

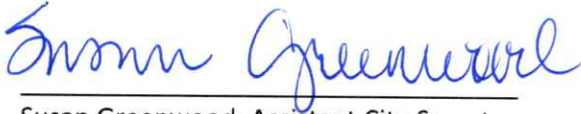


**City of New Fairview  
Planning & Zoning Commission Special Meeting  
999 Illinois Lane  
Monday, December 12, 2022, at 6:30 pm**

1. **Call to Order and Determination of Quorum**
2. **Pledge to the Flags.**
  - A. **United States of America**
  - B. **Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.**
3. **Public Comment:** The Planning and Zoning Commission invites persons with comments or observations related to city issues, projects, or policies to briefly address the Planning and Zoning Commission. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the Planning and Zoning Commission Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the Planning and Zoning Commission. State law prohibits the Planning and Zoning Commission from discussing or taking action on any item not listed on the posted agenda.
4. **Work Session:**
  - A. **Receive an update and hold a discussion on the Comprehensive Plan and the work done by the University of North Texas Department of Public Administration, Ash + Lime and Antero Group.**
5. **New Business:** All matters listed in New Business will be discussed and considered separately.
  - A. **Receive and consider approval of the minutes for the November 14, 2022, meeting.**
  - B. **Hold a public hearing and consider an Ordinance repealing certain sections of Chapter 4 Building Regulations; Chapter 5 Business Regulations; Chapter 9A Subdivision Regulations; Chapter 9B Zoning REgulations of the Code of Ordinances of the City of New Fairview, Texas and adopting a new Section 28 of Chapter 9B, "Zoning Ordinance".**
6. **Commissioner Announcements:** The Planning and Zoning Commission may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting

## 7. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the Planning and Zoning Commission of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 9<sup>th</sup> day of December, 2022 at 5:00 PM at least 72 hours proceeding the meeting time.



Susan Greenwood, Assistant City Secretary



SEAL:

This facility is wheelchair accessible; parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at [citysecretary@newfairview.org](mailto:citysecretary@newfairview.org) for further information.



## Planning and Zoning Commission AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

December 12, 2022

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### Comprehensive Plan

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#### **DESCRIPTION:**

Receive an update and hold a discussion on the Comprehensive Plan and the work done by the University of North Texas Department of Public Administration, Ash + Lime and Antero Group.

#### **BACKGROUND INFORMATION:**

At the end of 2021, the City Council and Planning and Zoning Commission finished working with the Texas Rural Leadership Program on strategic planning. The next steps were to look at completing a comprehensive plan and branding guide. The City entered into a Memorandum of Understanding (MOU) with the University of North Texas Department of Public Administration' Urban Policy and Planning program (UNT), Ash + Lime, and Antero Group for the development of a Comprehensive Plan. This is a year-long project that will be completed in 2022, commencing in January and concluding in December with the presentation of the Comprehensive Plan to the City Council.

The deliverables from the MOU include the following:

1. Comprehensive Plan designed by UNT students, with guidance and support from Antero and ASH+LIME. Data collection and Plan content to be completed by UNT students, with guidance from Antero and ASH+LIME. The Plan will include the following elements:
  - 1 Chapter on Community History / Background
  - 1 Chapter on Planning Process
  - 5 Chapters on Specific Planning topics (Transportation, Housing, Economic Development, Public Facilities, Emergency Services and Management) that include an assessment of current conditions and community needs
  - 1 chapter on Scenario Planning and Analysis
  - 1 chapter on Implementation

2. Arc GIS story map (public website), utilizing UNT ArcGIS resources, to present the analysis, and collect public feedback.
3. Community engagement and outreach events in New Fairview.
4. Updates and presentations to City Council and Elected Officials as needed.

The UNT students conducted research on several aspects of the City and presented their findings and recommendations at a joint meeting of the City Council and Planning and Zoning Commission on July 18, 2022. The next step is to work on various scenarios and trade offs that will be shown to the public for input and use on the final draft of the plan. In consultation with UNT representatives it was determined that it would be more efficient to hire an intern to work on the completion of the comprehensive plan. As a result, the City has contracted with UNT student Katelyn Goertz to assist with the completion of the plan. We have also adjusted the completion timeline for the plan to spring of 2023.

The University of North Texas Public Administration Department provides a strong academic and intentionally practical education that results in meaningful career paths for undergraduates interested in degrees in urban policy and planning or nonprofit leadership studies. Graduate students can pursue an MPA in the #7 ranked program in local government management or a PhD program in public administration and management.

**FINANCIAL CONSIDERATION:**

The cost for this service in this MOU is estimated not to exceed \$29,000. This amount does not include instructional/faculty salaries, which will be paid by UNT.

**RECOMMENDED MOTIONS:**

None, discussion only.

