

## ORDINANCE NO. 15-06

### AN ORDINANCE AMENDING AND RECREATING THE CODE OF ORDINANCES FOR THE CITY OF WINDSOR HEIGHTS, IOWA, BY REPLACING THE ENTIRETY OF SECTION 172.5, FENCES, AND REPEALING SECTION 155.05

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, POLK COUNTY, IOWA:**

SECTION 1. Purpose. The purpose of this ordinance is to amend and recreate Chapter 172, Section 172.5 of the Windsor Heights Code of Ordinances through the adoption and ordaining of the following language.

SECTION 2. Amended. Section 172.5 is hereby amended as follows:

Strikethrough the entirety of Section 172.5

#### Section 172.05 FENCE REGULATIONS

1. Permit Required. It shall be unlawful for any person to construct, alter, ~~replace~~ or relocate any fence or landscape wall within the City without first obtaining the appropriate permit(s) as required by the City Code of Ordinances and Zoning Code. A written application for the permit shall be filed with the Director of Planning. The application shall include the street address or legal description of the property, the name of the owner, the name and address of the person performing the work, and the proposed plan of construction or repair. The plan of construction or repair must include the depth, width, and type of material used along with where it will lie compared to structures and lot lines. The Director of Planning shall issue the permit if the proposed plan meets all the requirements of this chapter and the fence regulations including any specifications contained herein, if the fee is paid, and if the construction or repair as planned will not create any substantial hazard. A permit shall expire six (6) months after the date of issuance, if the fence is not constructed at that time.
2. The applicant for a fence permit shall pay a permit fee to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. All permit fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such permit fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective permit fees shall be kept on file in the office of the City Administrator and shall be open to inspection during regular business hours.
3. Location Restriction. Unless otherwise provided by this Zoning Code or other sections of this Code of Ordinances, no fence shall be built on any lot or tract outside of the property owner's surveyed lot lines. If a fence is erected along the property lines the owner installing the fence must ensure there is a permanent means for maintaining both sides of the fence subject to state and local ordinances. No landscape retaining wall shall be installed within two feet of the lot line of another property that is in excess of 24" without first conducting a consultation meeting with the City's storm water coordinator and the adjoining property owner.

Comment [BK1]: New – we encounter this often

Comment [BJ2]: Both from 155.05

Comment [BJ3]: Added language.

4. Responsibility. The property owner erecting the fence/wall is responsible for the following provisions:
  - A. Ensuring the fence is located on their property in accordance with the provisions of this section.
  - B. Maintaining the fence on both sides.
  - C. Ensuring that the fence be maintained in a state of good repair and kept safe for pedestrians or other traffic.
5. Required Openings. Unless otherwise provided by this Zoning Code or other sections of this Code of Ordinances, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.
6. Sight Obstruction. No fence permitted or required by this Zoning Code or other sections of this Code of Ordinances shall be built within a triangle formed by the adjacent sidecurb lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.
7. Facing. The finished surfaces or decorative side of any fence shall face toward adjacent properties and street frontage.
8. Effect on Adjacent Properties. No fence shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.
9. Residential Fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:
  - A. Height. The maximum height of a fence within a required front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be six feet and is measured from the property grade.
  - B. Exception for Street Side Yards. On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.
  - C. Exception to Openness Requirement. Fences built on residential property outside of required front or street side yards may exceed 50 percent closed construction.
  - D. Exception for Front Yards of Double Frontage Lots. A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City, and if such frontage does not provide primary access to the property.
  - E. Prohibited construction methods. No woven, twisted, welded or interlaced wire fence shall be erected on residential properties. No chain link or wired fence of any kind shall be constructed or maintained with the cut or selvage end of the fencing material exposed and leaving an opening more than two inches above the ground or extending upward beyond the cross bar.
  - F. Materials. Fences shall be constructed of wood, PVC/ resin, stone, wrought iron, masonry or chain link materials only. Wood fences shall utilize standard building lumber only.
  - G. Location restrictions. Fences may not be constructed on lots unless a primary building is in place, with the exception of a temporary fence for safety as approved by the City or Zoning Administrator.

Comment [BJ4]: Added material

Comment [BJ5]: Added material

Comment [BJ6]: Added language.

Comment [BJ7]: Added material

- H. Prohibited Materials. A fence or wall may not be designed to cause pain or injury to humans or animals. Therefore, the use of spikes, broken glass, barbed wire, razor wire, nails, electrical charge or other similar materials shall be prohibited.
  - I. Fences may not be constructed within two feet of a public sidewalk.
10. Nonresidential fences.
- A. The maximum height of a fence for any permitted use in a nonresidential district shall be eight feet.
  - B. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City.
  - C. Barbed wire or electrified fences above grade shall not be used in the construction of any fence within the corporate limits of the City.
11. Covenants. The City does not enforce covenants on file with the Recorder. Property owners shall be aware of all restrictive covenants for their platted subdivision.
12. Easements: No fence may be allowed to be constructed, built or located over a public easement, unless otherwise noted in this ordinance or approved by the zoning administrator.
13. Overland flowage easements.
- A. Fences may encroach into an overland flowage easement providing measures are taken to make certain that the fence does not restrict the water flow, cause siltation buildup, etc.
  - B. Permitted fence material includes chain link, wrought iron fencing, picket style fencing that is at least thirty percent (30%) open, or other fencing styles that are at least thirty percent (30%) open.
  - C. Solid fencing shall be elevated a minimum of six inches (6") through the swale part of the easement to allow water flowage.
14. Nonconforming fences. Any fence existing on the effective date of this Chapter and not in conformance with this Section may be maintained, but alterations, modifications, relocations or improvements of more than fifty percent (50%) of said fence shall require a permit and the owner to bring the fence into compliance with this Section.
15. Miscellaneous. Fences which enclose public or institutional parks, playgrounds, or schoolyards in residential areas shall be of open type not exceeding 6' in height except as required for recreational purposes such as baseball backstop when a limited section(s) of open fence up to 10' in height is allowed, where necessary to provide for such backstop or similar purposes.

Comment [BJ8]: Added material

Comment [BJ9]: Added material

Comment [BJ10]: Added material

Comment [BJ11]: Added material

Comment [BJ12]: Added material

SECTION 3. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. Severability. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. Effective Date. This ordinance shall be effective after the final passage, approval and publication as provided by law.

Passed and Approved this 21<sup>st</sup> Day of September, 2015

1<sup>st</sup> Reading: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

3<sup>rd</sup> Reading: \_\_\_\_\_

Publish Date: \_\_\_\_\_

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Diana Willits, Mayor

(SEAL)

ATTEST:

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Brett Klein, City Administrator