administrator

**AN ORDINANCE TO AMEND ARTICLE I OF CHAPTER 83 OF TITLE VIII OF THE CODE OF THE CITY OF EAST GRAND RAPIDS**

**THE CITY OF EAST GRAND RAPIDS ORDAINS:**

Section 1. Article I of Chapter 83 of Title VIII of the Code of the City of East Grand Rapids is hereby amended in its entirety to read as follows:

**ARTICLE I  
GENERAL FENCE REQUIREMENTS**

The intent of this ordinance is to create openness and clear vision within the City's neighborhoods so that pedestrians and vehicles can safely proceed on sidewalks and streets without views of other pedestrians and vehicles being blocked by a fence.

**8.61 Requirements and restrictions.**

- A. Fences or walls located in a side or rear yard shall not exceed six (6) feet in height, measured from the ~~bottom of the fence or wall to the uppermost portion of the sections in-between the support posts or pillars natural grade to the uppermost portion of the fence or wall.~~ A gap no larger than 6 inches is allowed between the natural grade and the bottom of the fence to allow for uneven grade. Support posts and pillars are allowed a twelve (12) inch height encroachment for decorative elements.
- B. Fences or walls erected in any front yard, including both street sides of a through lot, shall not exceed ~~thirty-six (36)~~ forty eight (48) inches in height, measured from ~~the bottom of the fence or wall to the uppermost portion of the sections in-between the support posts or pillars the natural grade to the uppermost portion of the fence or wall,~~ and shall be no more than fifty percent (50%) opaque for the sections of fence or wall in-between support posts or pillars. A gap no larger than 6 inches is allowed between the natural grade and the bottom of the fence to allow for uneven grade. Support posts and pillars are allowed a twelve (12) inch height encroachment for decorative elements.
- C. A fence or wall up to six (6) feet in height shall be at least ten (10) feet off of the street right-of-way line on the street side yard of a corner lot, or must be in alignment with the current house setback, whichever is less. Any fence or wall within that ten (10) foot setback, or closer than the established side yard setback of the house, shall not exceed ~~thirty-six (36)~~ forty eight (48) inches in height, measured from ~~the bottom of the fence or wall to the uppermost portion of the sections in-between the support posts or pillars the natural grade to the uppermost portion of the fence or wall,~~ or shall have clear visibility through it (such as a chain link fence or a metal rod fence)

and be set back at least one (1) foot from the right-of-way line. In addition, no fence or wall ~~taller than 3 feet in height~~ may be located in the clear vision area required by Section 3.38 of the City Code unless it ~~has clear visibility through it is no more than fifty (50%) opaque.~~

- D. A fence or wall lawfully in existence as of the adoption of subsections B and C above that does not conform to the requirements of subsections B and C (a "preexisting fence or wall") may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No preexisting fence or wall may be enlarged or altered in a way which increases its nonconformity.
  2. If a preexisting fence or wall is moved for any reason, it shall thereafter conform to the regulations of subsections B and C.
  3. Repair and maintenance work may be performed on a preexisting fence or wall provided that its nonconformity as it existed at the time this section was adopted is not increased. ~~Repair and maintenance are defined as replacing no more than 25% of a section of non-conforming fence within a 12-month timeframe.~~
  4. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of a preexisting fence or wall or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- E. Fences and walls shall be constructed and maintained vertical to the contour of the adjoining land. All fences constructed or reconstructed following the adoption of this section shall have the finished side facing neighboring property. The back side of a fence shall face the owner's property and shall contain the fence posts and bracing.
- F. There shall not be attached, affixed, or placed on any fence or wall any spike, nail, barb (including barbwire), or other pointed instrument, and all cleaved selvages and sharp points on wire fences shall be removed or bent to eliminate any sharp extrusions.
- G. No fence or wall shall be constructed or maintained which is charged or connected with an electrical current.
- H. Temporary construction fences or fences for protection around excavations shall comply with all requirements of the National Building Code. Such fences shall not be maintained for a period greater than a year without approval of the Zoning Board of Appeals.