**ATTACHMENT(S):**

1. Presentation



**City of New Fairview  
Planning & Zoning Commission Special Meeting  
Regular Meeting  
999 Illinois Lane  
Monday, November 14, 2022, at 6:00 pm**

**STATE OF TEXAS  
COUNTY OF WISE**

**CITY OF NEW FAIRVIEW**

**THE CITY COUNCIL CONVENED INTO A CITY COUNCIL MEETING THE SAME BEING OPEN TO THE PUBLIC, THE 14th DAY OF NOVEMBER IN THE NEW FAIRVIEW CITY HALL AND NOTICE OF SAID MEETING GIVING THE TIME PLACE AND SUBJECT THEREFORE HAVING BEEN POSTED AS PRESCRIBED BY ARTICLE 5 OF THE TEXAS GOVERNMENT CODE WITH THE**

**FOLLOWING MEMBERS PRESENT:**

**PLANNING & ZONING COMMISSIONERS**

**Commissioner Rebecca McPherson**

**Commissioner Julie Burger**

**Commissioner Denis Sansoucie**

**David Randolph**

**Marissa Randolph**

**CITY STAFF**

**John Cabrales Jr, City Administrator**

**Susan Greenwood, Court Administrator/Assistant City Secretary**

**Steven Cook, City Planner (Virtually)**

1. **Call to Order and Determination of Quorum (Meeting called to order by Commissioner Rebecca McPherson at 6:05 PM; Roll Call with the above-mentioned names.)**
2. **Pledge to the Flags.**
  - A. United States of America
  - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. **Public Comment:** The Planning and Zoning Commission invites persons with comments or observations related to city issues, projects, or policies to briefly address the Planning and Zoning Commission. Anyone wishing to speak should sign-in with the City Secretary before the beginning of the Planning and Zoning Commission Meeting. In order to expedite the flow of business and to provide all citizens the opportunity to speak, there is a three-minute limitation on any person addressing the Planning and Zoning

Commission. State law prohibits the Planning and Zoning Commission from discussing or taking action on any item not listed on the posted agenda.

4. **Work Session:**

- A. Receive a report from staff regarding Dark Sky Community Designation Process.  
**The City Planner, Stephen Cook, discussed that he was able to get acknowledgement from Amber Harrison, a Dark Sky Places Program Associate and she provided the next steps to begin filing the formal application. Stephen Cook also talked about the next processes such as purchasing a meter that would need to be calibrated for the sky brightness measurement program, developing a quality lighting ordinance, which the city is in the process of, the community needs to be educated through community events, social media, and the city's website. John Cabrales, Jr., the City Administrator, expanded on Stephen Cook's discussion by adding he wanted to look into replacing lights at City Hall that are approved from the Dark Skies approval list, he wants to present to Council at a later date to implement solar lights at the new park. He explained how the technology has changed and is more advanced. City Administrator John Cabrales Jr. explained we have plenty of community events to inform and educate the residents about how the city can become a certified Dark Sky Community. Commissioner Rebecca McPherson stated she doesn't mind speaking at the events to inform the community about the city becoming a certified Dark Sky Community. Commissioner Julie Burger wanted to know the cost of purchasing a meter, and the City Planner stated it was around \$135.00.**

5. **New Business:** All matters listed in New Business will be discussed and considered separately.

- A. Election of a Chairperson  
**Motion: Commissioner Denis Sansoucie**  
**Second: Commissioners Julie Burger**  
**Vote: All in favor**  
**Result: Motion to approve Commissioner Rebecca McPherson as Chairperson**
- B. Election of a Vice-Chairperson  
**Motion: Commissioner Rebecca McPherson**  
**Second: Commissioner Denis Sansoucie**  
**Vote: All in favor**  
**Result: Motion to approve Commissioner Julie Burger as Vice-Chairperson**
- C. Receive and consider approval of the minutes for the October 24, 2022, meeting.  
**Motion: Commissioner Julie Burger**  
**Second: Commissioner Denis Sansoucie**  
**Vote: All in favor**  
**Result: Motion to approve the October 24<sup>th</sup> minutes.**

6. **Adjournment**

- Motion: Commissioner Denis Sansoucie**  
**Second: Commissioner Julie Burger**  
**Vote: All in Favor**

**Result: Planning and Zoning adjourned the meeting at 6:26 pm.  
MINUTES APPROVED ON THIS 12th DAY OF DECEMBER 2022**



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Rebecca McPherson, Commissioner

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Susan Greenwood, Assistant City Secretary

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## PLANNING & ZONING COMMISSION AGENDA MEMO

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Prepared By: John Cabrales Jr, City Administrator

December 12, 2022

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### Fence Ordinance

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#### **DESCRIPTION:**

Hold a public hearing and consider an Ordinance repealing certain sections of Chapter 4 Building Regulations; Chapter 5 Business Regulations; Chapter 9A Subdivision Regulations; Chapter 9B Zoning REgulations of the Code of Ordinances of the City of New Fairview, Texas and adopting a new Section 28 of Chapter 9B, "Zoning 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.

