

ORDINANCE NO. 2008- _____

**AN ORDINANCE ESTABLISHING NEW FENCE STANDARDS, THEREBY
AMENDING CHAPTERS 12, 15, 19 and 21 OF THE CITY CODE**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 12 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 12

PUBLIC PEACE AND SAFETY

Article II. PROHIBITED CONDUCT

Division A. Public Nuisances

SEC. 12.03. PROPERTY CONDITIONS CONSTITUTING A PUBLIC NUISANCE.

The following property conditions are declared to be nuisances affecting public peace, welfare and safety:

- (3) All electrical wires that are strung less than ~~fifteen (15) feet~~ the minimum required distance above the surface of the ground pursuant to the National Electrical Code requirements.

- (9) All barbed wire fences ~~which are located within three (3) feet of any public sidewalk~~ except for barbed wire on top of non-residential fences, where barbed wire is at least six feet above grade.

Section 2. That Chapter 15 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 15

BUILDINGS AND STRUCTURES

ARTICLE VI. PRIVATE RESIDENTIAL SWIMMING POOLS

SEC. 15.108. GENERAL REQUIREMENTS.

- (a) All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a fence or wall. All fence openings or points of entry into the pool area enclosure shall be equipped with gates. The fence and gates shall be at least four feet in height and shall be constructed of a minimum number 11 gauge woven wire mesh corrosion-resistant material or other materials approved by the Health Authority. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay or corrosion-resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the fence and the ground or other surface shall be not more than four inches.
- (b) Spas or hot tubs with a safety cover that complies with ASTM F 1346 that are kept closed when not in use are exempt from the fencing requirements in Section 15.108 (a).

Section 3. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE I. GENERAL PROVISIONS

Division B. Definitions

SEC. 19.03. DEFINITIONS.

Arbor - An open shelter typically constructed of latticework or exposed boards and often meant to provide partial shade or support climbing plants.

Lot, through - A lot having a pair of opposite lot lines along two more or less parallel public streets and which is not a corner lot.

Fence - An artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this Code, regulations governing the height, location and opacity of fences apply to walls used in lieu of a fence or in combination with a fence.

Retaining wall - A wall or terraced combination of walls used to provide barrier or restrain lateral forces of soil or other material and not used to support, provide a foundation for, or provide a wall for a building or structure.

Screening - A method of visually modifying the view of a structure, building, feature or use by methods such as fencing, walls, berms, densely planted vegetation or a combination of these methods.

Trellis – A frame of latticework used as a screen or as a support for climbing plants.

Division C. Buildings and Obstructions

SEC. 19.08. PERMITTED ENCROACHMENTS INTO REQUIRED YARDS AND SETBACK AREAS.

- (b) Except as prohibited by Chapter 17, Division E of this Code, the site features and equipment listed below shall be permitted to locate in yards and to encroach into required zoning district setbacks to the extent specified in this Section, but in all cases shall maintain the minimum setback indicated.

- (c) In all zoning districts:

- (9) Fences are permitted to encroach into front, side and rear yard setbacks when specifically permitted by the City Code.

Article V. PERFORMANCE STANDARDS

SEC. 19.61. SERVICE STATION PERFORMANCE STANDARDS

- (d) Reserved. [~~Guard rails~~—When commercial property is adjacent to the service station, there shall be a bumper-type fence approximately 18 inches high or a curb between the station and the adjacent commercial property, except at entrances between adjacent properties.]

Section 4. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE III. GENERAL DEVELOPMENT STANDARDS

Division A. General Standards

SEC. 21.301.08. FENCES.

- (a) Purpose and intent. The City of Bloomington recognizes the health, safety, aesthetic, and economic value of fences. The provisions of this Section are intended to:
 - (1) Allow for areas on site for privacy, while maintaining the City's general open design along streets.
 - (2) Provide screening and mitigation of potential conflicts between active areas and more passive areas;
 - (3) Enhance the overall aesthetic conditions within the City;
 - (4) Limit sight line obstructions;
 - (5) Reduce the potential for criminal and illegal activities; and
 - (6) Prevent conflicts with utilities and drainage flow.
- (b) Location.
 - (1) Zoning district. Fences are allowed in any zoning district, subject to the provisions of this Code.
 - (2) Fence location on lot. Unless otherwise required by this Code, fences are permitted up to, but not over the property line. Fences must maintain a clear view triangle setback as required in Sections 17.31 and 21.301.08 (f) (3).
- (c) Height. Except where otherwise required by this Code, the following regulations apply to fence height. For the purposes of fence height requirements, alleys are not considered a street.