- I. Fences enclosing tennis courts shall not exceed twelve (12) feet in height and shall be of a standard open wire-mesh type and if in excess of six (6) feet in height shall not encroach upon the side yard required to be maintained under the provisions of Chapter 50, Zoning, of this Code without the prior approval of the City Commission. The City Commission, in considering applications to construct such fences, shall give consideration to the character of the neighborhood and the preservation of property values and may attach to its approval such conditions regarding the location, character, landscaping, or treatment thereof as it may deem to be reasonably necessary for the protection of the neighbors and for the furtherance of the intent of this chapter.
- J. No fence or wall shall be erected within one (1) foot of any lot line abutting a street right-of-way line.
- K. Provisions of the City Code in Title VIII dealing with fencing requirements for swimming pools may in some instances be inconsistent with the requirements of this section. Any such inconsistencies shall be addressed by filing for an exception as provided in subsection L below.
- L. The City Commission may, for good cause, authorize exceptions from the strict requirements of this chapter upon written application and following a public hearing. The procedure for such application and hearing shall be as set forth in Sections 8.62.A and 8.62.B of this chapter.-(Put in New Sections.)
- M. Prior to installing or having a fence installed upon a parcel of property, the owner of the property or the owner's contractor must obtain a fence permit from the City. The procedure for obtaining this permit will be set forth in the Fee Resolution adopted by the City from time-to-time for other required permits.

#### **8.62 Maintenance of fences.**

- A. All fences shall be protected from deterioration with properly applied paint, stain, or other protective coating, with the exception of metal fences, redwood and cedar fences, or fences constructed with pressure-treated lumber which are of a type not customarily intended to be so painted, stained or coated, but such fences shall be properly maintained to prevent deterioration.
- B. Fences shall be maintained to retain their original appearance, shape and configuration. Elements of the fence that are missing, damaged, destroyed or deteriorated shall be replaced and repaired to maintain conformity with the original fence design.

- C. Any fence which because of a failure to comply with the provisions of this chapter becomes unsafe so as to create possibility of bodily injury or becomes unsightly to neighbors or the general public is hereby declared a nuisance. The building inspector shall serve the owner, agent or person in control of the property upon which such fence is located, a written notice describing the unsafe or unsightly condition and specifying the required repairs or modifications to be made or requiring the fence or any portion thereof to be removed, and shall provide a time limit for such repair, modification or removal. Any person failing to comply with such notice within the time limited therefor shall be guilty of a violation of this Code. (Ord., 11-4-84)

### **8.62.A Appeals, Interpretations, and Variances**

- A. **Board of Appeals.** The City Commission shall act as the Board of Appeals for these regulations. The City Commission shall have the authority to interpret, consider appeals of administrator decisions, and consider request for variances; provided, the City Commission shall have no authority to hear an appeal, interpret provisions or consider a variance from any matter that relates to the construction or design specifications established by the City Building Code. Such decisions shall be the sole province of the Construction Board of Appeals.
- B. **Appeals.** Any person aggrieved by any decision or order of the Director of Public Works or Zoning Administrator in connection with any provisions of these regulations may appeal to the City of East Grand Rapids City Commission within thirty (30) days of the decision or order.
- C. **Interpretation.** The City Commission may interpret any aspect of the regulations of this Chapter. Such interpretation may be required by an application, business owner, property owner, City official, the Zoning Administrator, or the Director of Public Works.
- D. **Variances**
  - 1. The City Commission shall hear variance requests on all applications that do not conform to the provisions of these regulations, relating to location, height, maintenance, and opaqueness.
  - 2. The City Commission shall use the following standards to determine if a variance is warranted. All of the following standards shall be satisfied, as applicable.
    - a. The applicant has demonstrated a variance is needed due to a practical difficulty on the site or unique condition that is more than mere inconvenience.

- b. A variance is warranted due to circumstances exceptional and peculiar to the property for which the variance is requested, and those conditions do not exist generally throughout the City.
- c. The variance will not be a hazard to either clear vision or overall safety, and will be harmonious with the surrounding environment.
- d. If applicable, a variance would significantly bring a nonconforming fence closer to conformity with this chapter.
- e. The variance will not be contrary to the purpose and intent of the regulation(s) being considered for the variance.