The City Council requested staff to investigate revising the fence regulations due to complaints that have come up regarding fencing within the city. Council discussed this at the June 20, 2022, meeting and directed staff to bring this to the Planning & Zoning Commission for discussion and return with any recommendations on fence regulations for the possible drafting of a fence ordinance. Staff has been working with the Planning and Zoning Commission since July 11, 2022, to revise our fence regulations and it was determined that the best way to do that was through a Fence Ordinance (attached).

The proposed zoning ordinance amendment replacing Section 28, with a new Section 28 of the Zoning Ordinance to adopt new the new fence and screening regulations, contains the following cited Sections aa repealed and replaced under the same numerical reference within the Code of Ordinances with "RESERVED":

Chapter 4 Building Regulations, Article 4.07 Swimming Pools and Spas, Section 4.07.004 Fencing.



Chapter 5 Business Regulations, Article 5.04 Hydrocarbons Wells, Section 5.04.012 Fences, walls and screening.

Chapter 9A Subdivision Regulations, Section 3-13 Perimeter Landscaping and Decorative Fences and Walls, Paragraph (b).

Chapter 9B Zoning Ordinance, Article 3 Zoning Districts, Section 16 “MH” HUD-Code Manufactured Housing Residential District, Subsection 16.12 Screening.

Both Planning and Zoning (P&Z) and City Council are required to conduct public hearings prior to consideration of a zoning text amendment or zoning district/boundary amendment. However, neither the state statute nor the City Code of Ordinances mention publication of notice regarding the P&Z public hearing on these types of amendments. Regardless, the City went ahead and followed a 10-day publication notice prior to the P&Z public hearing as suggested by our planner. Notice for the public hearing was published in the Wise Messenger on December 2, 2022.

Staff recommends that the P&Z Commission recommend the ordinance to the City Council.

**FINANCIAL CONSIDERATION:**

Per our Master Fee Schedule we currently charge \$80 for a residential fence permit and \$160 for a commercial fence permit.

**RECOMMENDED MOTIONS:**

I move to **Recommend/Not Recommend** to the City Council a zoning ordinance amendment replacing Zoning Ordinance Section 28, “Screening”, with Section 28, “Screening and Fences” and including regulations intended to regulate permitting, construction standards, building materials, performance standards, fees, inspections, and maintenance requirements associated with fencing; including penalties for violations of such regulations.

**ATTACHMENT(S):**

1. Ordinance 202212-01-101

**CITY OF NEW FAIRVIEW, TEXAS**  
**ORDINANCE NO. 202212-01-101**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS REPEALING CERTAIN SECTIONS OF CHAPTER 4 BUILDING REGULATIONS; CHAPTER 5 BUSINESS REGULATIONS; CHAPTER 9A SUBDIVISION REGULATIONS; CHAPTER 9B ZONING REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF NEW FAIRVIEW, TEXAS AND ADOPTING A NEW SECTION 28 OF CHAPTER 9B, "ZONING ORDINANCE" OF THE CITY OF NEW FAIRVIEW, TEXAS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Fairview is a general law municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas; and,

**WHEREAS**, the City possesses all of the rights, powers, and authorities possessed by all general law municipalities, including the authority to regulate land uses under Chapter 211 of the Texas Local Government Code, as amended; and

**WHEREAS**, the City existing regulations regarding the regulation of fences and screening are in need of revision and consolidation in order to create a more unified document and to update certain regulations to better support the goals and objectives of the City of New Fairview; and

**WHEREAS**, the City's Planning and Zoning Commission and City Council of the City of New Fairview, Texas, in accordance with state law and the ordinances of the City, have given the required notices and have held the required public hearings regarding the adoption of new fence and screening regulations; and

**WHEREAS**, after due deliberations and consideration of the recommendation of the City's Planning and Zoning Commission, and any other information and materials received at the public hearing, the City Council of the City of New Fairview, Texas has determined that repeal of certain sections of the Code of Ordinances and replacement with a new Section 28 of the Zoning Ordinance is in the best interests of the public health, safety, and welfare of the residents of the City and that it is in the public interest to adopt new the new fence and screening regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, THAT:**

**SECTION 1**

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of the Ordinance as if fully set forth herein.

## **SECTION 2**

From and after the effective date of this Ordinance, the following cited Sections are repealed and replaced under the same numerical reference within the Code of Ordinances with "RESERVED":

Chapter 4 Building Regulations, Article 4.07 Swimming Pools and Spas, Section 4.07.004 Fencing.

