

ORDINANCE NO.

AN ORDINANCE REPEALING CITY CODE SECTION 9-4-41 RELATING TO BARBED WIRE FENCES; AMENDING CITY CODE SECTION 25-2-899 RELATING TO FENCE DESIGN; AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 9-4-41 (*Restriction on Use of Barbed Wire Fences*) is repealed.

PART 2. City Code Section 25-2-899 (*Fences as Accessory Uses*) is amended to read as follows:

(A) Except as otherwise provided in this chapter, a fence:

- (1) is permitted as an accessory use in any zoning district; and
- (2) must comply with the requirements of this section.

(B) In this section:

- (1) an ornamental fence is a fence with an open design that has a ratio of solid material to open space of not more than one to four; and
- (2) a solid fence is a fence other than an ornamental fence.

(C) The height restrictions of this section do not apply to an ornamental fence.

(D) Except as otherwise provided in this section, a solid fence constructed along a property line on flat terrain may not exceed a [an average] height of six feet. ~~[or a maximum a height of seven feet].~~

(E) A portion of a solid fence constructed along a property line on sloped terrain may be constructed to a maximum height of seven feet.

(F[E]) A solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the

fence that exceeds a height of six feet files a written consent to the construction of the fence with the building official, and:

- (1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or
- (2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.

(G[F]) A solid fence may be constructed to a maximum of eight feet in height if the fence is located on or within the building setback lines.

(H[G]) A[a] solid fence may be constructed to a height of eight feet if the fence is located between a residential use and:

- (1) property zoned as a commercial or industrial base district;
- (2) property used for a commercial or industrial use; or
- (3) an alley that separates a residential use and:
 - (a) property zoned as a commercial or industrial base district; or
 - (b) property used for a commercial or industrial use.

(I) A solid fence facing the street may not exceed a height of five feet.

(J) Except as provided in Paragraph (1), a fence shall be constructed in accordance with this subsection.

(1) This subsection does not apply to a fence that:

- (a) was constructed before [insert effective date of ordinance];
- (b) is required to comply with historic design standards and complies with Paragraph (3); or

(c) is at least six feet in height and located on a property with a non-residential use.

(2) When more than 50 percent of the total linear distance of an existing fence is replaced, the entire fence must comply with this subsection.

(3) A fence may not include:

(a) spiked pickets, spiked bars, or other spiked decorative elements above the top horizontal backer rail;

(b) vertical pickets above the top horizontal backer rail if the vertical pickets are separated by more than two inches and less than nine inches;

(c) razor-like wire; or

(d) barbed wire unless the fence is enclosing an airport or other landing area for aircraft and the use of barbed wire is required by Federal Aviation Administration regulation.

(4) A fence that creates a substantial risk of entrapment or impalement is prohibited.

(5) A solid chain link fence shall use knuckle selvage.

(K) A fence used as a swimming pool barrier shall comply with Chapter 25-12, Article 14 (*Swimming Pool and Spa Code*).

PART 3. This ordinance takes effect on _____, 2023.

PASSED AND APPROVED

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_____, 2023 _____

Kirk Watson
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Myrna Rios
City Clerk