

City Council Communication

Department: Community Development CASE #ZT-22-007 Applicant: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503	Ordinance No. _____	<u>City Council</u> 1 st Consideration: 9/26/2022 2 nd Consideration: 10/10/2022 3 rd Consideration: 10/24/2022 Planning Commission: 9/13/2022
<p style="text-align: center;">Subject/Title</p> <p>Request: Public hearing on the request of the City of Council Bluffs to amend the following sections of Title 15: <u>Zoning</u> of the Council Bluffs Municipal Code: Section 15.24.040(C)(2), <u>Fence Height Requirements</u>, relative to the maximum height allowed for fences in a street-side yard in residential districts; Section 15.34.030(A)(2), <u>Solar Energy Conversion Systems – General Provisions</u>, relative to solar energy conversion systems in planned development areas/districts; Section 15.34.030(B)(1), <u>Accessory Solar Energy Conversion Systems for One- and Two-Family Uses – Building-Mounted Systems</u>, by adding subsection (a)(3) relative to solar energy conversions systems mounted on existing nonconforming structures; and Section 15.34.030(C)(1), <u>Accessory Solar Energy Conversion Systems for Non One- and Two-Family Uses – Building-Mounted Systems</u>, by adding subsection (a)(1) relative to solar energy conversions systems mounted on existing nonconforming structures.</p>		
<p style="text-align: center;">Background</p> <p>The Community Development Department is requesting to amend Title 15: <u>Zoning</u> of the Council Bluffs Municipal Code as follows:</p> <ol style="list-style-type: none">1. Amend Section 15.24.040(C), <u>Fence Height Requirements</u>, by updating subsection (2) relative to the maximum height allowed for fences in the street-side yard;2. Amend Section 15.34.030(A), <u>Solar Energy Conversion Systems – General Provisions</u>, by updating subsection (2) relative to the regulation of solar energy conversion systems in planned development districts;3. Amend Section 15.34.030(B)(1), <u>Accessory Solar Energy Conversion Systems for One- and Two-Family Uses – Building-Mounted Systems</u>, by adding subsection (a)(3) relative to solar energy conversions systems mounted on existing nonconforming structures; and4. Amend Section 15.34.030(C)(1), <u>Accessory Solar Energy Conversion Systems for Non One- and Two-Family Uses – Building-Mounted Systems</u>, by adding subsection (a)(1) relative to solar energy conversions systems mounted on existing nonconforming structures. <p>The provisions of the Zoning Ordinance outlined above were adopted within the last 18 months. The proposed text amendment consists of minor changes intended to provide clarity on the implementation of these standards.</p> <p>All City Departments and local utilities were notified of the proposed text amendments. No adverse comments have been received.</p>		

Discussion

1. Section 15.24.040(C) Fence Height Requirements

All fences shall comply with the **maximum** height requirements set forth in the following table, unless otherwise specified below.

The purpose of this revision is to clarify that Section 15.24.040(C) establishes maximum height requirements for fences in the City of Council Bluffs.

2. Section 15.24.040(C) Fence Height Requirements

2. In residential districts, the height of a fence in a street side yard shall not exceed four feet if any of the following conditions exist:

b. A driveway is located within the street side yard **of the property where the fence is installed.**

The purpose of this revision is to clarify that CBMC Section 15.24.040(C)(2)(b) is applicable when a driveway is located on the same property where a fence is proposed to be installed. The proposed revision is also intended to help differentiate this section of the Municipal Code with the CBMC Section 15.24.040(C)(2)(c), which addresses fence height in the street-side yard in residential districts when a driveway is located on an adjoining property.

3. Section 15.24.040(C) Fence Height Requirements

2. In residential districts, the height of a fence in a street side yard shall not exceed four feet if any of the following conditions exist:

c. ~~The fence is located within five feet of~~ **The driveway entrance of an adjoining property along the same street is located within ten feet of a shared property line. If a topographical difference exists between the two properties, and the property owner can reasonably demonstrate the fence will not block visibility from the driveway, said fence may exceed four feet in height at the discretion of the Community Development Director or their designee.**

As per the proposed revision, CBMC Section 15.24.040(C)(2)(c) would be applicable when the driveway entrance of an adjoining property is located within ten feet of a shared property line, as opposed to five feet under current regulations. The purpose of this revision to ensure that the installation of a fence does not create an obstruction that adversely impacts the visibility of vehicles using the adjoining driveway. The proposed revision also provides relief to property owners if they can be reasonably demonstrate that the installation of a fence that exceeds four feet in height will not block visibility from the driveway due to existing topographical conditions.

4. Section 15.34.030(A) Solar Energy Conversion Systems – General Provisions

2. Solar Energy Conversion Systems in ~~the MCR/Mixed Commercial-Residential District~~ **any planned development district** shall be reviewed as part of the adoption of, **or amendment to,** a development plan.

CBMC Section 15.34.030(A) is currently only applicable to the MCR/Mixed Commercial-Residential District. The purpose of this revision is to broaden the applicability of this section of the Municipal Code to other planned development districts which provide the option of the adoption of a development plan (i.e. P-C/Planned Commercial District, P-I/Planned Industrial District, PR/Planned Residential Overlay).

5. Section 15.34.030(B) Accessory Solar Energy Conversion Systems for One- and Two-Family Uses

1. Building-Mounted Systems

a. Building-mounted systems shall be subject to all applicable minimum setback regulations in the underlying zoning district.

(3) Systems mounted on existing nonconforming structures shall be installed in such a manner that does not increase the degree of nonconformity.

CBMC Section 15.34.040(B)(1)(a) requires building-mounted solar energy conversion systems installed to serve one- and two-family residential uses to comply with minimum setback requirements in the underlying zoning district. It is possible to interpret this provision prohibits the installation of solar energy conversion systems on existing nonconforming structures that do not meet minimum setback requirements, which was not the intention. The proposed provision is intended to remove any ambiguity in this matter and explicitly state solar energy conversion systems are allowed to be installed on existing nonconforming structures provided the degree of nonconformity is not increased.

6. *Section 15.34.030(C) Accessory Solar Energy Conversion Systems for Non One- and Two-Family Uses*

1. *Building-Mounted Systems*

- a. *Building-mounted systems shall be subject to all applicable minimum setback regulations in the underlying zoning district. Systems mounted on principal structures may encroach into the required front and side yards in accordance with Section 15.24.060 of this Title.*

(1) Systems mounted on existing nonconforming structures shall be installed in such a manner that does not increase the degree of nonconformity.

CBMC Section 15.34.040(C)(1)(a) requires building-mounted solar energy conversion systems installed to serve land uses other than one- and two-family residential uses to comply with minimum setback requirements in the underlying zoning district. The proposed provision serves the same purpose as the previous revision.

Recommendation

The Community Development Department recommends approval of the request to amend Section 15.24.040(C)(2), *Fence Height Requirements*; Section 15.34.030(A)(2), *Solar Energy Conversion Systems – General Provisions*; Section 15.34.030(B)(1), *Accessory Solar Energy Conversion Systems for One- and Two-Family Uses – Building-Mounted Systems*; and Section 15.34.030(C)(1), *Accessory Solar Energy Conversion Systems for Non One- and Two-Family Uses – Building-Mounted Systems*, of the Council Bluffs Municipal Code (Zoning Ordinance), as shown in Attachments ‘A’ and ‘B’.

Public Hearing

Staff speakers for the request:

1. Moises Monroy, Planner, 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 the following sections of Title 15: *Zoning* of the Council Bluffs Municipal Code: Section 15.24.040(C)(2), *Fence Height Requirements*, relative to the maximum height allowed for fences in a street-side yard in residential districts; Section 15.34.030(A)(2), *Solar Energy Conversion Systems – General Provisions*, relative to solar energy conversion systems in planned development areas/districts; Section 15.34.030(B)(1), *Accessory Solar Energy Conversion Systems for One- and Two-Family Uses – Building-Mounted Systems*, by adding subsection (a)(3) relative to solar energy conversions systems mounted on existing nonconforming structures; and Section 15.34.030(C)(1), *Accessory Solar Energy Conversion Systems for Non One- and Two-Family Uses – Building-Mounted Systems*, by adding subsection (a)(1) relative to solar energy conversions systems mounted on existing nonconforming structures.

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

Attachments

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

Attachment B: Proposed Section 15.34.030, Solar Energy Conversion Systems, of the Council Bluffs Municipal Code (Zoning Ordinance)

Attachment C: Fence diagrams for fencing in a street side yard

Prepared by: Moises Monrroy, Planner, Community Development Department