#### **8.62.B City Commission Hearings and Decisions**

- A. Notice regarding a proposed appeal, interpretation (if applicable to a specific property) or variance shall be sent by mail at least fifteen (15) days prior to the City Commission meeting at which the request will be considered, to all property owners of records within three hundred (300) feet of the property in question. The notice shall contain a brief description of the request, the time and place of the City Commission meeting, the hours and location where the application may be inspected, and the address to which written comments may be sent.
- B. Meetings to hear appeals, interpretations, or variance may be held the same evening as the regularly scheduled City Commission meeting, unless a special meeting is called.
- C. Decisions required under this section shall be by majority vote of the full membership of the City Commission, not just a majority of those present.
- D. The City Commission may affirm, annul, or modify the order or action of the Department of Public Works or applicable portion of the regulations of this chapter.
- E. All decisions are final and may not be appealed, except as may be provided by law.
- F. In its capacity as appellate board, the City Commission shall either:
  - 1. Approve the application as presented upon a finding, point by point, that all the criteria in Section \_\_\_\_\_ are met;
  - 2. Subject the approval to certain changes or conditions, such as, but not limited to, changes to fence height, location, material, or opaqueness.;  
or
  - 3. Deny the application.

- G. Any decision shall be in writing and the applicant shall be provided a written explanation of the reasons for the decision and any conditions to an approval.

Section 2. This Ordinance shall be effective on \_\_\_\_\_.

Section 3. Notice of adoption of this Ordinance shall be published within ten days of its enactment by a publication of a digest, summary, or statement of purpose of the Ordinance as provided by Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

**NOTICE OF ADOPTION OF ORDINANCE BY THE CITY OF EAST GRAND RAPIDS:**

Notice is hereby given that on \_\_\_\_\_, the City Commission of the City of East Grand Rapids adopted an ordinance restating Article I of Chapter 83 of Title VIII of the City Code. The purpose of this ordinance is to regulate fences within the City. The ordinance requires that a permit be acquired before installing a fence and contains placement restrictions on the location of fences and height restrictions also based upon the location of fences. The full text of the ordinance is available for inspection by and distribution to the public at the office of the City Clerk. No further or additional publication of this ordinance is required or contemplated.

City of East Grand Rapids

By \_\_\_\_\_  
Karen K. Brower  
City Clerk

13970884

**AN ORDINANCE TO AMEND SECTION 3.38 OF CHAPTER 32  
OF TITLE III OF THE CODE OF THE CITY OF EAST GRAND RAPIDS**

**THE CITY OF EAST GRAND RAPIDS ORDAINS:**

Section 1. Section 3.38 of Chapter 32 of Title III of the Code of the City of East Grand Rapids is amended in its entirety to read as follows:

**3.38. Private trees and shrubs-Obstructing public ways or clear vision areas.**

A. The owner of any tree on private property overhanging any street or right-of-way shall trim the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street intersection and so that there shall be a clear space of ten (10) feet above the top of the curb at the street level over the street or sidewalk (see illustration A-0). The city shall have the right to trim any tree or shrub on private property when it interferes with pedestrian or vehicular traffic, or with the proper spread of light along the street from a street light, or interferes with visibility of any traffic-control device or sign, such trimming to be confined to the area immediately above the right-of-way. This ordinance does not apply to trees or shrubs in the right-of-way of adjacent jurisdictions as determined by public act 51 or intergovernmental agreements for right-of-way or street responsibility.

