



## PLANNING & ZONING COMMISSION AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

July 11, 2022

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### Fence Ordinance

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#### **DESCRIPTION:**

Receive a report and hold a discussion regarding a Fence Ordinance.

#### **BACKGROUND INFORMATION:**

The City of New Fairview does not have a fence ordinance or general regulations for fences. However, we do have permit requirements for the purpose of determining that the fence is located on private property and not in public rights-of-way or easement. We require a survey or plat to be submitted. The fee is \$50 for residential and \$100 for a commercial fence.

We define a fence in our Code of Ordinances as “An open or solid enclosure designed to contain or prevent intrusion. An open fence is one in which the vertical surface thereof is not less than 70 percent open. A solid fence is one in which the vertical surface thereof is not greater than 30 percent open, and may be considered as a screening element.” (Chapter 9, Sec. 43)

We do require fencing around swimming pools (Chapter 4, Sec. 4.07.004); as screening between nonresidential use that abut an “SF” District for the purposes of screening (Chapter 9, Sec. 28); for gas well operations (Chapter 5, Sec. 5.04.013); for hot tubs and spas (Chapter 4, Sec. 4.07.003); for the screening of stored vehicles (Chapter 8, Sec. 8.05.004); for the confining of dogs (Chapter 3, Sec. 3.01.006); for erosion control measures (Chapter 4, Sec. 4.09.003); for the perimeter of a HUD-Code Manufactured Home subdivision, for the sides which do not abut a dedicated street (Chapter 9, Sec. 16.12); and for all satellite receive-only antennas (Chapter 9, Sec. 30.8).

Many cities have requirements for new fences, and the maintenance and replacement of existing fences. They regulate the type of fence material (wood, composite wood, stone, masonry, wrought iron, decorative metal, PVC, vinyl, zinc, powder coated chain link, galvanized chain link, etc.). They regulate the height of fences, typically not to exceed six (6) feet for residential and eight (8) feet for commercial. Maybe three (3) feet if allowed to have a fence in the front yard. The location of fences can also be regulated, for example none in the front yards

only side and rear yards for residential, and setbacks can be regulated. They regulate the presentation, for example the non-structural side faces outwards. Some address nonconforming fences, maintenance and enforcement of violations.

Attached are a number of ordinances from various small cities. Some of them have a separate fence permit requirement while others regulate fencing by rule within their zoning ordinances. Some regulate fence types while others focus on fence placement. Some allow front yard fences while others do not. As demonstrated by the attachments, fencing regulations can differ significantly from city to city.

This item was requested by council due to complaints that have come up regarding fencing within the city. Council discussed this at the June 20 meeting and directed staff to bring this to the Planning & Zoning Commission for discussion, and return with any recommendations on fence restrictions and or drafting of a fence ordinance for council consideration.

**FINANCIAL CONSIDERATION:**

None.

**RECOMMENDED MOTIONS:**

None, discussion only.

**ATTACHMENT(S):**

1. City of Ennis Fence Regulations
2. City of Lockhart Fence Regulations
3. City of West Fence Regulations
4. City of Justin Fence Regulations
5. City of Grandbury Fence Regulations
6. City of Lorena Fence Regulations
7. Right of Way Management Fence Requirements – Various Cities

## 7.3 - SCREENING AND FENCING STANDARDS

### 7.3.1 - Purpose

The purpose of these standards is to ensure that less intensive development is protected from negative effects that may occur when uses that are more intensive or structures are developed on adjacent sites through the use of non-vegetative screens or fences.

### 7.3.2 - Applicability

- (1) **GENERAL:** This section establishes minimum standards for screening and fencing for all new development and redevelopment in the City of Ennis as follows:
  - (a) All multi-family and non-residential development per **Table 7.1-1** shall meet the standards in Section 7.3.3 on Non-Residential and Multi-Family Screening and Fences.
  - (b) All single-family residential development in subdivisions with Zoning Change approved or Preliminary Platted after the adoption of this Ordinance and per **Table 7.1-1** shall meet Section 7.3.4 on Single Family Residential Screening and Fences.
- (2) **PARCEL SPECIFIC:** Screening and fence requirements in other sections or parcel-specific development approvals:
  - (a) Any use that is required to provide screening pursuant to Section 5.2, Additional Use Standards, shall comply with such requirements. In the event of a conflict between the additional use standards and the requirements of this section, the additional use standards shall control.
  - (b) Any use that is required to provide screening or fencing pursuant to a parcel-specific ordinance, including PD or RMU zoning and/or approval conditions, shall comply with such requirements. In the event of a conflict between the parcel-specific zoning ordinance and/or conditions and the requirements of this section, the parcel-specific standards shall control.
- (3) **SCREENING PLAN:** Prior to the issuance of a building or construction permit for any use other than single-family or duplex dwellings, a screening plan reflecting all requirements under this section shall be submitted in conjunction with the Landscape and Buffering Plan per **Article VIII** at the time of site plan approval.
- (4) In all cases, parallel fences are prohibited. A parallel fence is a fence that runs in the same general direction of and is located within 5 feet of an existing fence or screening wall. To be considered a parallel fence, the fence does not have to maintain a precise constant distance from the existing fence.

#### • **7.3.3 - Non-Residential and Multi-Family**

(1)

##### APPLICABILITY:

Standards in this section shall apply to all development in the MF-1, MF-2, C, BP, CC, L-IM, H-IM, KC, and IC zoning districts.

(2)

##### SCREENING OF TRASH AND RECYCLING COLLECTION AREAS

(a)

All refuse facilities, including new refuse facilities placed on an existing development, shall be large enough to accommodate a trash dumpster that meets all City specifications, and shall be completely screened from view of public streets:

i.

Inground trash dumpsters are preferred and placement is to comply with City specifications. More placement options may be considered by staff due to the lower visual impact of inground trash dumpsters.

ii.

Above-ground trash dumpsters must have screening on three sides by a minimum eight-foot masonry fence or wall. The opening shall include an opaque gate. Chain-link and wood gates are not permitted. Gates shall have tiebacks to secure in the open position. The container shall not be visible from public streets. The container shall not be placed in front of buildings and the placement shall be designed to minimize its visual impact on the site.

(3)

#### SCREENING OF SERVICE, LOADING, AND OUTDOOR STORAGE AREAS

(a)

All service areas in the MF-1, MF-2, C, BP, CC, KC, and IC zoning districts must be placed at the rear or side of the buildings.

(b)

All service areas in the L-IM and H-IM zoning districts must be placed at the rear or side of the buildings and screened from:

i.

Highways and Arterial streets, as indicated on the city's thoroughfare plan

ii.

Any residential zoning district that abuts the lot

(c)

Screening shall be long enough to screen the maximum size trailer that can be accommodated on site. Sites that can accommodate a full-size tractor-trailer shall provide a 48-foot wing wall, where wing walls are used.

(d)

Screening and gates shall not be chain link (with or without slats) and wood.

(4)

The height of the device shall not be less than the height of the materials stored or eight feet (whichever is greater). All service areas including truck berths; loading docks; and areas designated for permanent parking or outdoor storage of heavy vehicles, equipment, or materials shall be screened.

(5)

#### SCREENING OF GROUND MOUNTED AND ROOF MOUNTED UTILITY EQUIPMENT

(a) Applicability: The standards of this section shall apply to all of the following:

i.

Air conditioning and heating equipment

ii.

Ductwork used to heat, cool, or ventilate

iii.

Swimming pool and spa pumps and filters

iv.

Power systems, transformers, and generators for the building or site upon which the equipment is located

v.

Similar installations as identified by the Administrator

(b)

The standards of this section are not intended to impede systems that use solar or wind energy to reduce the costs of energy, if such systems are otherwise in compliance with applicable building codes, city ordinances and zoning requirements.

(c)

Roof-Mounted Mechanical Equipment: shall be screened from view along the primary street frontage by a parapet wall or similar feature that is an integral part of the building or similar feature shall be of a height equal to or greater than the height of the mechanical equipment being screened.

(d)

Ground-Mounted Mechanical Equipment: shall be screened from view along the primary street frontage by landscaping or by a decorative fence that is compatible with the architecture and landscaping of the site. The fence shall be of a height equal to or greater than the height of the mechanical equipment being screened.

(e)

Alternate Screening: Where site constraints or other design limitations are present, the Administrator may allow mechanical equipment that is not screened in full compliance with the screening standards of this section to use alternative screening methods through an Administrative Modification. Alternate screening methods may include, but shall not be limited to, increased setbacks, increased landscaping, grouping the equipment on specific portions of a site, and painting or otherwise camouflaging the equipment.

(6)

#### SCREENING FROM RESIDENTIAL USES

(a)

Any commercial or industrial use or parking lot that has a side or rear contiguous to any single-family residential district, shall be screened with a fence (masonry and decorative concrete block may be approved at the time of Site Plan approval), six feet in height, in addition to any landscape buffers that are required by **Article VIII**. As an alternative, berms in conjunction with a minimum of a six-foot wrought iron fence (if there are no residential fences along the property line) and a combination of trees and shrubs can be utilized to meet the screening requirements if the Administrator determines that the proposed alternative will provide a similar appearance, height, and quality of screening. The screen shall be located at the property line of the commercial or industrial use. Any ordinances concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or driveway.

(b)

Prior to construction of any required screens, complete plans showing type of material, depth of beam, and structural support shall be reviewed to determine whether or not:

i.

The screen will withstand the pressures of time and nature

ii.

The screen adequately accomplishes the purpose for which it was intended

iii.

Plans shall be sealed by a registered engineer or they shall conform to the city's standard design for screening walls including engineered footings

(c)

Such screen shall be constructed prior to the issuance of a certificate of occupancy for any building or portion thereof.

(d)

The areas adjacent to the required screening wall, or areas adjacent to a public street or right-of-way, shall be maintained by the property owner in a clean and orderly condition, free of debris and trash in accordance with the applicable codes of the city.

( [Ord. No. 19-0917-07](#), § 7, 9-17-19)

• **7.3.4 - Single Family, Duplex and Townhome Residential Fencing**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTIONCOMPARE VERSIONS](#)

(1)

APPLICABILITY

(a)

These standards are applicable in the A, RE, R-10, R-5, NC, D, TH, and MH zoning districts.

(b)

These standards shall also apply to Planned Development and Regional Mixed Use zoning districts unless alternative fence design standards are established through development specific ordinances.