- (1) **Limitations.** Except where otherwise required by this Code or required by a condition of approval for a development application, the following limitations apply to fence height:

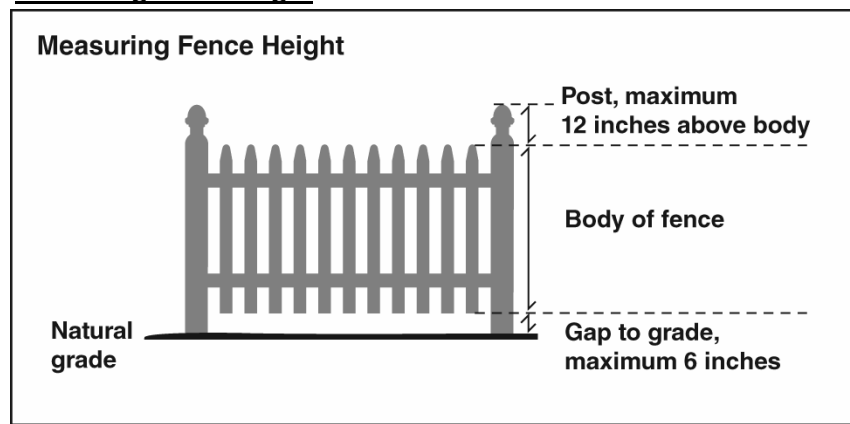
Type of Yard	Maximum Height for Body of Fence	
	Residential	Non-Residential
Adjacent to Street	4 feet	6 feet
Not Adjacent to Street	6 feet	10 feet

- (2) **Exceptions and interpretation.** The following exceptions and guidance on interpretation apply to fence height limitations.

- (A) A residential fence in a yard adjacent to an arterial street as designated by the Comprehensive Plan may rise to a maximum height of six feet;
- (B) Any residential fence that meets the required setback from a specific property line for a principal structure in the applicable zoning district may rise to a height of eight feet;
- (C) A residential fence in the rear yard of a corner lot may rise to a height of six feet provided the fence meets the minimum setback from the street for a principal structure in the applicable zoning district or provided the fence is no closer to a street than an existing principal structure or garage;
- (D) A residential fence in the rear yard of a through lot when adjacent lots are also through lots may rise to a height of six feet, and
- (E) A residential fence adjacent to a nonresidential use may rise to the height of eight feet.

- (3) **Measurement.** 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). Fence posts are permitted to extend a maximum of 12 inches above the body of the fence. In the event fence height has been elevated through the use of a retaining wall, the creation of a berm, or other method for the primary purpose of increasing the elevation of the fence, the fence height is measured from the ground elevation prior to grade modification.

- (4) **Graphic illustration.**
Measuring fence height.



- (d) **Opacity** (the degree of openness to which light or views are blocked measured perpendicular to the fence for each fence section between supports). The following opacity limitations are meant to maintain an open feeling along public streets and to prevent crime.

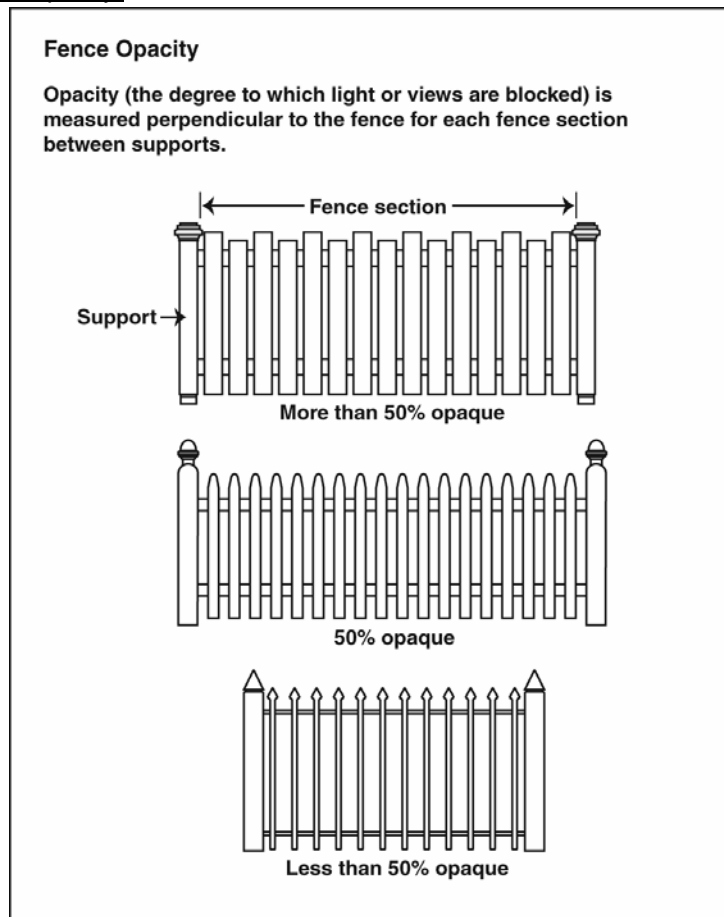
- (1) **Limitations.** Where the body of a fence in a yard adjacent to a street is over three feet in height and does not meet the required setback for a principal structure from a street in the applicable zoning district, the amount of fence opacity is limited to 50 percent. For the purposes of fence opacity limitations, an alley is not considered a street.