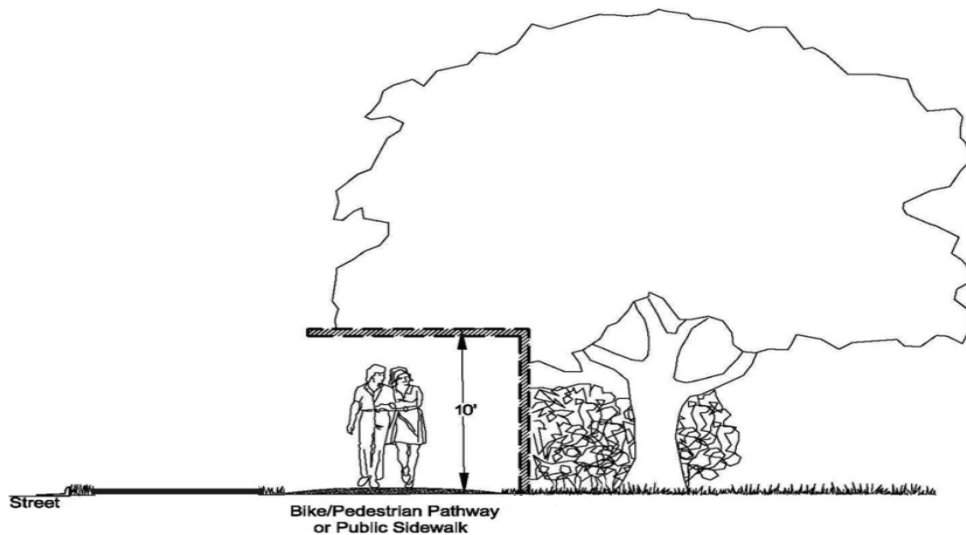


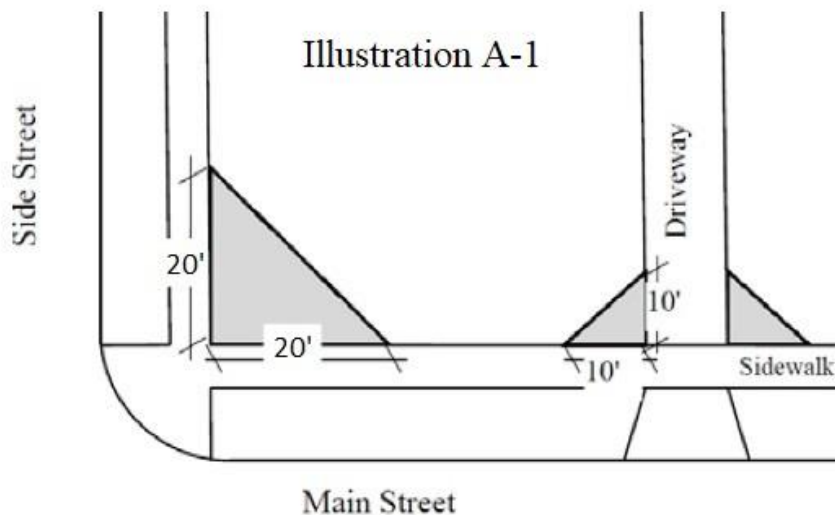
ILLUSTRATION A-0 (Above)

B. For purposes of this section trees shall mean trees, and shrubs shall include bushes, woody vegetation and plantings. Shrubs on private property located within a clear vision area, as described below, shall not be permitted to extend or grow to a height of more than thirty (36) inches above the top of the curb at the street level in order that the view of a pedestrian or driver of a vehicle approaching a driveway or street intersection shall not be obstructed. Trees may be planted and maintained on private property in a clear vision area so long as all branches are trimmed to maintain a clear vision for a vertical height of ten (10) feet above the street level. A clear vision area shall be measured as follows:



1. A clear vision area for a driveway means a triangular area formed by the intersection of a street right of way line and a driveway line and extending ten (10) feet from the intersection of the lines, or in the case of a rounded line from the intersection of the line extended (see following illustration A-1).

2. A clear vision area for a corner lot means a triangular area formed by the intersection of two (2) street right of way lines and extending twenty (20) feet from the intersection of the lines, or in the case of a rounded line from the intersection of the line extended (see following illustration A-1).



C. Any property owner failing to trim or maintain any trees or shrubs in conformity with this chapter shall be notified by the director of city public works or his/her designee.. Such notice shall require trimming or maintenance in conformity with this chapter within ten (10) days after service of such notice. Upon the expiration of such period, the director of public works may cause the trimming or maintenance to be done and the cost thereof may be collected from the owner of said property as a single lot assessment in accordance with section 1.306 of this code.

Section 2. This ordinance shall be effective on August \_\_\_\_\_, 2019.

Section 3. Notice of adoption of this ordinance shall be published within 10 days of its enactment by publication of a digest, summary, or statement of purpose of the ordinance as provided by Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

#### NOTICE OF ADOPTION OF ORDINANCE BY THE CITY OF EAST GRAND RAPIDS:

Notice is hereby given that on August \_\_\_\_, 2018, the City Commission of the City of East Grand Rapids adopted an ordinance amending Section 3.38 of Chapter 32 of Title III of the City Code. This ordinance deals with a clear vision setback area for driveways and intersections with regard to the location of trees, shrubs, and plants. The full text of the ordinance is available for inspection

by and distribution to the public at the office of the City Clerk. No further or additional publication of this ordinance is required or contemplated.

City of East Grand Rapids

By \_\_\_\_\_  
Karen K. Brower  
City Clerk.