

Article VII Development & Design Standards

Section 7.01 Fencing, Retaining Walls & Screening

A. Purpose: In order to encourage the most appropriate use of land and to conserve and protect the privacy and value of adjacent permitted uses, regulations are prescribed herein for the location and type of various screening devices and retaining walls to be used when required or allowed in the various zoning districts or in this Section in accordance with the following standards. No fence shall be constructed in violation of any of the regulations contained herein.

B. Fences:

1. Permit Requirement: It shall be unlawful for any person, corporation, partnership or other legal entity to place, construct or have constructed any type of new fence without having first secured a permit for the placement or construction of the same from the Town's Permitting Department. Each permit shall be valid for a period of ninety (90) days from the date of issuance, during which time the construction must be completed and final inspection requested. This ninety (90) day time limitation shall not apply to fence permits applied for by homebuilders at the same time they apply for a residential building permit. Fence permits applied for in conjunction with residential building permits shall be valid until the house has passed its final inspection by the Building Official or his designated representative.

a. Maintenance/Replacement: A permit shall be required for the maintenance of at least thirty percent (30%) of a fence fronting or facing any right-of-way or roadway. A permit shall not be required for the maintenance of a fence which does not front or face any right-of-way or roadway. Additionally, fences shall be maintained according to the requirements set forth in Section L - *Maintenance & Repair of Non-Living Materials*, of this Ordinance.

2. Height Requirements: The height of the fence shall be taken from the inside of the fence on the property on which it is installed and shall be measured from the natural grade of the ground to the top of the fence if there is no retaining wall. In the event that a retaining wall is utilized, the fence shall be measured from the upper most surface of the retaining wall.

a. Front, Side & Rear Yards: Eight feet (8') is the maximum height allowed for front, side and rear yard fences, except as otherwise provided in Section C - *Location*, (4)(a) and (5)(a), of this Ordinance.

C. Location: No fence shall be constructed in a manner that obstructs proper visual clearance for vehicular traffic.

1. Front Elevation: All fences shall be located a minimum of ten feet (10') behind the front elevation of the primary structure.

2. Side Yard Adjacent to Side Street: Side yard fences shall be located within the side yard building setback, and shall not extend beyond the building line of the side yard adjacent to a side street.

3. Parallel Fences: Fences shall not be constructed parallel to and within twenty feet (20') from an existing fence, except where the following conditions exist. A fence:

a. Surrounding a transformer;

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b. Providing a barrier for pools and spas as required by applicable law;

c. That shares a common post with an existing fence;

4. Golf Course Lots:

a. All fences on lots facing or abutting a golf course shall be constructed of ornamental metal and shall be a minimum of four feet (4') and a maximum of six feet (6') in height

5. Public Park Lots:

a. All fences on lots facing or abutting a public park or other land designated for public recreational purposes shall be constructed of ornamental metal and shall be a minimum of four feet (4') and a maximum of six feet (6') in height.

6. Perimeter Fencing: Perimeter fencing along the official Town boundary line shall be allowed according to the following requirements:

a. A decorative masonry wall shall be constructed on property lying along the perimeter boundary of the Town in conjunction with development of that property, unless otherwise provided in this ordinance.

b. The extent to which fencing or walls are constructed shall be determined by the Planning and Zoning Commission upon consideration of a Site Plan submitted as part of a zoning request and upon the submission of appropriate documentation material.

c. The owner, subdivider or developer of a tract of land to which this Section applies shall have the sole responsibility to build, erect or place a continuous wall or fence at least eight feet (8') in height along the perimeter of the boundary of the subdivision or the perimeter of the corporate boundary of the Town. Such fence or wall shall be erected simultaneously with the commencement of construction of any street improvements within the subdivision, at the commencement of any other construction, or upon the development of any kind upon such tract of land. This provision applied where a tract of land has been platted or is owned under single ownership or under single control, and where such tract of land touches any part of the perimeter or corporate limits of the Town.

d. Construction material for the extension and design of perimeter fences shall be subject to the approval of the Town Council, upon recommendation by the Planning and Zoning Commission as part of a Site Plan submitted as part of a zoning request and upon the submission of appropriate documentation.

i. Maintenance: Following the installation and final acceptance of a Town boundary or subdivision perimeter fence installed by the owner, subdivider or developer of a tract of land, the property owner shall have the sole responsibility of maintaining such fence. Perimeter fences shall be maintained according to the requirements set forth in Section L - *Maintenance & Repair of Non-Living Materials*, of this Ordinance.

D. Materials:

1. Acceptable Materials:

a. Brick, stone, wrought iron or wood are allowed in accordance with the requirements of the applicable zoning district.