Chapter 5 Business Regulations, Article 5.04 Hydrocarbons Wells, Section 5.04.012 Fences, walls and screening.

Chapter 9A Subdivision Regulations, Section 3-13 Perimeter Landscaping and Decorative Fences and Walls, Paragraph (b).

Chapter 9B Zoning Ordinance, Article 3 Zoning Districts, Section 16 "MH" HUD-Code Manufactured Housing Residential District, Subsection 16.12 Screening.

## **SECTION 3**

From and after the effective date of this Ordinance, existing Chapter 9B Zoning Ordinance, Section 28 Screening of the Code of Ordinances of the City of New Fairview, Texas, is hereby repealed in its entirety and replaced with a new Chapter 9B, Section 28 Fences and Screening, a copy of which is attached to this Ordinance as Exhibit A, and is hereby incorporated by reference for all purposes.

## **SECTION 4**

This Ordinance (which includes Exhibit A, attached hereto and is incorporated within) shall be cumulative of all other ordinances of the City, and shall not repeal any of the provisions of those other ordinances except for those sections cited in Section 2 of this Ordinance or in those instances where the provisions of other ordinances are in direct conflict with the provisions of this Ordinance; provided however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

## **SECTION 5**

Any person, firm, or corporation violating any of the provisions of this Ordinance (which includes Exhibit A, attached hereto and is incorporated within) shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

**SECTION 6**

Should any section, subsection, sentence, clause, or phrase of this Ordinance (which includes Exhibit A, attached hereto and is incorporated within) be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance (which includes Exhibit A, attached hereto and is incorporated within) shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance (which includes Exhibit A, attached hereto and is incorporated within), and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**SECTION 7**

All provisions of any ordinance in conflict with this Ordinance (which includes Exhibit A, attached hereto and incorporated within) are hereby repealed to the extent they are in conflict and any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 8**

This Ordinance shall take effect and be in full force from and after its publication, as provided by State law.

**DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

\_\_\_\_\_

**John Taylor, Mayor**

**ATTEST:**

\_\_\_\_\_

**Brooke Boller, City Secretary**

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## **Exhibit A**

### **Section 28 Fencing and Screening**

#### **28.1 Purpose.**

The purpose of this section is to regulate the construction, erection, enlargement, alteration and maintenance of all fences and screening walls 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.

#### **28.2 Permit required.**

- A. It is unlawful for any person to erect, construct, enlarge, alter or replace any fence regulated by this section or cause such work to be done without first obtaining a separate permit for each fence from the city.
- B. To obtain a permit, the applicant shall first file an application in writing on a form furnished by the city.
- C. Plans and other data deemed necessary by the city shall be submitted with each application.
- D. All permits issued under this section shall comply with the requirement of the Uniform Building Code adopted by the city.
- E. The fee for each permit shall be as set forth in the city's master fee schedule.
- F. The permit fee to be paid pursuant to this section shall be waived if:
  - 1. The permit is related to partial replacement of an existing fence;
  - 2. The fence is located on a single-family residential lot/tract;
  - 3. No more than fifty (50%) percent of the entire length of the fence (measured in linear feet) is being replaced (inclusive of all sides of the property on which the fence is located);
  - 4. The permit is related to the replacement of a fence which was damaged in whole or in part by a natural occurrence due to weather or other natural occurrence. A permit fee may be waived in this instance, but a full permit is required to be submitted by the applicant and issued by the city;
  - 5. The replacement fence will be installed at the same location on the property from where the old fence was removed; and
  - 6. No similar waiver of the permit fee has been granted for a partial fence replacement on the same lot/tract within the twelve (12) months prior

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to the date of the application for the permit for which the fee waiver is granted.

Nothing in this subsection should be construed as waiving the requirement to obtain a permit for the fence replacement for which the permit fee has been waived.

### **28.3 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 or designee shall be notified upon completion of the fence. All fences constructed under the provisions of this section shall be maintained so as to comply with the requirements of this section 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:

- A. Such fence shall not be out of vertical alignment more than twenty (20%) percent.
- B. 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.
- C. Where the permitted fence is chain-link, wood, or masonry, all damaged or missing parts shall be replaced or repaired.

### **28.4 Materials.**

- A. *Permitted materials.* Materials permitted for fences shall be of wood, masonry, decorative metal, wire in decorative sections bordered by wood framing, or ornamental wrought iron. In the commercial and industrial 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 to be used as fences in residential zoned districts include: barbed wire, razor ribbon, sheet metal, plastics including UL sunlight-resistant plastic, or any other similar material except as authorized in this section.
- C. *Exception.* Barbed wire is permitted in the following circumstances:
  - 1. For any new fences to be permitted in rear and side yards in industrial zoned districts, and in residential districts that are at least one acre and not located within a Planned Development, when the following conditions are met:

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2. 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 Planning and Zoning Commission.
  3. For any new fences to be permitted 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 Planning and Zoning Commission.
- D. *Wood Fences.* Wood fences must be designed and built with a bottom rail and a top cap in order to reduce warping of boards. Fence planks or panels must have at least a one (1) inch gap between the ground and the wood to prevent rotting and decay. All vertical posts must be two and three eights (2 3/8) inch minimum outside diameter standard pipe gauge galvanized steel. 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.



**Board on Board Wood Fence with Cap and Metal Posts**

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- E. *Chain Link Fences*. Chain link fences are required to have a top rail, bottom guide wire, and traditional chain link hardware. 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. Chain link fence posts shall be spaced evenly not to exceed ten (10) feet. Chain link fences are prohibited as external perimeter fencing around subdivisions and parcels, but may be utilized as internal fences between lots.



**Chain Link Fence with Top Rail**

### **28.5. 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. 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. Additional clear zones may be required by the building inspector.

### **28.6 Electric fences.**

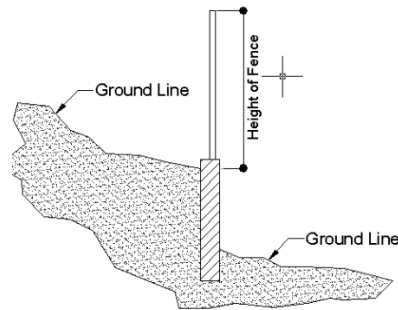
- A. An electric fence for control of domestic animals within a residential district is permitted only when the lot is at least one acre, and the fence is within another enclosure and inside such enclosure. Such fence shall be of the pulse delivery type with a maximum amperage of twenty five (25 mil). The exterior fence shall have a sign on each side of the outside face or frontage of not less than a ten (10) foot interval warning of the electric fence.



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- 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 Planning and Zoning Commission.

### 28.7 Height measurement.

All fence heights shall be measured vertically from the inside natural or mean grade elevation of the yard.



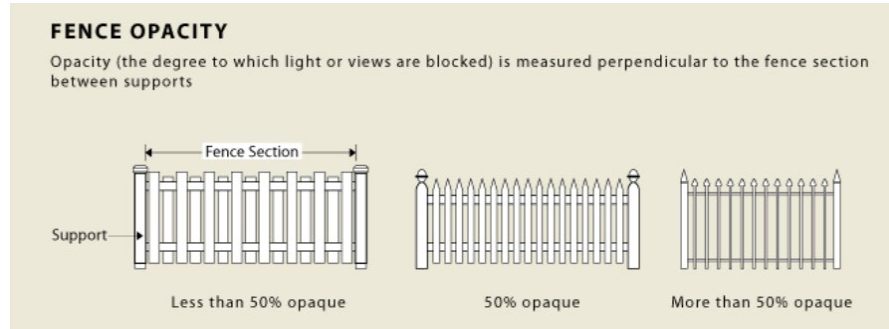
**Determining Fence Height**

### 28.8 Residential Districts.

For residential zoning districts, the following regulations shall apply:

- A. *Rear yard.* No fence shall be constructed at a height exceeding eight (8) feet along the rear property line.
- B. *Side yard.* No fence shall be constructed at a height exceeding eight (8) feet along any side property line.
- C. *Front yard.*
  1. No fence shall be constructed at a height exceeding four (4) feet in height, and no more than fifty (50%) percent of the fence elevation shall block the view through the fence, except that fences or walls two and one half (2½) feet or less in height may block greater than fifty (50%) percent of the view through them.
  2. On residential properties that are two (2) acres or greater in size, fences in the front yard may be constructed at a maximum height of six (6) feet, and no more than fifty (50%) percent of the fence elevation shall block the view through the fence.

3. 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.



#### Opacity of Fences

- D. *Gates*. All enclosed fences shall have a minimum of one gate for emergency ingress and egress. The minimum width shall be three (3) feet.
- E. Any fence that is adjacent to a state highway or Farm to Market road must be constructed of natural materials (i.e. wood, decorative metal, barbed wire or ornamental wrought iron), and no more than fifty (50%) percent of the fence elevation shall block the view through the fence. Examples of acceptable types are wood split rail fences, wood picket fences, wrought iron fences with or without masonry columns.

### 28.9 Nonresidential districts.

For all nonresidential zoning districts, including the agricultural district, the following regulations shall apply:

- A. *Rear yard*. No fence shall be constructed at a height exceeding eight (8) feet along the rear property line.
- B. *Side yard*. No fence shall be constructed at a height exceeding eight (8) feet along the side property line.
- C. *Front yard*. No fence shall exceed eight (8) feet in height, and no more than fifty (50%) percent of the fence elevation shall block the view through the fence, except that fences or walls two and one half (2½) feet or less in height may block greater than fifty (50%) percent of the view through them.
- D. Any fence that is adjacent to a state highway or Farm to Market road must be constructed of natural materials (i.e. wood, decorative metal, barbed wire or ornamental wrought iron), and no more than fifty (50%) percent of the fence elevation shall block the view through the fence.