(c)

Standards in [Section 7.3.4\(2\)](#) are applicable to replacement and new residential fences.

(2)

RESIDENTIAL FENCING TYPES

Residential fencing standards are divided into two main categories: perimeter fencing and privacy fencing. Perimeter fencing is required to be completely installed by the developer for the boundary of the approved final plat in the areas as set forth below in [Section 7.3.4\(2\)\(a\)](#), prior to the issuance of a building permit. Privacy fencing is an option left up to the builder or homeowner, but if built it shall follow the standards in [Section 7.3.4\(2\)\(b\)](#) and (c).

(a)

Subdivision Perimeter Fencing: In the interest of public safety and privacy, perimeter fencing, meeting the standards in this section, shall be required on lots where the rear and/or side yards are adjacent to a highway frontage road, arterial, or collector as identified on the city's most recently adopted Thoroughfare Plan. Along all other streets, perimeter fencing shall be optional, but if provided, standards in this section shall apply.

i.

Height: Six feet minimum and eight feet maximum as measured from the highest adjacent grade within ten feet of the fence. In order to create variation in the design of the fence, at certain locations for no more than 10 percent of the total linear length of the fence, the height may be increased to 10 feet.

ii.

Approved Materials: 100 percent masonry (brick, stone, architecturally finished reinforced concrete), or any other sustainable material with more than 30-year life expectancy to give a long lasting, aesthetically pleasing appearance. Materials should preferably have a low maintenance factor and be complemented with landscaping, where appropriate.

iii.

Any fencing along parks/open space shall meet the requirements of [7.3.4\(2\)\(d\)](#).

iv.

Structural footings of masonry fencing must be engineered.

v.

Prohibited Materials: Chain link, vinyl, and wood fencing are prohibited.

vi.

Design: Adjacent to major thoroughfares, the fence should be curved or angled at corner locations to accommodate appropriate visibility and add variety. Wall sections greater than 50 feet in length should incorporate at least one of the following design features that are proportionate to the fence length:

(i)

A minimum one foot change in a fence, the fence should be curved or angled at corner locations to accommodate appropriate visibility Use of columns at 35-foot intervals;

(ii)

Any other feature, approved by the Administrator that provides adequate relief from the monotony of a continuous fence

vii.

Construction Standard: It is intended that all fences erected pursuant to this section be constructed in such a manner to last 30 years with minimal maintenance required during said period. As such, all fences required by this section shall conform to the following minimum standards:

(i)

The Administrator and/or the Building Inspection Department shall approve plans and specifications for fences and foundations. Such plans and specifications shall be submitted at the same time as construction plans for other subdivision infrastructure improvements are required.

(ii)

Fences shall be located on or within the private property and outside of the public right-of-way. Fences may be in an offset configuration as long as there is no encroachment into the right-of-way.

(iii)

The material, color, and design of fences shall be as specified within an approved preliminary plat.

(iv)

All fences shall be placed outside any utility easements unless otherwise allowed in writing by the utility company or franchisee.

viii.

It shall be the responsibility of any person, firm, corporation or other entity who shall own or occupy any lot or lots on which a fence was constructed pursuant to the terms of this section to adequately maintain the fence and to prevent it from becoming dilapidated or unsightly, unless otherwise specified as the responsibility of a mandatory homeowners association or other entity. Failure to maintain a fence or screening wall shall be considered a violation of this Ordinance.

(b)

Privacy Fencing in A and RE zoning districts:

i.

Height: The height shall not exceed six feet measured from the highest adjacent grade within ten feet of the fence

ii.

Approved Materials

(i)

Post (metal, wood, or masonry) and rail (metal or wood) construction

(ii)

Pipe and cable construction

(iii)

Pipe rail

(iv)

Woven wire

Note: Structural footings of masonry fencing must be engineered.

iii.

Prohibited Materials

(i)

Barbed wire, except as allowed in A zoning districts

(ii)

Electric fence (may only be located interior of a fence of approved materials)

(c)

Residential Privacy Fences on Lots zoned R-10, R-5, NC, D, TH, and MH: This section applies to replacement of residential fences or construction of new fences.

i.

Height: shall not exceed eight feet as measured from the highest adjacent grade within ten feet of the fence.

ii.

Approved Materials:

(i)

Masonry (brick, stone, reinforced cement concrete) or any other sustainable material with more than a 30-year life expectancy (structural footings for masonry fences shall be engineered)

(ii)

Ornamental metal rail fencing

(iii)

Treated cedar and redwood

(iv)



Composite fencing

(v)

Other pressure/chemically treated wooden picket fences

iii.

Prohibited materials:

(i)

Vinyl

(ii)

Sheet, roll, or corrugated metal

(iii)

Cast off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence

iv.

Location of Fence: Privacy fences may be located along the property line with the following exceptions:

(i)

In the interest of public safety and considering fences shall not block any sight/visibility triangles on any corner lots per standards in [Section 7.4.4\(4\)](#)

(ii)

Any fence that is more than two feet high shall be set back at least five feet from the side property line of a corner lot. In the case of a reverse corner lot, any fence that is more than two feet high shall be set back at least 7.5 feet from the side property line

v.

Orientation of Fence: When any fence or other screening device, whether required or not, is located on a lot adjacent to a public street, said fence or screening device shall orient the side with exposed posts or rails away from view from the adjacent public street.

(d)

Fencing Adjacent to Floodplains, Parkland or Designated Open Space: The following standards shall apply to all privacy fences where the rear and/or side yards share a common property line with a designated floodplain, open space or parkland.

i.

Height: shall not exceed eight feet as measured from the highest adjacent grade within ten feet of the fence.

ii.

Approved Materials:

(i)

Ornamental metal rail fencing with columns (brick or stone) or ornamental metal posts shall be used to provide at least 75 percent transparency.

(ii)

In the interest of privacy, homeowners may choose to plant vines or shrubs along the fence on their property.

iii.

Prohibited Materials:

(i)

Chain link;

(ii)

Wood;

(iii)

Sheet, roll or corrugated metal; and

(iv)

Cast off, secondhand or other items not originally intended to be used for constructing or maintaining a fence.

(e)

Fences in the Front Yard: Shall not be permitted unless they are:

i.

Permitted in the AG or RE zoning districts per [Section 7.3.4\(2\)\(b\)](#).

ii.

A maximum of four feet in height and materials shall be limited to open wood picket fences, vegetative, or ornamental metal fencing only in all other zoning districts. Pickets must be a minimum of 2.5 inches apart.

iii.

Located and designed to maintain adjacent intersection and driveway visibility in accordance with [Section 7.4.4\(4\)](#).

## **ARTICLE VIII. FENCES**

### **Sec. 12-481. Purpose.**

The purpose of this article is to regulate the construction, erection, enlargement, alteration and maintenance of all fences within the boundaries of the city in order to provide a practical safeguarding of life, health and property from hazards that may arise from improper construction of such installations.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-251; Ord. No. 06-46, § I, 12-19-06)

### **Sec. 12-482. Permit required.**

- (a) It shall be unlawful for any person to install or cause to be installed or to allow any person to install a fence over 2½ feet in height or to make any alterations, additions, or changes to a fence, without first having procured a permit to do so from the building official. A permit is not required for repairs to an existing fence provided that the dimensions of the fence are not increased, that the replacement materials are of the same type, and that no new post holes are needed except where replacement posts may be erected in new holes in line with the existing fence without a permit. In all cases, however, the person installing the fence shall verify the location of existing underground utility lines through a one-call service or by contacting the utility providers individually prior to digging new post holes.
- (b) A fence permit fee shall be established by separate ordinance or resolution in a schedule of permit fees, as hereafter amended.
- (c) The building official shall require a site plan showing the lot size, all improvements on the lot, and the proposed location of the fence to be constructed before a permit will be issued under this section. It shall be the sole responsibility of the property owner/contractor to ensure that a permitted fence is not constructed on, over, or upon adjoining properties, or upon the public right-of-way.
- (d) The building official may refuse to issue a permit under this section to any person who has been convicted of a violation of any provision of this article.
- (e) A fence permit is valid for a period of six months from the date it is issued, and one six-month extension may be approved upon submittal of a written request by the applicant prior to the expiration date.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-252; Ord. No. 96-03, § I(6-243), 2-6-96; Ord. No. 06-46, § I, 12-19-06; Ord. No. 2011-08, § I, 6-7-11)

### **Sec. 12-483. Inspection and maintenance.**

When any fence is completed it must be inspected to insure that all requirements of the permit have been met. The building official shall be notified upon completion of the fence. All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times. Fences shall be maintained by the owner or person in charge of the property in as near as possible the condition of such fence when installed and accepted as provided herein, and shall be maintained as follows:

- (1) Such fence shall not be out of vertical alignment more than 20 percent.

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- (2) All damaged or removed or missing portions of such fence shall be replaced with comparable materials of a comparable color to the remaining portion of such fence.
  - (3) Where the permitted fence is chain-link, wood, or masonry, all damaged or missing parts shall be replaced or repaired.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-253; Ord. No. 06-46, § I, 12-19-06)

#### **Sec. 12-484. Appeals and variances.**

- (a) An appeal from a decision of the building official and/or planning and zoning commission under this article shall be made to the zoning board of adjustment.
- (b) When in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the board of adjustment may authorize a variance to the regulations provided in this article in order to permit reasonable development and improvement of property where the literal enforcement of the regulations would result in an unnecessary hardship as provided for zoning variances in section 64-129 of this Code.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-254; Ord. No. 96-03, § I(6-245), 2-6-96; Ord. No. 06-46, § I, 12-19-06)

Editor's note(s)—Ord. No. 06-46, § I, adopted Dec. 19, 2006, amended the title of § 12-484 to read as herein set out. Formerly, said title pertained to similar subject matter.