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b. Architectural-grade metal, decorative pre-cast embossed concrete, concrete masonry unit with decorative facing, colored and embossed poured-in-place concrete, a combination thereof, vinyl or similar materials shall be submitted for consideration to the Planning & Zoning Coordinator or their designee prior to fence permit approval.

i. Prior to the approval of items listed in D(1)(b) above, detailed plans indicated the height, width, and design shall be submitted for review and approval. Additional information shall be provided to substantiate compliance if requested.

2. Prohibited Materials: Unless specifically provided in D(1)(a)&(b) above, all other materials shall be prohibited including but not limited to, broken glass, nails, screws or wire or any sharp object affixed to a fence in a manner that may cause injury to or prevent

emergency personnel from climbing such fence in an emergency. Nails or screws used in a normal construction manner are not prohibited by this section.

Section (D)(2) Amended Ord. No. 2007-117, § II, 4-16-07

E. General Construction Requirements: All requirements of the International Residential Code, and all amendments thereto, adopted by the Town shall be applicable to the construction of a fence and are hereby incorporated herein and made a part of this Ordinance.

1. A fence shall not be constructed in a manner which alters the natural drainage or existing planned drainage of the land or the surrounding land upon which it is constructed.
2. In order to allow for entrance and exit of fire and police department personnel, each fence must contain at least one (1) gate not less than three feet (3') wide.
3. Fences constructed, repaired or maintained on street rights-of-way and property lines in all subdivisions shall have the finished side of the fence facing the street. Fences on interior lot lines that are not facing street rights-of-way shall be constructed with the finished side faced according to the discretion of the property owner constructing the fence.

F. Construction Requirements for Pre-cast Concrete Fences: All Pre-cast concrete fences shall be designed by a professional engineer licensed by the State of Texas.

G. Animal Runs: A permit is required for the construction of an outdoor animal run for the containment of a dog or other animal authorized in the Town's Animal Control Ordinance. Such outdoor animal run shall be for the sole purpose of containing an authorized animal.

1. Construction Requirements:
 - a. The animal run shall be fully contained within an opaque privacy fence;
 - b. The animal run shall be constructed only of:
 - i. Top-rail galvanized chain link fencing with a gauge of 11½, 12½ or 14 inches and posts, or
 - ii. Ornamental iron.
 - c. The animal run shall not:
 - i. Have metal or fiberglass roofing;
 - ii. Exceed eight feet (8') or the height of the perimeter fence;
 - iii. Shall not be visible from any public right-of-way.

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d. Maintenance: Animal runs shall be maintained according to the requirements set forth in Section L - *Maintenance & Repair of Non-Living Materials*, of this Ordinance.

H. Retaining Walls: A retaining wall permit shall be required for any such wall four feet (4') or higher, or for any such retaining wall height as required by the most recent adopted version of the International Building Code, whichever is more restrictive.

1. Permit Requirements: Permit applications for retaining walls must be accompanied by a site plan indicating the following:
 - a. The location of all existing and planned structures on the subject property and the approximate locations of all structures on adjoining property within one hundred feet (100'); and
 - b. Height of all structures; and
 - c. The location of all existing building lines, easements, watercourses, etc.; and
 - d. Additional information as required by the Building Official.
2. Height Requirement: For the purpose of this Ordinance, the height of a retaining wall shall be determined by measuring the bottom of the footing to the top of the wall.

a. Any retaining wall exceeding four feet (4') in height must be a structurally engineered wall. Only the seal of a professional engineer licensed by the State of Texas will be accepted.

b. Retaining walls below four feet (4') in height, as measured by the requirements of this Ordinance shall not require a permit, unless the retaining wall is located within a drainage easement, floodplain, floodway or other watercourses. In such case, the permit requirements of this Section H shall apply.

3. Location: Retaining walls located along public roadways must provide sufficient area between the retaining wall and the roadway for landscaping to be provided between the retaining wall and the roadway and must be in compliance with the Town's Sight- Visibility requirements, located in the Appendix of the Zoning Ordinance.

4. Materials:

a. Acceptable Materials: Concrete, pavestone, stone, or brick materials shall be allowed for the construction of retaining walls. Other materials similar to the foregoing, including some types of man-made materials may be allowed if such materials are suitable to maintain appearance, soundness, safety, and resistance to decay or weather. Such materials shall be approved the Planning & Zoning Coordinator or their designee prior to permit approval. All retaining walls constructed of formed concrete, concrete block, cinder block or similar materials shall have facing added to their exposed surface(s).

b. Prohibited Materials: The use of treated railroad type cross-tie material, wood of shape and dimension resembling railroad cross-ties or landscape timbers is prohibited for new construction and is also prohibited for replacement work if more than thirty percent (30%) of an existing retaining wall must be replaced or is being replaced.