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Examples of acceptable types are wood split rail fences, wood picket fences, wrought iron fences with or without masonry columns.

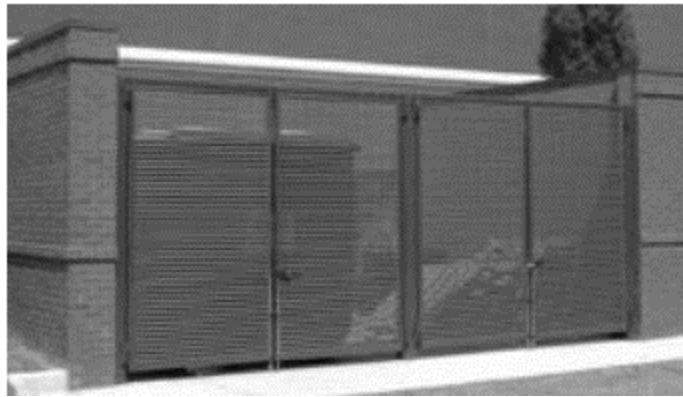
- E. When a boundary of a nonresidential use sides or backs upon an "SF" Districts, a solid screening wall or fence of not less than six (6) feet nor more than eight (8) feet in height shall be erected on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual barrier between the properties.



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

- F. The owner of such property of the lesser restrictive use shall be responsible for and shall build the required wall or fence on his property line dividing his property from the more restrictive zoning district.
- G. Unless otherwise provided for herein, a screening wall or fence required under the provisions of this section shall be constructed of a permanent, solid material. Such wall or fence shall not contain openings constituting more than forty (40) square inches in each one square foot of wall or fence surface, and the surface of such wall or fence shall constitute a visual barrier. The fence or wall may be constructed of a combination of wood, masonry, decorative iron, or a combination thereof.
- H. All wall or fence openings shall be equipped with gates compatible in height and screening characteristics to the wall or fence. In cases where City Council finds this requirement to be better met by a screen of living, irrigated plant materials, a landscape plan may be submitted in lieu of a screening wall. Such landscape screening must be no less than four (4) feet deep and must demonstrate screening characteristics equal to that of a masonry screening wall.
- I. In cases where City Council finds this requirement better met by a decorative fence or a combination of decorative fence and masonry screening wall and/or living plant materials, the same may be submitted to the City for approval along with a landscape plan.

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- J. All required screening walls shall be equally finished on both sides of the wall.
  - K. All required screening elements shall be permanently maintained by the nonresidential property owner.
  - L. Solid waste containers and trash receptacles located on non-residentially zoned property and on sites used for nonresidential purposes shall be located on a concrete pad constructed for that purpose. Said Solid waste containers and trash receptacles shall be screened on three (3) sides by a masonry wall and shall contain a solid self-latching gate. The masonry wall shall be of similar construction as the principal building. Non-decorative concrete block shall not be permitted. A screening device shall be erected alongside and rear property lines adjacent to residential districts. The screening device shall be a minimum height of eight (8) feet, unless otherwise approved by City Council.



**Masonry Solid Waste Container Enclosure (With Gates)**

### **28.10 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.

### **28.11 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

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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.
    - d. Agricultural ponds primarily used for the source of water for livestock or other agricultural uses.
  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 (4) 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 thirty-six (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.

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## 28.12 Hydrocarbon Wells

- A. *Entrance Gate.* An entrance gate to the Drilling and Production Site shall be required and a sign identifying the entrance to the Drilling and Production Site or operation site shall be light reflective.
- B. Fencing, Screening and Landscaping.
  - 1. Fencing, buffering, landscaping and screening shall be required on Drilling and Production Sites. All required fencing shall be installed prior to the commencement of drilling operations. All required landscaping, buffering and screening shall be installed in accordance with the approved Landscape Plan within 180 days after initial drilling of the first approved well. Landscaping and screening shall also be required for Compressors.
    - a. All Drilling and Production Sites in Residential Districts shall be screened with an opaque decorative masonry fence that shall be no less than eight (8) feet in height.
    - b. In lieu of this requirement, an alternative fence that is compatible with the area surrounding the Drilling and Production Site may be approved by the City Administrator or their designee.
  - 2. Fencing around Drilling and Production Sites shall be a minimum of eight (8) feet in height and shall remain locked at all times when no one is present. Permanent fences shall be chain-link type with metal slats or other approved material. For security purposes, all permanent fencing structures shall have a gate to allow visibility into the well site. Permanent fencing shall be installed within ninety (90) days of completion of final well or within one hundred eighty (180) days of drilling inactivity, whichever is less.