(2) Exceptions. The following fences are exempt from opacity limitations:

- (A) Fences in a yard adjacent to an arterial street as designated by the Bloomington Comprehensive Plan provided a 15 foot clear view triangle is maintained between the intersection of any driveway with a sidewalk or bikeway;
- (B) Screening fences required by the City Code (see Section 21.301.08 (g)(4) references);
- (C) Screening fences required by a condition of approval for a development application;
- (D) Fences in the rear yard of a through lot when adjacent lots are also through lots; and
- (E) Fences in the rear yard of a corner lot when the fence is no closer to the street than an existing principal structure or garage.
- (F) Vegetation growing adjacent to or on a fence will not be considered in determining compliance with the opacity requirements for fences.

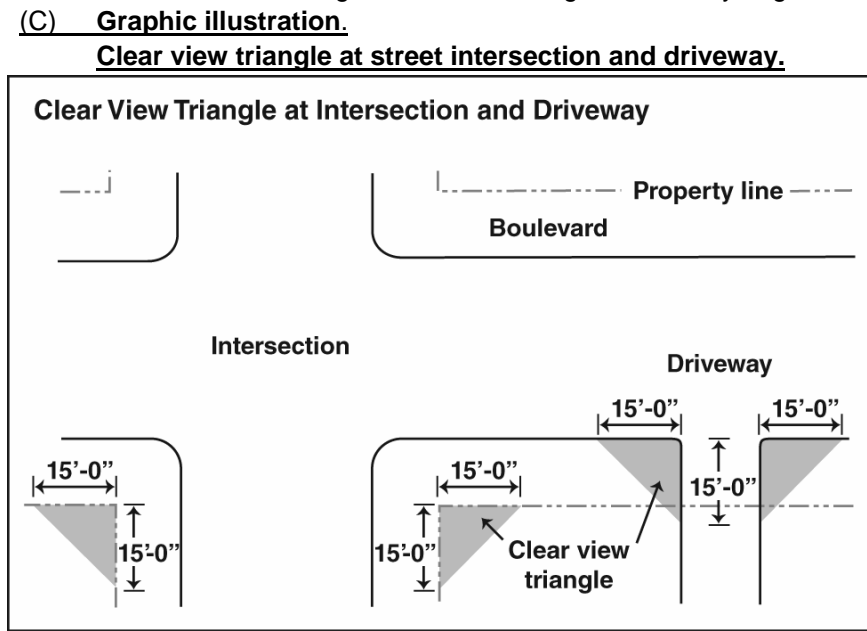
(3) Graphic illustration.

Fence opacity.



- (e) **Materials.** Fences must be constructed of wood, metal, bricks, masonry, plastic, or other materials designed for permanent outdoor fencing. Wood fences must be constructed of cedar, redwood, or other decay resistant wood. Chain link fencing of less than 11 gauge is prohibited. Fences must not be constructed from razor wire, snow fencing, plywood, or materials originally intended for other purposes. Above ground electric fencing is not permitted. Barbed wire is permitted only on top of fences in nonresidential districts, a minimum of six feet above the natural grade.