5. Maintenance: Retaining Walls must be maintained in their original design, placement and structural integrity.

6. Survey Required: Following the issuance of any permit by the Town for retaining walls a

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minimum of four feet in height (4'), and prior to the inspection by the Town of such retaining wall, the applicant shall submit to the Town a Forms Survey as approved by the Building Official. Such survey shall be prepared by a registered and licensed professional surveyor, and shall:

a. Locate all easements, including underground easements, roads, streets, alleys, and other right-of-ways or watercourses, and building set-back lines and other matters located on or affecting the property; and

b. Show all proposed and existing improvements (such as buildings, power lines, fences, etc.), and

c. Show any portion of the property within any floodplain, floodway or other watercourses.

I. Inspection: During construction and/or installation of a fence, retaining wall or outdoor animal run for which a permit is required, the property owner shall contact the Permitting Department to request all required inspections. Failure to request any required inspection shall be a violation of this Ordinance. The Building Official shall "pass" the inspection if the structure meets with the requirements of the Ordinance, or "fail" the inspection for defects in construction, materials or procedure. The property owner shall remedy all defects specified in the failure notice and call for a re-inspection, prior to the expiration of the permit.

J. Screening Standards: Fences, walls and dense landscaped hedges or plantings are permitted in any zoning district as a screening element; however, such screening elements shall conform to the restrictions set forth herein. The following screening standards shall be compiled with:

K. Non- Living Screening:

1. Non- living screening, as herein referred, shall mean any material constructed of masonry, or of a concrete or metal frame, or wood base which supports a permanent type material, the vertical surface of which is not more than thirty percent (30%) open; or

2. A solid fence.

3. Where a non-residential use abuts a residential lot, use or district, the side and rear property lines abutting said residential lot, use or district shall be solidly fenced to a height of eight feet (8') with a wall of masonry construction, unless other material has been approved by the Town Council upon recommendation of the Planning and Zoning Commission, so as to obscure the view from the residential lot, use or district to the non-residential use. The developer of the non-residential property shall erect the fence or wall required by this Section. Where the district boundary dividing a residential district from a non-residential district is along a street or alley, and an automobile parking lot or parking area is located in the front yard of the non-residential use, the said parking lot or parking area facing the residential lot, use or district shall be suitably screened with a wall of masonry construction, unless other material has been approved by the Town Council upon recommendation of the Planning and Zoning Commission, to a height of not less than four feet (4').

4. In non-residential areas, garbage, refuse and trash collection/storage areas shall be gated and fully screened from public view by a masonry fence or wall of at least eight feet (8') in height.

5. Off-street loading areas shall be adequately screened from the public view of any residential dwelling and from any other adjacent land use, as indicated in *Section 50 - Parking and Loading Area Development Standards for Non-Residential Uses, item D.*

6. In all districts exterior appliances and equipment shall be screened so as not to be visible

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from any street. All utility and mechanical equipment shall be screened with a masonry fence or wall, unless other material has been approved by the Planning & Zoning Coordinator.

L. Maintenance and Repair of Non-Living Material:

1. All screening materials, fences, walls, outdoor animal runs, and retaining walls shall be maintained in a neat and orderly manner and in sound condition and good repair at all times.

a. All fences, walls, screening materials and animal runs must be maintained in their original design and placement.

b. The maintenance and/or repair of any screening material, fence, wall or animal run shall be constructed of the same materials as the existing screening material, fence, wall or animal run.

2. When a fence, wall, or outdoor animal run is declared by the Building Official or his designated representative to be dilapidated or hazardous, the Building Official, or his designated representative shall order the occupant, owner, or inhabitant of the property to remove or repair the screening material, fence, wall, or outdoor animal run to a sound condition.

a. Dilapidated shall include, but not be limited to, screening materials, fences, walls, or outdoor animal runs that have broken or missing planks or portions, or that are out of horizontal or vertical alignment by more than one foot (1') measured at the top of the posts.

b. Areas adjacent to screening areas, fences and walls shall be maintained in a clean manner, and shall be free and clear of all debris, trash and weeds, and other such materials or plants not a part of the screening or landscaping.

c. It shall be unlawful for an occupant, owner, or inhabitant of a property to fail to remove or repair a fence, screening material or wall in accordance with this provision within ten (10) days of a written order issued under this section, unless otherwise extended by the Building Official or his designated representative.

Section (L) Amended Ord. No. 2007-117, § II, 4-16-07

M. Living Screening:

1. Any dense evergreen hedge or plant material suitable for providing an opaque visual barrier, for which such material shall be maintained in a healthy growing condition.
2. On lots abutting a golf course or public parks in residentially zoned area, dense evergreen hedges or plant material screening along the golf course or park shall be limited to a maximum height of six feet (6') and shall meet all other requirements of this Ordinance.
3. No screening element shall be constructed, erected, placed, planted or maintained in such position or location so as to be dangerous or detrimental to the health or safety of persons, or in any way obstruct the view so as to constitute a traffic hazard to or on any public or private street or driveway. Provided, however, that the natural existing terrain which cannot be removed by reasonable landscaping techniques, including retaining walls constructed below or at the same grade of said natural existing terrain, shall be excluded from the objects otherwise prohibited.
4. Landscaped earth berms may, when appropriate in scale, be used as a screening element in conjunction with a fence, wall, hedge or other dense planting material.

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5. Fences, Walls, Hedges: Except as otherwise restricted by the provisions of this Ordinance, fences, walls, and hedges may be permitted in any required rear or side yard, or along the edge of any such yard as a screening, decorative or containment element, and shall not exceed a maximum of eight feet (8') in height, and the following requirements shall also apply be observed:
 - a. Nothing shall be erected placed, planted or maintained on a corner lot or parkway adjacent thereto so as to interfere with the visual line of sight at an elevation between two and one-half feet (2-1/2') and eight feet (8') above the top of the adjacent street curb, or if there is no curb then from the average street grade, within a triangular area formed by the intersection of the adjacent street right-of-way lines and a line formed by connecting a point thirty-five feet (35') from the street intersection on one street right- of-way line with a corresponding point on he other street right-of-way line. Any object so erected, placed, planted or maintained shall be a *prima facie* evidence that said object, or combination of objects, is an obstruction constituting a traffic hazard.
 - b. On an interior lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision or in any way create a traffic hazard to motorists, whether the impediment includes entering or exiting any public highway, street, alley or private street or highway, driveway from or to adjacent private property.
 - c. Any object or combination of objects placed, planted or maintained in violation of this Ordinance shall be removed upon written notice by certified mail from the Town's Planning and Zoning Coordinator, or their representative, to the owner, agent or occupant of the premises or property where such obstruction has been erected, placed, planted or maintained.
 - d. Railroad cross-ties and landscape timber shall not be allowed as construction material.

N. Maintenance of Living Material: All screening materials shall be maintained and repaired in a neat and orderly manner at all times. This shall include, but not be limited to pruning, fertilizing, watering, mowing, weeding, and other such activities common to the maintenance of landscaping. Appropriate facilities for watering any plant material shall be installed at time of planting. Screening areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the screening or landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All plant material which dies shall be replaced with plant material of similar variety and size.

O. Additional Screening, Fencing, Landscaping: The Planning and Zoning Commission may recommend and the Town Council may require screening, fencing and landscaping requirements on any zoning case in addition to or in lieu of screening or fencing requirements set out specifically in each use district when the nature and character of surrounding or adjacent property dictates a need to require such devices in order to protect such property and to further provide protection for the general health, welfare and morals of the community in general.

P. Special Exception: The Zoning Board of Adjustment shall have the power to grant a Special Exception waiving or modifying these regulations where the literal enforcement of this Ordinance would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of this Ordinance.

A public hearing is not required for Zoning Board of Adjustment consideration of a Special Exception under this Section.

1. For the purpose of this Ordinance, the following are established as general conditions, ALL Chapter 13 – Zoning

of which are to be met upon the granting of any special exception.

- a. No diminution in value of surrounding properties would be suffered; and
- b. Granting the permit would be of benefit to the public interest or surrounding properties; and
- c. Denial of the permit would result in unnecessary hardship to the owner seeking it; and
- d. A zoning restriction as applied to the owner's property interferes with the reasonable use of the property, considering the unique setting of the property in its environment; and
- e. By granting the permit, substantial justice would be done; and
- f. The use must not be contrary to the spirit of the Ordinance.

2. The burden of demonstrating that all general conditions have been met and that a Special Exception is appropriate is upon the person requesting the Special Exception. The Zoning Board of Adjustment may require a person requesting a Special Exception to provide proof as the Board determines necessary and appropriate for the Board to evaluate the application for Special Exception.

(Ord. No. 2000-06 P&Z § XLV, 3-21-00, Amended by Ord. 2005-16 P&Z, § II, 7-18-05) (Ord. 2007-17 amended Section (D)(2) and (L), § II, 4-16-07)

Code of Ordinances Cross Reference: (Fence Permit Fee), Chapter 1, § 8.03; (Animal Run Permit Fee), Chapter 1, § 8.03; (Authorized Animals), Chapter 2, Article I; (Retaining Wall Permit Fee), Chapter 1, § 8.03; (Pool Screening) Chapter 3, § 15.04; (Shrubs, Hedges, Live Screening), Chapter 13, § 7.03; (Outdoor Storage/Display Screening), Chapter 8, § 5.03

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