## 28.13 Construction and access requirements in easements.

- A. No fence shall be constructed within any drainage easement unless the city engineer 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.
- 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.

# City of New Fairview Planning and Zoning Commission

## Agenda Item 5A

### Section 28 – Screening and Fencing

- Proposed ordinance replaces the full Section 28 and several references to fencing throughout of the Zoning Ordinance.

#### **What has been removed:**

- Article 4.07.004 Fencing Requirements on Swimming Pools and Spas
- Article 5.04.012 Fencing Requirements on Hydrocarbon Wells
- Chapter 9A Sec 3-13 Perimeter Landscaping Decorative Fences
- Article 3. Zoning Districts Section 16.12 Screening – MH Zoning District

**These sections are now consolidated and covered in the new ordinance**



- 28.1 Purpose
- 28.2 Permit required
  - Standard section requiring permits for the installation of new fences.
  - Provides language in which permit fees may be waived, but does not specifically waive the requirement to obtain a permit.
- 28.3 Inspection and Maintenance
  - Outlines the standards in which fences must be kept in working order and within a vertical position.





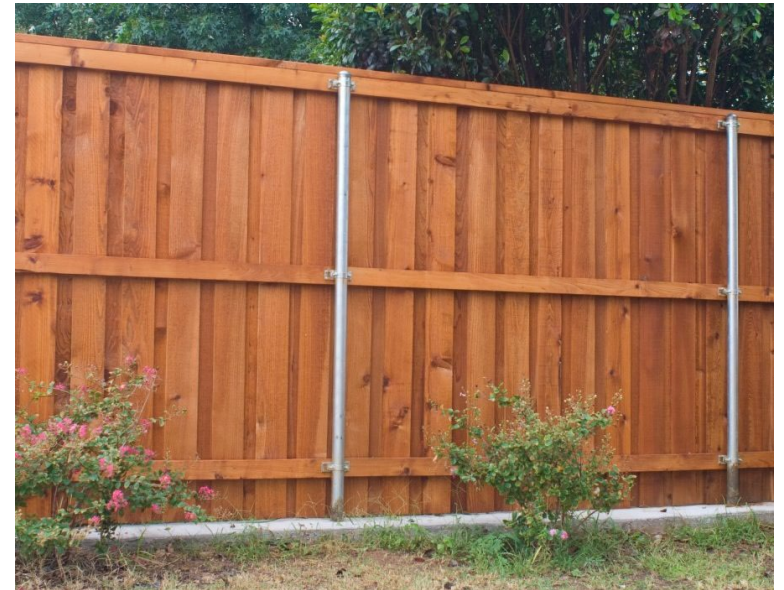
- 28.4 Materials

- Wood, Masonry, Decorative Metal, Wire in Decorative Sections Bordered by Wood, or Ornamental Wrought Iron are **PERMITTED**.
- Commercial and Industrial Districts may also use metal roofing materials if it is brand new material and does not have surface defects.
- Barbed wire, razor ribbon, sheet metal, plastics including UL sunlight resistant plastic are **PROHIBITED**.
- **Exception:** barbed wire may be permitted with new fences at side and rear of industrial property and residential lots of at least one (1) acre not within a Planned Development and conditions requiring notification of neighboring property owners and approval of the P&Z.



- 28.4 Materials Continued

- Wood fences must have metal posts and have a cap.
- Chain link fences must have a top rail and bottom guide wire.



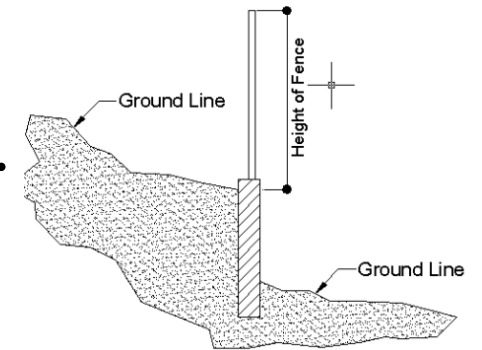
- 28.5 Prohibited Locations

- Private fences must not encroach on public property.
- Sight visibility must be maintained for streets and alleys.

- 28.6 Electric Fences

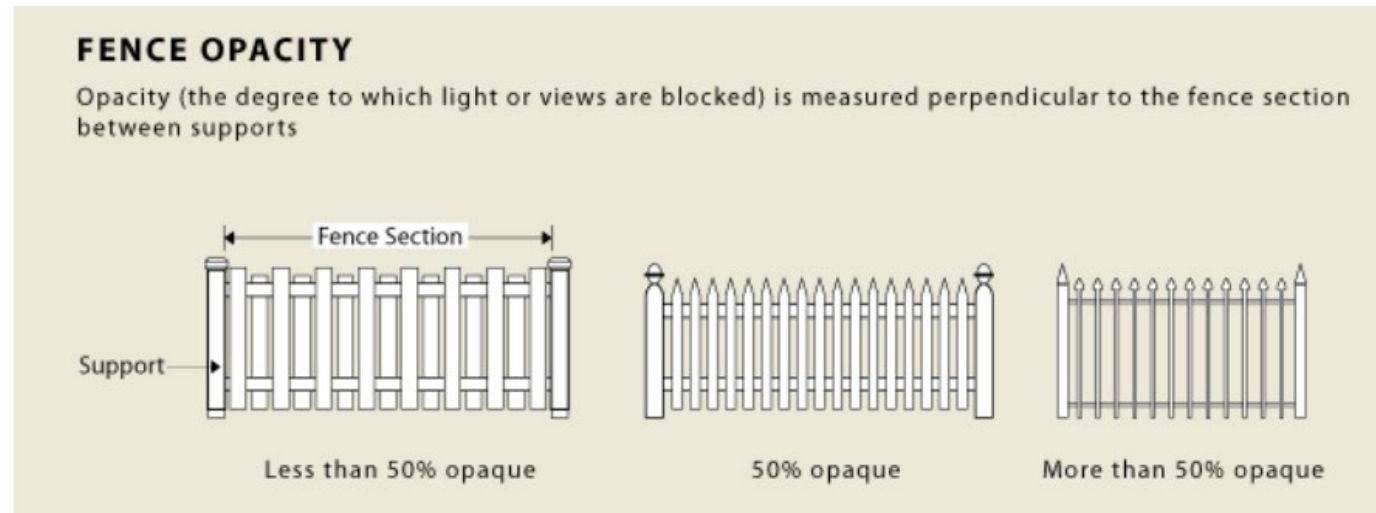
- Allowed to control animals if the lot is at least one (1) acre and the electric fence is within another enclosure. (It is not the external fence to the property.)

- 28.7 Height Measurement – how a fence is measured.

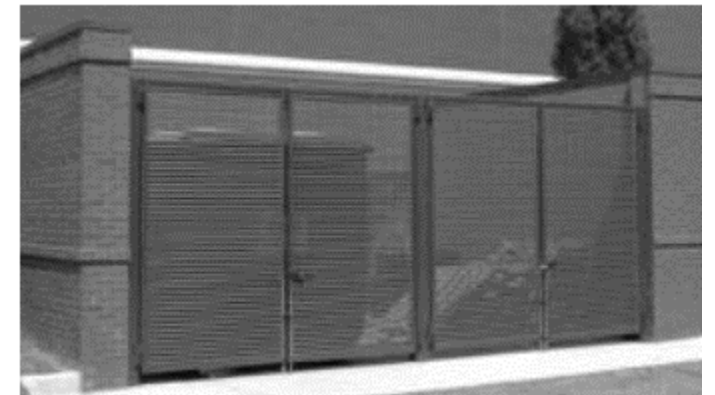


- 28.8 Residential Districts

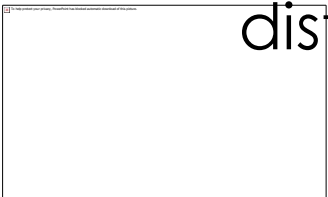
- Sets maximum heights for rear (8'), side (8') and front yards (4') for typical yards and for properties greater than two (2) acres, (8')
- Front yard fences may not be greater than 50% opacity.



- 28.8 Residential Districts continued
  - Gates must be three (3') feet in width or greater.
  - Fences adjacent to a state highway must be constructed of wood, decorative metal, barbed wire or ornamental wrought iron.
- 28.9 Nonresidential districts.
  - Rear yard (8'), Side yard (8') Front yard (8')
  - Fences adjacent to a state highway must be constructed of wood, decorative metal, barbed wire or ornamental wrought iron.
  - Where commercial or industrial is adjacent to single family, a solid screening wall of at least six (6') feet is required.
  - Solid waste containers will be screened with a masonry wall.



- 28.10 Temporary construction site fencing
  - May not exceed eight (8') feet in height.
- 28.11 Swimming Pools and Stormwater Enclosures
  - Does not apply to agricultural ponds for livestock or natural waters in drainage ways.
  - Requirements for safety of pools, minimum height of four (4') feet, self latching and closing gates.
- 28.12 Hydrocarbon Wells
  - Entrance Gates with signage is required.
  - Typically installed with new drilling sites – drill sites within residential districts an opaque wall, eight (8') feet in height is required.



- 28.13 Construction and access requirements in easements
  - Fences may not be installed across recorded easements in which a utility or other dedicated service is allowed access to the easement unless specifically approved by the utility.