- (1) **Exceptions.** The following fences are exempt from material limitations:
- (A) Temporary fences made of chicken wire in residential districts are permitted for residential garden uses only.
- (f) **Restrictions.** The following restrictions on fences apply to protect the public health, safety and welfare.
- (1) **Ownership.** All fences, including fence footings, must be located entirely on the fence owner's property.
- (2) **Public easements.** Fences may not be placed on or extend into a public easement where public improvements are located without approval of an encroachment agreement by the Director of Public Works or designee along with proof that the agreement has been filed with the records for the property in the Office of the Hennepin County Recorder or Registrar of Titles. When installing any part of a permitted fence into a public easement, the City or any agent of the City permitted to use the easement will be held harmless for any and all claims for damage to the fence that might occur when work is performed in the easement. In addition, the City is not responsible or liable for the reinstallation of any fence removed from the easement.
- (3) **Clear view triangle.**
- (A) Fences of any style or material placed on corner lots must maintain a clear view triangle for visibility at the intersection of two streets or at the intersection of an alley and a street (see City Code Section 17.31).
- (B) Fences of any style or material must maintain a clear view triangle from the street curb or street edge, not including alleys, for visibility from driveways on the lot or on an adjacent lot. The clear view triangle area for a driveway is formed on each side of the driveway by measuring a distance of 15 feet along the street curb or edge and 15 feet along the driveway edge.



- (4) **Adjacent to sidewalks.** Fences adjacent to public sidewalks must be set back a minimum of two feet from the nearest edge of sidewalk.
- (5) **Fire hydrant and utility clear zone.** The area three feet in radius around all fire hydrants, fire hose connections and utility boxes must be kept free of any fencing that could impede access to or use of the hydrant, fire hose connection or utility box.
- (6) **Fences in floodways.** Fences are not permitted in floodway areas as designated on FEMA's flood boundary and floodway map.

- (7) **Drainage.** A fence must not adversely affect drainage or create debris build-up.
- (g) Where fences are required. At times this Code requires fences to protect the public health, safety and welfare.
- (1) **Dog enclosures.** See Section 14.92.
- (2) **Swimming pool enclosures.** See Sections 14.443 and 15.108.
- (3) **Excavations and open pits.** See Section 16.25.
- (4) **Screening.** See Sections 8.37, 10.05, 10.29.05, 10.38, 14.503, 19.22, 19.31.01, 19.33.01, 19.37, 19.49, 19.50, 19.50.01, 19.50.03, 19.51, 19.52, 19.61.01, 19.62.01, 19.63, 19.63.04, 19.63.07, 19.63.09, 21.301.05, 21.301.06, 21.302.01, and 21.302.02 for specifications on required screening standards, to include fences as a method of screening.
- (h) **Fence installation, posts and supporting members.** All fence elements must be permanently installed and constructed in a workmanlike manner to secure the fence in a vertically level position. Fences must be installed so that posts and lateral supports are not on the side of the fence facing an adjacent property or public right-of-way, unless exposed on both sides.
- (i) **Maintenance.** All fences must be kept in good repair and appearance on both sides of the fence by its owner and not be in a condition of disrepair or danger, or constitute a public or private nuisance. Peeling, flaking and chipped coating must be eliminated and surfaces recoated. The property owner is responsible for maintaining the area between the property line and the owner's fence.
- (j) **Permit.** Fence installations, alterations or repairs do not require a permit, with the following exceptions:
- (1) A fence greater than six feet in height, where permitted by this Code, requires a building permit from the City Building and Inspection Division prior to installation.
- (2) The installation of a fence within a floodplain as specified in Section 19.38.02 requires the approval of the Planning Manager prior to installation.
- (3) The installation of a fence within a shore area as specified in Section 19.87.04 requires a shore area permit from the City Building and Inspection Division prior to installation.
- (k) **Utilities.** The property owner is responsible for verifying that no conflicts exist with utilities prior to installation of fencing.
- (l) **Temporary fences.** Temporary fences are prohibited in residential districts, except where required by this Code (see Sections 16.25 and 17.11 for construction or excavation exceptions).
- (m) **Other constructed features.**
The following constructed features are differentiated from fences.
- (1) **Arbors and trellises.**
- (A) Except where otherwise required in this Code, regulations governing fences apply to arbors and trellises used in lieu of a fence or in combination with a fence, except that arbors and trellises used in lieu of a fence may rise once to a maximum height of nine feet for a distance of six feet in length.
- (B) Arbors and trellises are permitted encroachments within required setback areas as provided in Section 19.08.
- (2) **Walls.** Except where otherwise required in this Code, regulations governing the height, location and opacity of fences apply to walls used in lieu of a fence or combination with a fence.
- (n) **Effective date.** This ordinance will be effective on December 31, 2008.

Passed and adopted this _____ day of _____, 2008.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney