

ORDINANCE NO. 122-14

**AN ORDINANCE TO AMEND SECTION 1294.08(a)(3) OF THE
CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING
REQUIREMENTS FOR FENCES AND WALLS**

WHEREAS, zoning regulations for the City of Avon mandate location, height and opacity for fences and walls; and

WHEREAS, Planning Commission, after considering the issue and upon advice of the Planning Coordinator and Zoning Enforcement Officer, has recommended amending Section 1294.08(a)(3)(A), Location, Height and Opacity” regarding maximum height and opacity for fences; and

WHEREAS, the Planning Commission authorized a Public Hearing on said amendment which was duly publicized according to law and held on September 17, 2014; and

WHEREAS, on September 17, 2014, by a vote of five (5) in favor and zero (0) opposed, Planning Commission recommended approval of the amendment to Section 1294.08(a)(3) of the Planning and Zoning Code; and

WHEREAS, Council, on October 6, 2014, announced a Public Hearing on said amendment to Section 1294.08(a)(3) ; and

WHEREAS, said Public Hearing was duly publicized according to law and was held on November 10, 2014 at 7:25 PM; and

WHEREAS, Council, in considering the recommendation of Planning Commission, finds that amending Section 1294.08(a)(3) of the Code regarding maximum height and opacity for fences is reasonable and in the best interests of the safety, health and welfare of the citizens of Avon.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, STATE OF OHIO THAT:

Section 1 -That Section 1294.08(a)(3) which currently reads as follows:

1294.08 REQUIREMENTS FOR FENCES AND WALLS.

(3) Location, Height and Opacity.

A. Except for fences erected as enclosures for swimming pools, fences shall be constructing according to the requirements of Schedule 1294.08(a).

Schedule 1294.08(a)
FENCE LOCATION, HEIGHT AND OPACITY

<u>Location</u>	<u>Maximum Height</u>	<u>Maximum Opacity⁽¹⁾</u>
(a) Front yard	3 feet	50% of fence must be uniformly distributed open space
(b) Side yard		
(1) Within required setback	6 feet	None
(2) Within required setback adjacent to street	3 feet	None
(c) Rear yard		
(1) Within required setback	6 feet	None
(2) Within required setback adjacent to street	3 feet	50% of fence must be uniformly distributed open space
<u>Notes to Schedule 1294.08(a).</u> (1) Opacity requirement does not apply to living fences		

- B. Fences may be built up to, but not on the property line, and shall be located entirely on the property of the person constructing it.
- C. Only decorative or ornamental fences shall be permitted in front of a building, unless required for screening pursuant to this chapter.
- D. Fences, gates, doors, and other obstructions shall not swing across or over a sidewalk or public right-of-way.
- E. On a corner lot, no fence shall be erected in such a manner as to materially impede vision between a height of 2.5 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining such street lines 50 feet from the point of the intersection.
- F. No fence shall be constructed, without City authorization, within a utility right-of-way. Any fence constructed within a utility right of way or inhibiting access to such right-of-way may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.

Shall be amended to read as follows: (new language in bold print; omitted language stricken)

1294.08 REQUIREMENTS FOR FENCES AND WALLS.

(3) Location, Height and Opacity.

- A. Except for fences erected as enclosures for swimming pools, fences shall be constructing according to the requirements of Schedule 1294.08(a).

Schedule 1294.08(a)
FENCE LOCATION, HEIGHT AND OPACITY

<u>Location</u>	<u>Maximum Height</u>	<u>Maximum Opacity</u> ⁽¹⁾
(a) Front yard	3 4 feet	50% 70% of fence must be uniformly distributed open space
(b) Side yard		
(1) Within required setback	6 feet	None
(2) Within required setback adjacent to street	3 4 feet	None 70% of fence must be uniformly distributed open space
(c) Rear yard		
(1) Within required setback	6 feet	None
(2) Within required setback adjacent to street	3 feet	50% of fence must be uniformly distributed open space
<u>Notes to Schedule 1294.08(a).</u> (1) Opacity requirement does not apply to living fences		

- B. Fences may be built up to, but not on the property line, and shall be located entirely on the property of the person constructing it.
- C. Only decorative or ornamental fences shall be permitted in front of a building, unless required for screening pursuant to this chapter.
- D. Fences, gates, doors, and other obstructions shall not swing across or over a sidewalk or public right-of-way.
- E. ~~On a corner lot, no fence shall be erected in such a manner as to materially impede vision between a height of 2.5 feet and 10 feet above the centerline grades of the intersecting streets in the area~~

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~~bounded by the street lines of such corner lots and a line joining such street lines 50 feet from the point of the intersection.~~

F E. No fence shall be constructed, without City authorization, within a utility right-of-way. Any fence constructed within a utility right of way or inhibiting access to such right-of-way may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.

Section 2 - The Codifier is hereby instructed to insert the amendment to Section 1294.08(a)(3) as contained in this legislation into the Avon Codified Ordinances, renumbering and/or relettering anywhere applicable. All other language contained in Section 1294.08 not specifically amended herein shall remain in full force and effect.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage 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 that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance shall take effect and be in force at the earliest date allowed by law.

First Reading: _____

Second Reading: _____

Third Reading: _____

PASSED: _____ DATE SIGNED: _____

By: _____

Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

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ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director