

City Council Communication

Department: Community Development CASE #ZT-21-006 Applicant: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503	Ordinance No. _____	1 st Consideration: 1/24/2022 2 nd Consideration: 2/14/2022 3 rd Consideration: 2/28/2022 Planning Commission: 12/14/2021
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Subject/Title

Request: Public hearing on the request of the City of Council Bluffs to amend Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) relative to permit requirements for fences, fence materials, fence height and placement regulations, underground electric fences used for the purposes of containing household pets, fences required for swimming pools, and security fences.

Background

The Community Development Department is requesting to amend Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) relative to permit requirements for fences, fence materials, fence height and placement regulations, underground electric fences used for the purposes of containing household pets, fences required for swimming pools, and security fences.

The proposed text amendment follows internal discussions between City staff in the Legal Department, the Public Works Department, the Planning Division, the Permits and Inspections Division, and the Animal Control Division relative to fence regulations. In these discussions, staff determined it would be beneficial to establish permit requirements for fences as it would help residents ensure their fences are built in conformance with the Council Bluffs Municipal Code. Additional changes to Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) relative to fence materials, fence height and placement, underground electric fences used for the purposes of containing household pets, fences required for swimming pools, and security fences have been proposed for clarity and consistency purposes. The proposed amendment is included as Attachment 'A.'

All City Departments and local utilities were notified of the proposed text amendment. The following comments were received:

- The Council Bluffs Permits and Inspections Division stated they have no comments on the request.
- The Council Bluffs Public Works Department stated they have no additional comments on the request since the proposed amendment addresses sight distance triangles.
- The Council Bluffs Fire Department stated they have no comments on the request.
- Council Bluffs Water Works stated they have no comments on the request.
- Mid-American Energy Company stated they have no conflict or concerns with the request provided that any fence installation does not cross or violate any existing utility easement, is not in direct conflict, do not create safety violations, or impede the reasonable access to MidAmerican Energy facilities. They also stated that property owners or their contractors should be encouraged to request underground searches through the Iowa One-Call system and consult with their local utilities prior to excavating or installing any fencing.
- Lumen Technologies stated they have no issues with the request.

Discussion

1. Under current regulations, no permit is required for the installation of fences in Council Bluffs. The proposed text amendment would require property owners and/or builders to obtain a permit from the Council Bluff Permits and Inspections Division prior to installation, which would help residents ensure their fences are built in conformance with the Council Bluffs Municipal Code. Fees for such permits will be established by City Council and will be enumerated in Chapter 2 of the Council Bluffs Municipal Code.
2. In 2020, fence violations were the third most common violation type and accounted for 14% of all zoning enforcement cases in the city. It is anticipated that the proposed text amendment will help reduce the occurrence of fence violations in Council Bluffs as the permit review process would allow staff to evaluate fence requests prior to installation and thus ensure compliance with the standards in Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance).
3. Other notables changes to Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) include:
 - a. Fence type

Existing

- Vegetation fences are subject to all standards in Section 15.24.040.
- Retaining walls are not mentioned in Section 15.24.040.
- Underground electric fences are not mentioned in Section 15.24.040.
- Fences required for swimming pools are not mentioned in Section 15.24.040.
- Security fences are regulated under Sections 15.24.040(B), General Requirements for Open Space/Recreation and Industrial Districts, and 15.23.040(C), General Requirements for Residential and Commercial Districts.

Proposed

- Vegetation fences would be exempt from Section 15.24.040.
- Retaining walls would be exempt from Section 15.24.040
- Underground electric fences used for the purposes of containing household pets and/or livestock would be permitted in accordance with Section 4.20.140 of the Council Bluffs Municipal Code.
- Fences required for swimming pools would be permitted in accordance with Section 17.02.065 of the Council Bluffs Municipal Code.
- Security fences would be regulated under Section 15.24.040(C), Security Fence Requirements, which simplifies existing standards for security fences and eliminates an inconsistency relative to barbed wire fences in the A-2/Parks, Estates and Agricultural District. No significant changes to the regulation of security fences will result from the proposed text amendment.

- b. Fence materials

Existing

- There are no fence material requirements in Section 15.24.040.

Proposed

- Fences visible from the public right-of-way or an abutting property would have to be constructed out of the following materials or a combination thereof: wood, vinyl, composite fencing, wrought iron, aluminum, chain link or coated chain link. Metal/steel panels would only be allowed for perimeter fencing in open space/recreation and industrial districts.

c. Fence height

Existing

- In residential and commercial districts, the height of a fence must not exceed four feet.

Proposed

- In residential and commercial districts, a maximum six-foot tall fence would be allowed in the front yard if the fence is placed behind the wall of the principal structure facing a public or private street.
- In commercial districts, a maximum six-foot tall fence would be allowed in the street-side yard.
- In residential districts, a maximum six-foot tall fence would be allowed in the street-side yard if none of the conditions in Section 15.24.040(B)(2) exist.

The Community Development Department has prepared a graphic that illustrates proposed fence height regulations in residential districts. The illustration is included as Attachment 'B' and is intended to show how the proposed fence regulations would be applied in different scenarios.

Recommendation

The Community Development Department recommends approval to amend Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) relative to permit requirements for fences, fence materials, fence height and placement regulations, underground electric fences used for the purposes of containing household pets, fences required for swimming pools, and security fences, as shown in Attachment 'A.'

Public Hearing

Staff speakers for the request:

1. Moises Monrroy, Planner, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503
2. Christopher Gibbons, Planning Manager, City of Council Bluffs, 209 Pearl Street, Council Bluffs, IA 51503

Speakers in favor: None

Speakers against: None

Planning Commission Recommendation

The City Planning Commission recommended approval to amend Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) relative to permit requirements for fences, fence materials, fence height and placement regulations, underground electric fences used for the purposes of containing household pets, fences required for swimming pools, and security fences, as shown in Attachment 'A.'

VOTE: AYE - Danielsen, Halm, Opperman, Rew, Scott, Stroebele, and VanHouten. NAY - None
ABSTAIN - None ABSENT - Bass, Haner, Hutcheson, and Rater. VACANT - None Motion: Carried.

Attachments

Attachment A: Proposed Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance)

Attachment B: Fence Height Regulations in Residential Districts Illustration

Prepared by: Moises Monrroy, Planner, Community Development Department