#### **Sec. 12-485. Effect of chapter 64.**

Nothing in this article shall be construed so as to amend, alter, change, or repeal any provision of the zoning ordinance (chapter 64 of this Code) and in the event any provision of this article conflicts with the zoning ordinance, the provision of the zoning ordinance shall control, as the same now exists or may be hereafter amended.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-255; Ord. No. 06-46, § I, 12-19-06)

#### **Sec. 12-486. Materials.**

- (a) *Permitted materials.* Materials permitted for fences shall be of wood, masonry, chain-link, slatted chain-link, decorative metal, wire in decorative sections bordered by wood framing, UL sunlight resistant plastic, or ornamental wrought iron. In the commercial-heavy business, industrial light, and industrial-heavy zoning districts, metal roofing material, or similar metal material may be used to enclose salvage yards, junkyards, scrap-metal yards, or other like land uses including storage areas for junk vehicles or parts thereof, provided the metal material is new, of a consistent type, and free from all surface defects.
- (b) *Prohibited materials.* Materials prohibited in fences are barbed wire, razor ribbon, sheet metal, plastics other than UL sunlight-resistant, or any other similar material except as authorized in this section.
- (c) *Exception.* Barbed wire is permitted in the following circumstances:
  - (1) For fences in rear and side yards in industrial zoned districts, and in correctional facilities, when the following conditions are met:
    - a. All strands of barbed wire must be a minimum of six feet above ground level.

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- b. Where the barbed wire fence is to be adjacent to any property in a residential zoning district which is developed with one or more dwellings, such fence shall not be constructed except after notification to the owner of the residential property and only upon review and approval by the planning and zoning commission. The owner of the adjacent property shall have an opportunity to present their comments and opinions to the commission.
- (2) For fences on property used for agricultural purposes in the agricultural zoning district; provided, however, that where the barbed wire fence is to be adjacent to any property in a residential zoning district which is developed with one or more dwellings, such fence shall not be constructed except after notification to the owner of the residential property and only upon review and approval by the planning and zoning commission. The owner of the adjacent property shall have an opportunity to present their comments and opinions to the commission.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-256; Ord. No. 96-03, § 1(6-247), 2-6-96; Ord. No. 06-46, § 1, 12-19-06)

### **Sec. 12-487. Prohibited locations.**

- (a) *Public property.* No fence or any part of such fence shall be constructed upon or caused to protrude over public property. All fences must be maintained in a plane so as not to overhang public property.
- (b) *Sight obstructions.* No fence, berm, or natural screening such as trees or shrubs, shall be located within a street corner sight triangle as defined in section 50-5 of this Code except in accordance with the provisions of that section. Where an alley and street intersect, a clear area formed by a ten-foot right triangle at the intersection of the right-of-way lines must be maintained so as not to cause danger to traffic by obstructing the view.
- (c) *Within easements.* No fence shall be located within any easement except in accordance with section 12-494 of this chapter.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-257; Ord. No. 06-46, § 1, 12-19-06)

Editor's note(s)—Ord. No. 06-46, § 1, adopted Dec. 19, 2006, amended the title of § 12-487 to read as herein set out. Formerly, said section pertained to similar subject matter.

### **Sec. 12-488. Electric fences.**

- (a) An electric fence for control of domestic animals within a residential or commercial area is permitted only when within another enclosure and inside such enclosure. Such fence shall be of the pulse delivery type with a maximum amperage of 25 mil. The exterior fence shall have a sign on each side of the outside face or frontage of not less than a ten-foot interval warning of the electric fence.
- (b) Electrically charged above ground fences are allowed on property used for agricultural purposes in the agricultural zoning district; provided, however, that where the electric fence is to be adjacent to any property in a residential zoning district which is developed with one or more dwellings, such fence shall not be constructed except after notification to the owner of the residential property and only upon review and approval by the planning and zoning commission. The owner of the adjacent property shall have an opportunity to present their comments and opinions to the commission.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-258; Ord. No. 06-46, § 1, 12-19-06; Ord. No. 2011-08, § 1, 6-7-11)

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### **Sec. 12-489. Height measurement.**

All fence heights shall be measured vertically from the inside natural or mean grade elevation of the yard.  
(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-259; Ord. No. 06-46, § I, 12-19-06)

Editor's note(s)—Ord. No. 06-46, § I, adopted Dec. 19, 2006, amended the title of § 12-489 to read as herein set out. Formerly, said title pertained to similar subject matter.

### **Sec. 12-490. Residential districts.**

For residential zoning districts, the following regulations shall apply:

- (1) *Rear yard.* No fence shall be constructed at a height exceeding eight feet along the rear property line.
- (2) *Side yard.* No fence shall be constructed at a height exceeding eight feet along any side property line.
- (3) *Front yard.* No fence shall be constructed in the minimum required front yard except as an element of landscaping as approved by the building official. In no case shall the fence exceed four feet in height, and no more than 50 percent of the fence elevation shall block the view through the fence, except that fences or walls 2½ feet or less in height may block greater than 50 percent of the view through them. Examples of acceptable types in minimum required front yards are wood split rail fences, wood or simulated wood picket fences, wrought iron fences with or without masonry columns, and low masonry walls.
- (4) *Corner lot exceptions.* On corner lots where the rear lot line is coincident with a side lot line of an adjoining lot, no fence shall be constructed in the side yard along the street and within eight feet of the street right-of-way line unless it complies with the standards provided above for front yards.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-260; Ord. No. 96-03, § I(6-251), 2-6-96; Ord. No. 06-46, § I, 12-19-06)

Editor's note(s)—Ord. No. 06-46, § I, adopted Dec. 19, 2006, amended the title of § 12-490 to read as herein set out. Formerly, said title pertained to similar subject matter.

### **Sec. 12-491. Nonresidential districts.**

For all nonresidential zoning districts, including the agricultural district and public/institutional district, the following regulations shall apply:

- (1) *Rear yard.* No fence shall be constructed at a height exceeding eight feet along the rear property line.
- (2) *Side yard.* No fence shall be constructed at a height exceeding eight feet along the side property line.
- (3) *Front yard.* No fence shall be constructed in the minimum required front yard except as reviewed and approved by the planning and zoning commission. In no case shall said fence exceed eight feet in height, and no more than 50 percent of the fence elevation shall block the view through the fence, except that fences or walls 2½ feet or less in height may block greater than 50 percent of the view through them.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-261; Ord. No. 96-03, § I(6-252), 2-6-96; Ord. No. 06-46, § I, 12-19-06)

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## **Sec. 12-492. Temporary construction site fencing.**

Temporary construction site fencing not exceeding eight feet in height shall be allowed without a permit to enclose the complete project or a partial area. No such fence erected under this section shall be erected in such position or placed so as to constitute a traffic hazard. Temporary construction fences must be removed prior to occupancy of any portion of the facility.

(Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Code 1982, § 6-262; Ord. No. 06-46, § I, 12-19-06; Ord. No. 2011-08, § I, 6-7-11)

## **Sec. 12-493. Swimming pool and stormwater detention pond enclosures.**

- (a) Every swimming pool and stormwater detention pond, or excavation designed or intended to ultimately become a swimming pool or stormwater detention pond, while under construction as well as after completion, shall be continuously protected by an enclosure surrounding the pool, pond, or excavated area in such a manner as to make such pool, pond, or excavated area reasonably inaccessible to small children or animals, subject to the following exceptions.
- (1) This provision shall not apply to:
- a. Bodies of water other than swimming pools which are owned or controlled by the federal, state, county, or any agency, subdivision, or department thereof.
  - b. Bodies of water located in natural drainage ways.
  - c. Stormwater detention ponds that are designed with a bank angle not exceeding 3:1 and intended for dual use as an accessible open space or recreational area.
- (2) In single-family residential occupancies, the pool enclosure may surround the entire single-family premises.
- (3) In multifamily residential occupancies, the pool enclosure may include the courtyard which surrounds the pool.
- (b) The required enclosure shall be a fence, wall, or building not less than four feet in height with openings limited in accordance with the adopted residential code or building code, as applicable.
- (c) Gates and doors opening directly into such enclosures shall be equipped with self-closing and self-latching devices designed to keep and capable of keeping such doors and gates securely closed, said latching device to be attached to the gate or door not less than 36 inches above the grade or the floor. The doors of a building forming any part of the required enclosure need not be so equipped.
- (d) Swimming pools in existence on the effective date of this section shall be fenced in accordance with the requirements hereinabove set forth, and it shall be unlawful to maintain any swimming pool in the corporate limits of the city which is not protected by an enclosure in accordance with the requirements of this section.
- (e) All plans submitted to the city for swimming pools and stormwater detention ponds to be constructed shall show compliance with the requirements of this section, and the final inspection and approval of the completed facility shall be withheld until all requirements of this section have been complied with by the builder, developer, owner, purchaser under contract, lessee, tenant, or licensee.

(Code 1982, § 6-263; Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Ord. No. 06-46, § I, 12-19-06)

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**Sec. 12-494. Construction and access requirements in easements.**

- (a) No fence shall be constructed within any drainage easement unless the city engineer or director of public works shall have first determined and advised the building official, in writing, that such fence shall, in all probability, not interfere with or impair the natural flow of water across or through the drainage easement. The design of a fence may be altered to accommodate drainage considerations as determined by the city engineer or director of public works.
- (b) A permit shall not be issued to construct a fence within any utility easement without the written approval of all affected utility entities. Gates or removable panels must be provided by and maintained by the property owner for the installation, repair, and replacement of lines by utility entities.

(Code 1982, § 6-264; Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Ord. No. 96-03, § I(6-255), 2-6-96; Ord. No. 06-46, § I, 12-19-06)

**Sec. 12-495. Penalty clause.**

Any person, firm, company, partnership, corporation, or association violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with section 1-8 of this Code.

(Code 1982, § 6-265; Ord. No. 93-06, pt. 4, 7-6-93; Ord. No. 95-03, pt. 3, 2-7-95; Ord. No. 06-46, § I, 12-19-06)

**Secs. 12-496—12-520. Reserved.**



ARTICLE 3.08 FENCES

**Sec. 3.08.001 Scope**

This article shall govern the erection of fences and walls within the city, as the public welfare requires it. (Ordinance adopted 4/5/2016)

**Sec. 3.08.002 Definitions**

(a) Rules for words and phrases. For the purpose of this article, words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "may" is permissive. Any term not defined in this section shall be construed to be used in this article as by the latest edition of Webster's Unabridged Dictionary.

(b) Definitions.

City right-of-way. An approximate ten foot (10') area measured from the face of the curb towards the house. This area is city property.

Corner lot. A lot adjacent to two (2) or more intersecting streets. (Illustration 2 attached to Ordinance adopted 4/5/2016)

Double frontage lot. A lot with frontage on two (2) nonintersecting streets. (Illustration 3 attached to Ordinance adopted 4/5/2016)

Easement. A right to the use of a designated area of land for utilities such as electricity, gas, telephone, cable TV, sewage, drainage, etc.

Fence. Any structure which encloses, partitions or divides any yard or property.

Interior lot. Front of lot is adjacent to one (1) street and is contiguous to adjacent lots on two (2) sides and the rear property lines. (Illustration 1 attached to Ordinance adopted 4/5/2016)

(Ordinance adopted 4/5/2016)

**Sec. 3.08.003 General provisions**

(a) The maximum height of any fence shall be six feet, with the following exceptions:

- (1) Tennis court fences may be a maximum of ten feet in height;
- (2) Subdivisions entrance features (SEF) may exceed six feet in height to a maximum of 35 feet when specifically approved by the mayor and board of aldermen;
- (3) Fences attached to subdivision entrance features may be a maximum of eight feet in height; and
- (4) Fences on property zoned commercial may exceed six feet in height when specifically approved by the mayor and board of aldermen.

Any proposals for fences in excess of six feet in height. When submitted to the mayor and board of aldermen for approval, must be accompanied by appropriate documentation justifying such additional height.

(b) Fences over 30 inches in height are not permitted within the required front yards of lots, as specified in the zoning ordinance, with the exception of subdivision entrance features and attached fences/walls and lots over 2 acres.

(c) No fence shall be placed within 25 feet of any street corner, the corner being defined as the intersection of the right-of-way lines of the two streets.

(d) Solid fences (excluding exterior fences installed by developer) which are substantially opaque and serve as visual barriers shall be composed of masonry, durable wood or combination of durable wood and masonry.

(e) No fence shall impede or divert the flow of water through any drainage easement unless by adequate investigation by the city engineer. It can be determined that the fence will not adversely impact any property owner and will contribute to an improvement in the overall drainage system.

(f) All fences and walls shall be maintained in a structurally sound condition and in good repair. Fences and walls shall be free from loose or rotting materials and shall have braces and supports attached or fastened in accordance with common building practices.

(Ordinance adopted 4/5/2016)

**Sec. 3.08.004 Subdivision entrance features (SEF)**

(a) Features. A subdivision entrance feature (SEF) shall be defined as a cohesively designed element(s) to a subdivision, intended to create a unique, identifying entrance area. The SEF shall be located within a common open space area or landscape easement, adjacent to a street on the perimeter of the subdivision, and be composed of at least two of the following components: enclosed structures or gatehouse, wall/fence, landscaping, pedestrian gates, signs and associated decorative items such as lights and finials.

(b) Minimum setback. SEF shall be setback a minimum of 15 feet from the curb of the perimeter arterial street. On a corner lot no structure, planting, sign or object of natural growth which obstructs visibility shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the intersection, along each right-of-way line. A structure, planting, sign or object of natural growth, excluding trees, between the heights of 24 inches to 96 inches shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb.

(c) Maximum permitted height. The maximum permitted height of a SEF is thirty-five feet above the surrounding grade, at a setback of 15 feet from the perimeter street right-of-way. A SEF height up to 35 feet is permitted, provided that the setback increases two feet for every one foot of SEF height over ten feet. An adjoining fence height of up to eight feet is permitted, provided that the fence is attached to the SEF and transitions to a height of six feet after a maximum linear span of 25 feet. Fence columns may exceed the actual fence height. Provided there is a appurtenances may extend above the top of the SEF [sic].

(d) Landscaping. A minimum ten-foot wide landscape area shall be provided between the fence and sidewalk, or the street right-of-way if no sidewalk is required [sic].

(e) Required materials. SEF shall be substantially opaque, shall serve as visual barriers and shall be composed of masonry or a combination of natural stone, real stucco and masonry. Other elements such as wrought iron may be used in the fence composition but only as a secondary accent material.

(Ordinance adopted 4/5/2016)

**Sec. 3.08.005 Multifamily, commercial, institutional or subdivision developments**

Fences proposed for multifamily, commercial, institutional or subdivision developments must satisfy the requirements of the mayor and board of aldermen and the intent of this article. Developers will be required through subdivision or project development contracts to erect certain fences for buffering purposes. (Ordinance adopted 4/5/2016)

**Sec. 3.08.006 Conflict with other provisions**

(a) This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of this article imposes restrictions different from those imposed by any other provision of this article, or by any other ordinance, rule or regulation or the provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(b) This article is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this article are more restrictive or imposes higher standards or regulations than such easement, covenant or other private agreement or restrictions, the requirements of this article shall govern.

(Ordinance adopted 4/5/2016)

**Sec. 3.08.007 Nonconforming fences**

Any fence erected lawfully prior to the effective date of this article, may be maintained in its present condition. However, no fence may be substantially altered except in conformity with the provisions of this article. This article shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations,

or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the city under any section or provision existing on the effective date of this article, or as vacating or annulling any rights obtained by any person by lawful action of the city except as shall be expressly provided for in this article. (Ordinance adopted 4/5/2016)

### **Sec. 3.08.008 Enforcement**

(a) Enforcing officer. It shall be the duty of the code enforcement officer to administer and enforce the provisions of this article. The code enforcement officer shall have the power to make inspections necessary to carry out his duties.

(b) Building permits.

(1) It shall be unlawful to commence the erection of a fence until the building official has issued a building permit for such work. Applications for fence permits will be available at city hall and the building and permits office.

(2) In applying to the code enforcement officer for a fence permit, the applicant shall submit a dimensional sketch or scale plan indicating the shape, size, height, and location on the lot of any fence to be erected, altered or moved and of any other buildings on the lot and all drainage from, onto or through the lot. If the application is refused, the code enforcement officer shall state the refusal in writing and the cause.

(c) Violation and penalty. Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction, shall be punished as provided in Article X section 1105 [sic]. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or part thereof, where anything in violation of this article shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this article may also be subject to injunctive proceedings.

(Ordinance adopted 4/5/2016)

### **Sec. 3.08.009 Maintenance of fences and landscaping double frontage lots**

(a) Fence material; condition. All such fences shall at all times be maintained and kept in good repair by the lot owner of such double frontage lot.

(b) Grass, shrubs, trees; condition; height of grass. All shrubs, trees and other landscaping located between the curblineline or paved edge of the roadway and the property line on such double frontage lots and all grass or planted surfaces shall be maintained at all time by the subdivisions' homeowners association. All grass, weeds and noxious growths shall be mowed, cut or clipped, as frequently as necessary to ensure that weeds, grass, and noxious growths do not exceed a height of twelve inches. Cuttings and clippings and other debris shall not be allowed to accumulate. Mulch shall be replaced regularly in order to maintain a fresh appearance.

(c) Maintenance of shrubbery. All trees, shrubs, grasses and other landscaping as required by this article shall be properly maintained to remain in a healthy growth state. Any dead growth shall be removed and replaced by such trees, shrubs, grasses and other landscaping as complies with this article and which is substantially identical with such previous landscaping material or with other landscaping material as approved by the mayor and board of aldermen. All planting shall be irrigated and the irrigation system shall meet minimum industry standards for this type of installation.

(d) Enforcement. It shall be the duty of the city code enforcement officer to administer and enforce the provisions of this article.

(e) Penalty. Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00. Each day's continuance of a violation shall be considered a separate offense. The owner of any premises, or a part thereof, where anything in violation of this article be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation or shall have permitted such violation to occur shall be guilty of a separate offense. Persons in violation of this article shall also be subject to injunctive proceedings to enforce compliance therewith.

(f) Conflict with other ordinances. In case of conflict between other provisions of this article or between this article and any existing or future ordinance of the city, the most restrictive shall apply.

(g) Nonconforming fences and landscaping. Any fences or landscaping on double frontage lots which

do not conform to the provisions of this article, but which were erected or planted in compliance with previous articles shall be regarded as nonconforming fences and landscaping. The location, size, material and other structural characteristics of such nonconforming fences and landscaping shall be governed by the provisions of section 10-2600 of the city zoning ordinance [sic]. The maintenance standards and requirements imposed on such nonconforming fences and landscaping pursuant to previous articles applicable prior to the passage of this article may be continued for a period of one year from the passage of this article, providing such nonconforming fences and landscaping are not determined to be an imminent threat to the safety or health of the community. Any nonconforming fences or landscaping which are found to contain maintenance deficiencies in violation of this section shall be brought into compliance within one year from the passage of this article. If the owner of the lot on which such nonconforming fences or landscaping exists fails to correct such maintenance deficiencies within one year from the passage of this article, the city code enforcement officer shall cause such maintenance and corrective action to be taken with the costs and expenses to be assessed against the lot owner as a special assessment as provided in the forgoing section of this article.

(Ordinance adopted 4/5/2016)

## **ARTICLE IX. SWIMMING POOL FENCES; FENCES—GENERALLY<sup>1</sup>**

### **Sec. 10-241. Fences required.**

From and after the effective date of the ordinance from which this article is derived, it shall be unlawful to build, rebuild, or maintain a swimming pool that is not completely enclosed with one or a combination of the following barriers:

- (1) Fence;
- (2) Building wall;
- (3) Natural topographic barrier.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-242. Minimum requirements.**

The barrier or barriers used to enclose a swimming pool shall meet the following requirements:

- (a) Height. The barrier enclosing a swimming pool shall be at least four feet in height from the nearest level of earth and constructed to prohibit young children from crawling underneath or through the barrier, or climbing over the barrier.
- (b) Construction.
  - (1) The barrier shall be constructed to have no opening, other than doors or gates, larger than four inches in width.
  - (2) Where a picket-type fence is provided horizontal openings between pickets shall not exist except for manufacturing tolerances in assembly.
  - (3) All new stockade fences shall have the horizontal support members located on the swimming pool side of the fence.
  - (4) Where access gates are used, they shall be at least four feet in height and conform to subsections (a) and (b) of this article.
- (c) All gates or doors that allow entrance into the enclosed swimming pool area, excluding those doors or gates that allow entrance into the pool area from inside the home or buildings, shall be equipped with self-closing and self-latching devices which shall be maintained in good working condition.

(Ord. No. 624-17, § 1, 7-31-2017)

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<sup>1</sup>Editor's note(s)—Inasmuch as the provisions pertaining to swimming pool fences were inadvertently omitted from the Code, the provisions of former code art. 3.500, §§ 3.501—3.506 have been set out herein as art. IX, §§ 10-241—10-245 at the editor's discretion. Ord. No. 624-17, § 1, adopted July 31, 2017, amended art. IX in its entirety to read as herein set out. Former art. IX, §§ 10-241—10-245, pertained to swimming pool fences, and derived from Ord. No. 214, §§ II—V, adopted June 6, 1994.

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### **Sec. 10-243. Building permit requirement.**

A building permit shall be required prior to the erection, building or rebuilding of a swimming pool. An application for a building permit shall be accompanied by two sets of drawings which clearly show the placement of the swimming pool on the lot in relationship to the lot boundaries and other structures on the lot. Detained drawings are also to be submitted to show the type of barrier to be used which will demonstrate the full compliance with the requirement of this chapter. Written approval of plans by all utility companies serving a property with a swimming pool must also be submitted.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-244. Existing swimming pools to comply.**

Owners of property with existing swimming pools that are not in total conformance with the requirements of this article shall have 180 days from the date this article becomes effective to comply herewith.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-245. Swimming pool; definition.**

For the purposes of this article, a swimming pool shall mean an above-ground or in the ground structure constructed so that it contains more than 100 gallons of water of an average of more than two feet in depth.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-246. Fences—Generally; definitions.**

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section:

*City* means the City of Justin, Texas.

*Column* means a vertical fence support structure or pillar constructed of masonry (brick or stone).

*Easement* means a real property right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another, dedicated by plat, deed or implied by right. It is for the benefit of appurtenant land including but not limited to the right to use or cross the land of another, ingress or egress, such as a public utility easement or joint access easement. An easement may or may not have descriptive bounds.

*Fence* means an artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of visually modifying the view, and/or for confinement. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

*Game court* means a structure having a playing surface, paved, or unpaved, with or without enclosing fences, designed to be used for playing or practicing tennis, badminton, volleyball, paddle tennis handball, baseball batting, handball, racquet ball, squash, basketball, or similar uses.

*Large lot residential* means a residential lot at least one acre in size.

*Lot, key* means a corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

*Opacity* means the degree of openness of a fence by which light or views are not blocked, measured perpendicular to the fence for each fence section between supports.

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*Post* means a vertical fence support constructed of wood or metal which is non-decorative.

*Public right-of-way* means a strip of land which is used as a roadbed for a street, alley, or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

*Repair* means maintenance to a fence where replacement of materials does not exceed 50 percent of the total length of the fence and does not change the scope, location, or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, size, shape, color and quality of the original fence to which the repair is being made.

*Residential district* means a district where the primary purpose is residential use and is defined in the comprehensive zoning ordinance excluding multifamily.

*Retaining wall* means a wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

*Screening fence* means a fence or wall constructed to visually obscure the view of the adjoining property.

*Street* means any dedicated public thoroughfare that affords the principal means of access to abutting property.

*Temporary fence* means a non-permanent fence constructed for a limited period.

*Vision or visibility triangle* is determined at the intersection of two streets which intersect at or near right angles by measuring along the two rights-of-way/property lines from their point of intersection a distance equivalent to the required setback for the abutting yard as required for the zoning district in which the property is situated and 45 feet for streets of collector size or larger, and then connecting these two points with an imaginary line to form the corner visibility triangle.

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

*Yard, front* means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

*Yard, rear* means the area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

*Yard, side* means the area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

(Ord. No. 624-17, § 1, 7-31-2017)

## **Sec. 10-247. Permitting requirements.**

- (a) *Permit required.* It is unlawful for any person or persons to construct or replace, or cause to be constructed or replaced, a fence or any part of a fence without first obtaining a fence permit from the city. No permit is required for repairs as defined by this article. In residential zoning districts on tracts or lots that are five acres or greater in area, a permit is not required except for fences located in the front yard, along the side or rear property lines, or fences required to enclose swimming pools as required by city code, state or federal law.

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- (b) *Permit fees.* The fee for a permit shall be in the amount established in appendix A to this Code. When a person or persons begin any work for which a permit is required by this article without first obtaining a permit, the permit application fee shall be doubled. Payment of the fee shall not exempt any person or persons from compliance with all provisions of this article.
- (c) *Application for permit.* Any person or persons making application for a fence permit shall complete a permit application on a form prescribed by the city, showing the following information:
- (1) The applicant's name, address, telephone number and if the applicant represents a corporation, the name, address and telephone number of the registered agent of the corporation, or if the applicant represents an association, the name, address and telephone number of a managerial agent of the association;
  - (2) The names of the property owners;
  - (3) A local address where the fence is proposed to be erected;
  - (4) The type of fence construction (material);
  - (5) The proposed height of the fence;
  - (6) A diagram showing proposed location of the fence and listing relevant dimensions between the fence and other structures on the lot and the location of property lines and easements;
  - (7) The fence contractor's registration number if a contractor is used;
  - (8) The authorized applicant's signature; and
  - (9) Any other documentation as required by the city manager or his/her designee.
- (d) *Construction documents.* Construction documents shall not be required of wood, chain link, and pipe and cable fences to be constructed on residential lots. Construction documents, special inspections and structural observation programs, and other data shall be submitted in one or more sets, as required by the city manager or his/her designee, with each application for a permit for any other type fence. The applicant shall also provide additional information as required by the building code. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the city manager or his/her designee is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The city manager or his/her designee is authorized to waive the submission of construction documents and other data not required to be prepared by a design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.
- (e) *Availability of plan.* One set of approved plans, specifications and a copy of the permit shall be made available, by the applicant, for inspection of the work authorized by the permit. The said set of approved plans, specifications, and permit shall be kept on the work site by the applicant during the construction process.
- (f) *Contractor's registration.* It is unlawful for any person or persons, to engage in the business of fence contracting without a valid contractor's registration with the city. The owner of a property on which a fence is being constructed is not required to register as a contractor.
- (1) There is no charge to register as a fence contractor provided the applicant completes the required forms furnished for that purpose and files them with the city manager or his/her designee.
  - (2) Any person making an application for a fence contractor's registration shall sign an application for the same containing the following information:



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- a. Applicant's name, business address, phone number, and if the applicant represents a corporation, the name and address of the registered agent of the corporation, or if the applicant represents an association, the name and address of a managerial agent of the association.
  - b. The fence contractor's signature.
- (3) Every contractor registration provided for in this section shall expire on the first day of January and may be renewed by the city manager or his/her designee upon application.
  - (4) The city manager or his/her designee may revoke or suspend a fence contractor's registration for a 12-month period for either of the following reasons:
    - a. The registrant violates the requirements of this article twice within a 12-month period; or
    - b. The registrant fails to obtain permits and/or inspections twice within a 12-month period.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-248. General requirements.**

- (a) *Encroachment on city or public right-of-way.* No person shall construct a fence, guy wire, brace or any fence post upon or protruding over any city or public right-of-way.
- (b) *Fence not to create a traffic hazard.* It is unlawful to erect, maintain, suffer, or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this article.
- (c) *Fence orientation.* Fence sections essentially parallel with a public street or public park space shall have their backside (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public.
- (d) *Gate required.* Each fence constructed under the provisions of this article shall include in its perimeter at least one gate with a minimum width of three feet.
- (e) *Fence not to be in right-of-way or easement.* No fence shall be erected within, on, or across any right-of-way, public or private easement, or visibility triangle. Property owners that allow a fence to be constructed in a utility or other easement on their property do so at their own risk. Unless the terms of a specific easement state otherwise, fences constructed within utility easements may be removed by a franchise utility company or its contractor with rights to the easement and such utility company shall not be responsible for replacement of the fence or liable for damage to the fence that occurred during its removal.
- (f) *Fence materials.* Fences on residential and commercial property (to exclude any areas zoned for industrial or light industrial use) shall be constructed of materials expressly designed for fencing. This shall include products such as chain link, wood planks and boards, commercial or livestock grade vinyl (supported by the manufacturer's specifications), masonry as defined by the building code, pipe and cable, wrought iron, or ornamental iron. Materials or products such as rope, string, barbed wire, razor ribbon wire, corrugated metal, plywood, or a fence that has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals are prohibited. Wood, metal, or plastic products that are designed specifically for use other than fence construction are also prohibited.

For properties located in industrial or light industrial zoning districts, all fence materials allowed for residential and commercial zoning shall also be allowed. In addition, screening with chain link fencing shall also be allowed, and reasonably necessary barbed wire or other security fencing shall be allowed.

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- (g) *Landscape in lieu of fence.* Except where otherwise required in this Code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence.
  - (h) *Temporary fences.* Temporary fences are prohibited, except where required by city Code or state or federal law for construction, excavation, or life safety issues. Temporary fence materials may include, but are not limited to, rope; string; wire products such as chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; live bamboo; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other material that are not manufactured specifically as fencing materials. The city manager or his/her designee may require the applicant to provide the manufacturer's standard to establish the intended use of a proposed fencing material. Exceptions shall include:
    - (1) A dog window may be installed in a fence no larger than 288 square inches with corrosion resistant material capable of restraining the dog.
    - (2) Temporary fences made of wire, with heights not over 36 inches, in residential districts are permitted for residential garden uses only.
    - (3) Temporary fences or panels used for corrals, pens, or chutes are permitted for the purpose of corralling or confining livestock.
    - (4) Temporary fences erected following storm damage to an existing fence shall be allowed for a period up to 60 days.
    - (5) Temporary fences erected to protect lawn seeding shall be allowed for a period up to 60 days.
  - (i) *Perimeter walls.* Where a fence intersects a screening wall and the height of the fence exceeds the height of a screening wall, the height of the fence shall transition to the height of the screening wall over a lateral distance of 20 feet or greater.
  - (j) *Pool or spa enclosures.* A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot tub, or spa shall comply with the minimum requirements of the city Code, as it exists or may be amended.
  - (k) *Retaining walls.* Retaining walls greater in height than 36 inches shall follow a design submitted by a registered engineer.
  - (l) *Determining fence height and opacity.*
    - (1) *Height.* Fence height is measured to include the body of the fence, plus allowing a maximum of six inches (on average between posts) above the natural grade (i.e., for drainage purposes). When a fence or wall is placed atop a retaining wall, the height of the fence shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finish grade. Fence posts are permitted to extend a maximum of four inches above the body of the fence. Columns are permitted to extend a maximum of 12 inches above the body of the fence. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-249. Fences in residential areas.**

- (a) *Fences and gates in front yards.* All fences, walls, gates, or other enclosures constructed in the front yard of a residential property shall:
  - (1) Not exceed 48 inches in height.

- 
- (2) Allow a minimum of 50 percent opacity.
  - (3) Not encroach into a vision or visibility triangle.
  - (b) *Fences and gates in side yard.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any side yard or along any side yard lot line which fence exceeds eight feet in height. On key lots, where side yards are required adjacent to the street to conform to minimum front yard setback of lots fronting upon such street, within the same block and upon the same side, no fence shall be constructed or maintained within such required side yard.
  - (c) *Fences and gates in rear yards.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any rear yard or along any rear lot line which fence exceeds eight feet in height.
  - (d) *Decorative gate embellishments.* Ornate gates may exceed the maximum height of a fence by up to two feet.
  - (e) *Electrically charged fences in residential districts.* It is unlawful for any person to erect, maintain, or permit a fence that is electrically charged in any manner, except single-strand wires designed to conduct electricity through a low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-250. Fences in non-residential zoning districts.**

- (a) *Height.* A fence in a non-residential zoning district may not exceed 12 feet in height. Any fences over eight feet in height shall require the property owner or owners to submit plans approved by an engineer.
- (b) *Vertical support posts.* Vertical support posts may extend up to four inches above the top of a fence.
- (c) *Columns.* Columns are permitted to extend a maximum of 12 inches above the body of the fence.
- (d) *Opacity.* Where fencing is constructed in the front yards of nonresidential and multifamily projects, the opacity of the fencing shall be 50 percent or greater.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-251. Exemptions.**

The following items are exempt from meeting criteria set forth in this article:

- (a) *Federal or state law.* Fences that are required by federal or state law or regulation shall be exempt from the requirements of this article.
- (b) *Game court fences.* Notwithstanding any other regulation set forth in this article, game court fencing may be constructed up to 16 feet in height, except that such fencing shall not be constructed in the required front yard of a property. All game court fencing shall set back from a neighboring property line in a distance equal to or greater than the height of the fence.
- (c) *Large lot residential lots.* Notwithstanding any other regulation set forth in this article, fences of up to five feet in height.
- (d) *Fences used to contain livestock.* In addition to the materials permitted, fences used to contain livestock and/or fences that are located on properties of five acres or greater in area and used for agricultural purposes may be constructed of barbed wire, smooth or non-climb wire, and/or contain electrical current.

(Ord. No. 624-17, § 1, 7-31-2017)

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### **Sec. 10-252. Maintenance of fences.**

- (a) All fences shall be maintained reasonably plumb and structurally sound. Each structural and decorative member of a fence shall be compatible in size, material and appearance with the remainder of the fence.
- (b) A fence shall not lean more than one inch out of vertical for each foot of height as measured from the top of the fence.
- (c) A fence that has deteriorated to a condition that it is likely to fall shall be repaired, replaced, or completely removed.
- (d) Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members. External braces shall only be temporary in nature and shall be removed within 45 days.
- (e) After receiving notice from the city, the owner shall replace broken, damaged, removed or missing parts of a fence with the same material, or material with comparable composition, size, shape and quality of the original fence to which the repair is being made. The owner shall also have the option to completely remove the fence or to replace the fence with other materials allowed through this article unless the fence is required due to other sections in the city Code. No permit is required for repairs as defined in this article. The notice shall include a deadline by which the repairs are to be completed. The deadline shall range from ten to 30 business days after the date of the letter depending upon the extent of the damage and repairs. The city manager or his/her designee may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time at his/her discretion. The owner requesting a replacement time extension shall provide the city manager or his/her designee a written scope and schedule detailing materials and estimated time of the completed replacement for approval.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-253. Nonconforming fences.**

The lawful use of any fence on the effective date of the ordinance from which this article is derived may be continued, although such use does not conform to the provisions of this article provided the right to continue such nonconforming use shall be subject to the following regulations:

- (a) Normal repairs and maintenance may be made to a nonconforming fence; provided those repairs do not exceed 50 percent of the total length of the fence.
- (b) Unless otherwise provided, a nonconforming fence shall not be added to in any manner unless such additions are made to conform to all the requirements of this article.
- (c) A nonconforming fence shall not be moved in whole or in part unless every portion of such fence is made to conform to all regulations of the district in which it is located.
- (d) If a nonconforming fence is damaged, destroyed or in disrepair to an extent greater than 50 percent of the total length of the fence, such fence shall be removed or replaced and must conform to all regulations of the district in which it is located and shall be treated as a new fence.

(Ord. No. 624-17, § 1, 7-31-2017)

### **Sec. 10-254. Variances.**

The board of adjustment shall have the authority to authorize variances from the terms of this article if it shall determine after notice and public hearing in the same manner as a zoning case that the requested variance meets two of the following four criteria:

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- (a) The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
  - (b) The proposed fence is of a unique design or configuration or serves a unique function;
  - (c) The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed; or
  - (d) The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this article.

(Ord. No. 624-17, § 1, 7-31-2017)

**Secs. 10-255—10-280. Reserved.**

## **Zoning Ordinance**

### **Grandbury**

#### **Section 11.12 Screening Fence & Wall Standards**

##### **11.12.A Purpose**

Standards set forth in this Section are intended to encourage the appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards.

##### **11.12.B General Fence/Wall Requirements**

1. Electric fences are not permitted in any zoning district.
2. All masonry screening walls and/or columns shall be equally finished on both sides of the wall or around the column[.]
3. No wall or fence shall exceed a height of 8' measured from the highest of the two adjoining grades on either side of the wall or fence.
4. A fence permit is required to be approved by the Chief Building Official prior to the construction of any wall or fence.
5. No wall or fence shall be taller than four feet (4') when located between a street and the front face of a building in any residential zoned district.
6. No wall or fence shall be located within any Visibility Access and Maintenance Easement or within any sight visibility triangle as defined in this Ordinance.

##### **11.12.C Location and Design of Required Screening**

1. When a boundary of a nonresidential Zoning District or use sides or backs upon an RE, R-12, R-10, R-8.4, R-7, MD-1, PH, TH or MF District, residential use or any nonconforming residential use in a commercial or industrial zoned district, a solid screening wall or fence of not less than six (6) feet nor more than eight (8) feet in height, measured from the grade of the nonresidential Zoning District or use, shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual barrier between the properties. This requirement shall apply to:
  - a. All nonresidential rezoning requests;
  - b. All building permit request[s] for any new nonresidential buildings (primary or secondary building), or;
  - c. Where an existing nonresidential building or use has existed prior to the effective date of this ordinance and is enlarged by fifty percent (50%) or more in floor area or in the area used.
2. The owner of such non-residentially zoned property shall be responsible for and shall build the required wall or fence on his property line dividing his/her property from the residentially zoned district.
3. Unless otherwise provided for herein, a nonresidential property owner shall be required to construct a wooden privacy fence w/ stone or brick columns. The columns shall not be spaced further than 25' on-center and shall be constructed to have a minimum diameter of 2 feet. All required wooden fencing shall be treated to protect against weathering and shall be constructed in a manner which displays two decorative (smooth) sides, one facing the residential zoned property and the other towards the nonresidential zoned property.
4. All required wall or fence openings shall be equipped with gates compatible in height and screening characteristics to the wall or fence.
5. In cases where the Planning & Zoning Commission and/or City Council has determined to use alternate material for opaque screening during the review of a Planned Development or Site Plan for nonresidential applications abutting the residential property, such standards shall supersede the requirements set forth herein.

6. Required walls or fences shall not be constructed of chain-link, barbed wire or other similar materials.
7. All required screening elements shall be permanently maintained by, and become the responsibility of the nonresidentially zoned property owner. The screening fence and/or related elements shall be kept in good structural and aesthetic condition by the nonresidentially zoned property owner at all times. If the fence is in a state of disrepair or has become dilapidated, the City may issue a citation or withhold issuance of a permit or C. of O. until the property owner or tenant of the nonresidential property has either replaced or repaired the fence in good structural and aesthetic condition.
8. All required masonry screening walls and/or columns shall be equally finished on both sides of the wall or around the column.

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## Article 9 - Fences and Screening

### Section 9.1 Applicability

Where a fence, wall, screen, buffer or enclosure is erected, the following standards apply.

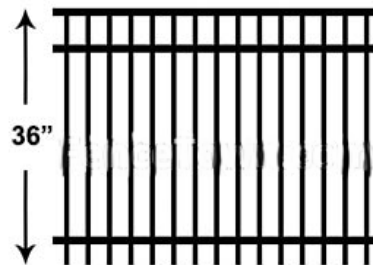
Repair to a fence, wall, screen, buffer or enclosure shall be defined as maintenance to a fence where replacement of material does not change the scope, location, or dimensions of the fence. Repairs shall be made using the same material or material with comparable composition, color, size, shape, and quality of the original fence to which the repair is being made.

### Section 9.2 Site Plan and Landscape Plan Required

A site plan and landscape plan must be submitted with the Building Permit application demonstrating compliance with the standards of this Section. In the case of an individual single family or two family residential lot, only a site plan will be required as part of the building permit process.

### Section 9.3 Fence, Wall and Screen Regulations for Single- and Two-Family Dwellings

- A. Front Setback. A fence, wall, screen, enclosure or similar barrier erected in the front setback of a single- or two-family dwelling as set forth in [Article 6](#) must not exceed thirty-six (36) inches in height above the adjacent grade.



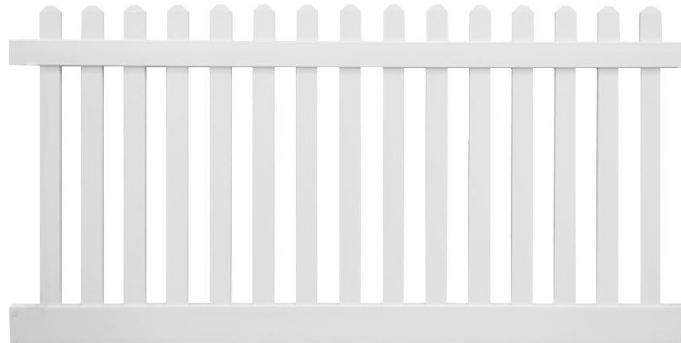
36" Tall Fence



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**Thirty-six (36") inch Tubular Steel Fence**



**Picket Fence**

- B. Chain linked fencing is prohibited within the front setback area.
- C. Behind Front Setback. A fence, wall, screen enclosure or similar barrier behind the front setback of a single- or two-family dwelling must not exceed eight (8) feet in height above the adjacent grade. Wood fences must be designed and built per the specifications for wood fences in this Section 9.5.1 ©. Chain link fences must be built to specifications in Section 9.5.1 (D).

**Section 9.4 Screening Requirements for Residential and Non Residential Uses**

- A. Single Family or Two Family Residential District and Uses perimeter screening adjacent to public streets:
  - 1. All new single family and two family residential subdivisions shall be required to provide perimeter screening for lots whose rear or side yards face a public street.
  - 2. Required screening may consist of a six (6) foot masonry wall or may be constructed of a six (6) foot high wooden fence. All wooden fences shall be constructed in accordance with the specifications for wood fences as set forth in this Section. Perimeter wood fences shall be constructed with a top cap and bottom rail. Perimeter

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screening walls shall be located within a five (5) foot wide maintenance easement and shall be the responsibility of the homeowner's association for maintaining the screening wall. If there is no active homeowner's association, the maintenance of the wall shall be the responsibility of the property owner on which the wall is located. Perimeter wood fences shall be maintained and repaired by the property owner where the fence is erected.

3. On fences visible from a public street, wooden fence framing and posts must be placed to the interior of the lot so that they are not visible from the street.
4. Alternative screening plans may be considered by the City Council upon recommendation of the Planning and Zoning Commission. Alternative screening plans must demonstrate the purpose and intent of the regulations by providing materials and designs above and beyond the existing regulations.

**B. Nonresidential Uses, including Multi-family Uses and Districts:**

1. Location. Continuous screening is required along the common boundary between nonresidential or multiple-family use/district and an agricultural or residential zoning district or use, except where a public street provides buffering. Screening is also required along the perimeter of a nonresidential or multiple-family use/district located across an alley from a residential zoning district or use. Screening must be a minimum of eight (8) feet in height and must be maintained by the property owner of the nonresidential or multi-family use.
2. Design. Screening must meet one or a combination of the following design standards:
  - a. Screening may consist of walls constructed of masonry, stone or pre-cast concrete, with integrated color, texture and pattern. Screening must be eight (8) feet in height above the adjacent grade and must be designed and sealed by a professional engineer for structural integrity. Gates must be equal in height and screening characteristics to the wall in order to create a visual barrier.



**Eight (8) Foot Screening Masonry Wall**

- b. Screening may consist of an eight (8) high wooden fence only in conjunction with a ten (10) foot buffer yard containing evergreen hedges composed of plants purchased in five-gallon or larger containers, with a minimum planted height of six (6) feet, placed on thirty-six (36)-inch centers. Wood fences must

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be designed and built with a bottom rail and a top cap in order to reduce warping of boards and must contain masonry columns no greater than twelve (12) feet on center. Gates must be equal in height and screening characteristics to the fence in order to create a visual barrier.



**Board on Board Wood Fence with Cap**

3. Alternative screening plans may be considered by the City Council upon recommendation of the Planning and Zoning Commission. Alternative screening plans must demonstrate the purpose and intent of the regulations by providing materials and design above and beyond the existing regulations.

**Section 9.5 Materials and Specifications for Fences, Walls, and Enclosures**

**9.5.1 FENCING**

A. Allowed Materials for Fences, unless otherwise specified herein:

1. Plain or coated chain link (installed as manufactured, without affixing materials such as slats and tarps);
2. Fiberglass composite (manufactured for fencing);
3. Latticework that does not exceed two (2) feet in height and is anchored as a design element at the top of a six (6) foot tall fence;
4. Tubular aluminum;
5. Tubular steel;
6. Wrought iron or similar decorative metal;
7. Wood planks;
8. Support poles made of metal or wood;

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- B. Prohibited Materials. Permits shall not be issued for materials not manufactured specifically for fencing, such as fibrous masonry products, landscape timbers, railroad ties, latticework panels, plywood, corrugated steel panels, metal sheets, vinyl panels or pickets or fiberglass panels.
- C. Specifications for Wood Fences:
1. Fence planks or panels must be at least five-eighths (5/8) inches in thickness. Planks and panels shall be made of Cedar or Redwood or treated Pine.
  2. Fence planks or panels must have at least a one (1) inch gap between the ground and the wood to prevent rotting and decay.
  3. All vertical posts must be two and three eighths (2 3/8) inch minimum outside diameter standard pipe gauge galvanized steel or a minimum four (4) by four (4) treated wood post as described in C (1) above.
  4. Vertical posts spacing shall be no greater than eight (8) feet on center or less and shall be set in concrete post footings. The minimum depth of concrete post footings shall be twenty-four (24) inches for fences that are six (6) feet in height and thirty-six (36) inches for fences that are eight (8) feet in height.
  5. Fences that are six (6) feet in height shall have three (3) horizontal stringers. Fences that are greater than six (6) feet in height shall have four (4) horizontal stringers. The top stringer shall be positioned no more than eight (8) inches from the top of the vertical slats/planks to prevent warping.
  6. All materials shall be securely fastened (i.e. vertical boards/slats/planks to horizontal stringers; stringers to vertical posts) and be free from rot, rust, vandalism and other sources of decay.
- D. Specifications for Chain Link Fences
1. Chain link fences are required to have a top rail, bottom guide wire, and traditional chain link hardware;
  2. A minimum 2.377-inch diameter corner post, footed in concrete, at least three (3) feet into the ground. A minimum 1.58-inch line/terminal post shall be used.
  3. Chain link fence posts shall be spaced evenly not to exceed ten (10) feet.
- E. Repair and Maintenance:
1. All fences shall be maintained by the property owner.
  2. It shall be unlawful to maintain a fence in such a manner as to allow:
    - a. Any portion of a fence to lean at an angle from the vertical plumb any greater than five (5%) percent.
    - b. Missing, loose, or broken posts, pickets, slats or panels in a fence or rusting, peeling or blistering paint or other surface damage.
    - c. Symbols, writings, and other graffiti on a fence except for those which are permitted as signs under the City of Lorena Code of Ordinances or which pertain to the address or occupancy of a property.

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- d. Any portion of a pre-existing chain-link fence to be curled, cut through, bent or peeled apart, to become unattached from the framing poles, or for the framing poles to be bent or become unattached from each other.
- 3. All fences shall be kept in good repair, shall be maintained so that they shall test plumb and square at all times, shall not be propped up to maintain the required vertical plane of any portion, shall not create blight, and shall be maintained close enough to surface grade to prevent intruder or animal passage. Dilapidated fences shall be repaired or replaced in accordance with provisions of this section.
- 4. Broken, damaged, removed or missing parts of a fence shall be replaced or repaired within ten (10) days upon receipt of notice from the City with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.
- 5. If a fence is deemed nonconforming and the nonconformity is destroyed, damaged or deteriorated to the extent that the cost to reconstruct or rebuild such nonconformity exceeds fifty (50%) percent of the fence's replacement cost, the nonconformity may not be reconstructed or rebuilt except to conform with the provisions of this Ordinance.
- 6. For nonconforming fences which are destroyed, damaged or deteriorating, meeting the provisions within Section 9.5.1.C.2 above, repair or reconstruction of existing fences shall be of the same or similar materials as the original fence being repaired or reconstructed and not building permits shall be required.
- F. Other Easements. Fences and walls shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City Manager or his/her designee and by any other applicable utility provider(s).

**9.5.2 USE OF ALTERNATIVE FENCE MATERIALS**.....

- A. All written requests for the use of alternative exterior fencing materials to include alternative shall be clearly noted and described in that is submitted along with the site plan for approval. The use of alternative fencing may only be requested for multi-family, single-family attached and non-residential structures. The City may require submissions of an actual sample(s) of the proposed material(s) along with the site plan.
- B. The Planning and Zoning Commission may recommend, and the City Council may approve, all alternative material(s), if the alternative materials is determined to meet or exceed the materials otherwise required by this Subsection and the City's Building Code as part of the site plan approval process.
- C. Consideration for exceptions to the above fence requirements shall be based only upon the following:
  - 1. Architectural design, creativity and innovation;
  - 2. Compatibility with surrounding structures;
  - 3. Relative ease of maintenance of the material(s);
  - 4. Long term durability and weather-resistance of the materials(s); and
  - 5. Long-term stability in property value due to the high quality of the material(s).

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**9.5.3 SCREENING WALLS**.....

A. Allowed Materials for Screening Walls:

1. Fired brick;
2. Natural stone;
3. Pre-cast concrete;
4. Split faced block;
5. Smooth faced block; or,
6. Stucco.

B. Prohibited Materials. Permits shall not be issued for materials not manufactured specifically for screening walls, such as fibrous masonry products, landscape timbers, railroad ties, latticework panels, plywood, corrugated steel panels, metal sheets, vinyl panels or pickets or fiberglass panels.

C. Maintenance Easements Wall/screening maintenance easement at least five (5) feet in width shall be dedicated to the homeowner’s association on the private lot side and adjacent to the entire length of the screening wall or device for maintenance and repair of the screening wall. If there is no active homeowner’s association, the maintenance of the wall shall be the responsibility of the property owner on which the wall is located.

D. Installation. The screening/wall shall be installed prior to final acceptance of the subdivision public improvements. Failure to properly install all components of a required screening wall within the prescribed time frame shall constitute a violation of this ordinance, and shall authorize the City to refuse acceptance of the subdivision public improvements.

E. Design of Walls. All wall plans and details must be designed and sealed by a licensed professional engineer, and must be approved by the city. Use of chain-link, chicken-wire, hog-wire fencing, and any other material similar in appearance and quality is expressly prohibited for meeting the requirements of this Section.

F. Height of Screening. The height of required screening devices, including spans between columns, shall be a minimum of eight (8) feet, decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum height by up to two (2) feet for a total maximum height of ten (10) feet for these features.

G. Maintenance: All screening walls shall be kept in good repair, shall be maintained so that they shall test plumb and square at all times, shall not be propped up to maintain the required vertical plane of any portion, shall not create blight, and shall be maintained close enough to surface grade to prevent intruder or animal passage. Dilapidated screening walls shall be repaired or replaced in accordance with provisions of this section.

H. Electric Fences

1. An electric fence is allowed in the Agricultural- Rural Residential (ARR) zoning district, or on property greater than twenty (20) acres in size and being used for agricultural purposes, with proof submitted to the electrical inspector that the fence will be designed to retain animals, be inaccessible to the general public and not pose a hazard to life.

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2. An electric fence is allowed in association with a permitted nonresidential outdoor storage area in the Business Park (BP) zoning district subject to the following standards.
  - a. Unless otherwise specified in this Section, electric fences must be installed in conformance with the specifications set forth in the City's electrical code and the International Electrotechnical Commission Standard No. 60335-2-76. must meet the requirements of Underwriters Laboratories Standard UL69, Electric-Fence Controller, and labeled as such.
  - b. The electric fence controller and emergency entry key safe for the electric fence must be located in a single accessible location for the entire fence.
  - c. The electric fence must be surrounded by a non-electrical fence or wall six (6) to eight (8) feet in height.
  - d. The electric fence must be installed a minimum of one (1) foot from the surrounding non-electric fence or wall, except along the gate. Along the gate, the electric fence must be installed a minimum of three (3) inches from the surrounding non-electric fence or wall.
  - e. The electric fence must be clearly identified with warning signs at intervals of not less than sixty (60) feet.
  - f. The electric fence must only be energized during hours when the public does not have legal access to the protected property.
- I. Barbed Wire Fences. Barbed wire fences and other structures composed or partially composed of barbed wire are allowed only in the ARR- Agricultural- Rural Residential zoning district or on property that is being used for agricultural purposes, with proof submitted to the building inspector that the fence will be designed to retain animals. A fence permit is required. Security fencing for utility facilities such as electrical substations and water and sewer pumping stations may be topped with barbed wire that is not closer than six (6) feet to the ground.
- J. Razor Wire Fences. Razor wire fences are allowed only in the BP-Business Park zoning district. A fence permit is required. The razor wire must not be closer than eight (8) feet to the ground.

**Section 9.6 Refuse Containers**

- A. Refuse container storage areas must be located in a rear or side service area, or alley where available, for all uses other than single-family and two-family dwellings. Refuse container storage areas shall not be located within any utility or drainage easement.
- B. A solid wood or masonry fence must screen from public view refuse container storage areas located within fifty (50) feet of the curb line of a public street or visible from the public street. Such fence must be at least one foot higher than the refuse container on all sides except the side used for servicing the container.

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**Masonry Refuse Container Enclosure (With Gates)**

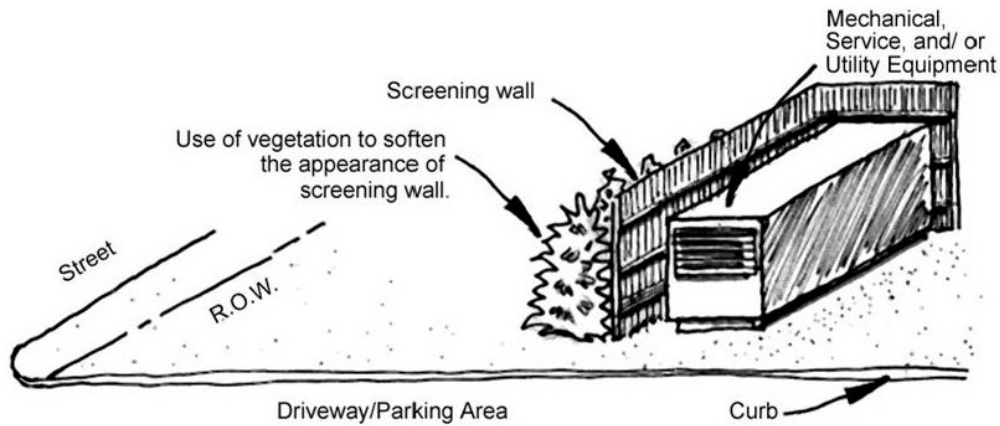
- C. Placement of refuse container storage areas must allow the collection vehicle maneuvering room to avoid backing into a street or other traffic area.

**Section 9.7 Equipment Screening**

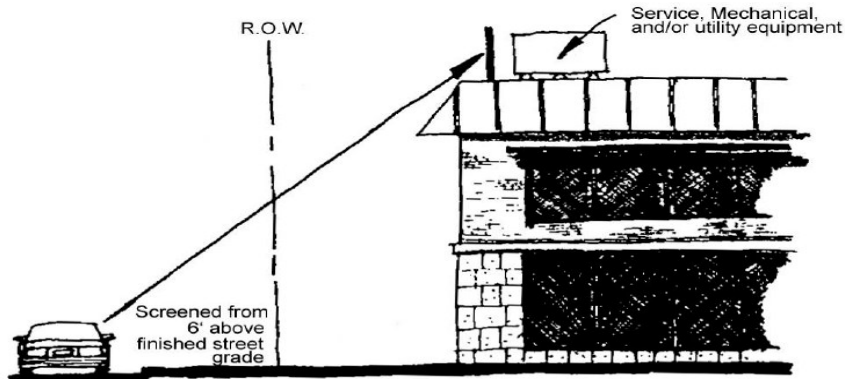
- A. Roof-mounted equipment or other permanent fixtures that rise above the roof line or are visible from the adjacent property or public right of way shall either be housed in an enclosed building of the same character as the primary structure or they must be completely screened from a horizontal plane of view. Developments in the ARR and SF Districts are exempt from this restriction.
- B. In all multi-family developments, mechanical equipment, air conditioning equipment, utility boxes and banks of meters shall either be located so as not to be seen from a public right of way or any abutting Single-Family District, or be they must be screened to a maximum height of six (6) feet. Such screening shall include a solid fence, wall or plant material that creates a maximum six (6) foot high visual barrier.
- C. No equipment, fencing or walls are permitted within any landscape buffer yard, street landscape setback or any designated landscape islands or areas.
- D. Mechanical and Utility Equipment for Nonresidential Uses
  1. All ground mounted service equipment such as air conditioners, transformers, trash collection equipment, and other service functions must be located at the rear of buildings, and integrated into the building envelope or enclosed service areas, unless the rear of the building faces I-35, in which case such equipment must be located on the side least visible from a public street right-of-way. Reduce pressure zones are allowed in front of the building if properly landscaped.
  2. If such equipment is visible from a public street right-of-way, the screening materials must be one hundred (100) percent opaque. Screens must incorporate shrubbery with year-round foliage, or a wall, fence, or architectural element of the adjacent building, and be a minimum of one (1) foot taller than the equipment being screened.



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3. All roof-mounted equipment must be screened from a vantage point that is six (6) feet above finished street grade with materials that are one hundred (100) percent opaque. In all cases, screening must be compatible with building color and materials.



**Section 9.8 Outside Storage and Display**

- A. The outside storage, display or sale of goods, products or equipment is not permitted in any zoning district with the following exceptions:
  1. Outside storage, display or sale of new goods, products or merchandise shall be permitted in any non-residential zoning district on the sidewalk adjacent to the building, provided such goods, products or merchandise shall not extend more than five (5) feet from the wall of the building and shall not be more than five (5) feet in height and provided further, that there shall be at least five (5) feet in width of unobstructed sidewalk remaining.
  2. Within the IC - Interstate 35 Planned Corridor District outside storage may be utilized with the approval of a home improvement center use.
- B. Storage and display of rental trailers and trucks is not allowed except in districts where such uses are indicated as permitted in the district use tables within [Article 6](#).
- C. Outside storage limitations shall not apply to the following:

**ZONING ORDINANCE**

1. Storage and display of Christmas trees and holiday accessories for a period not to exceed forty (40) days prior to Christmas Day each year.
  2. Merchandise dispensing units placed adjacent to a building limited to not more than three (3) for any one business establishment when such merchandise dispensing units are operated in connection with the operation of a convenience food store, service station, grocery/supermarket or combination thereof.
  3. Storage, display and sale of newspapers in newspaper racks.
  4. The outside display of merchandise by a retail landscape nursery.
- D. Temporary outdoor services such as mobile blood banks, health screening and veterinary care.
- E. The prohibition provided above shall not prohibit temporary outdoor sales of merchandise for periods not exceeding five (5) consecutive days once a month operated by a building tenant holding the current certificate of occupancy. Temporary outdoor sales are limited to merchandise which is ordinarily sold on the premises by the building tenant. Temporary sales activities shall be set back a minimum of twenty (20) feet from all property lines and shall be no more than eight (8) feet in height. A permit from the Building Official shall be obtained for each temporary outdoor sales event not more than ninety (90) days prior to each event.
- F. Temporary Storage Containers. Temporary Storage Containers may be located outside a building on properties located within any zoning district provided that all of the following criteria are met:
1. Prior to placing a container on any site or location a permit must be secured from the City. It shall be unlawful for any person to place, or permit the placement of a container without first securing approval from the City. A separate permit shall be required for each occurrence in which a container is placed at the same site. A maximum of two (2) permits a year is allowed per site.
  2. No container shall remain on any site in excess of three (3) consecutive days for each permit issued per site. In the cases of hardship or emergency, appeal may be made to the City for an extension of length of time for the placement of the container.
  3. Maximum size of a temporary storage container shall be no greater than twenty (20) feet long by eight (8) feet wide and eight (8) feet tall.
  4. Containers shall be placed a minimum of ten (10) feet from the front property line and shall not be placed within any designated fire lane. Containers may not be placed in such a way which would impede pedestrian or vehicular traffic on the site.
  5. Containers shall be maintained in a workmanlike manner. Deteriorated or dilapidated containers shall not be permitted.
  6. Hazardous materials including flammable or biohazard substances shall not be stored within containers.

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## **Management of Streets and Public Right of Ways**

### **Denison**

#### **Sec. 21-8. Hedges, retaining walls, steps, fences, etc., near streets or alleys.**

Hedges, retaining walls, steps, fences or other accessories for property abutting a street or alley shall be located on such property and no portion thereof shall lie in the street or alley, except footings to walls which may be placed under the surface in a manner approved by the director of public works. The design of retaining walls referred to herein shall be approved by the director of public works.

(Code 1965, § 23-7)

### **Georgetown**

#### **Sec. 12.44.020. Prohibited structures.**

No person shall erect or maintain within any such restricted area any wall, fence or other structure, excepting utility poles to a height greater than three feet as measured from the crowns of the adjacent streets.

(Ord. No. 2010-16, § 6(Exh. N); Ord. 9/13/65 § 1 (b))

### **Ennis**

Sec. 17-123. - Certain fences prohibited.

It shall be unlawful for any person to construct or replace, or cause to be constructed or replaced, any fence having a height greater than three (3) feet above the level of the center of the nearest abutting street on or in that portion of any corner lot in the city which portion is included in a triangle on the street corner of the lot formed by a diagonal line intersecting the curblines at points forty-five (45) feet from the street corner intersection of the curblines; provided this section shall not apply to any fence authorized by law.

(Ord. No. 82-2-4, 2-15-82)