ORDINANCE NO. 6524

AN ORDINANCE TO AMEND CHAPTER 15.24, SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS OF THE MUNICIPAL CODE (ZONING ORDINANCE) OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING SECTION 15.24.040 "FENCING REGULATIONS".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 15.24, Supplemental Use and Site Development Regulations of the Municipal Code (Zoning Ordinance) of the 2020 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by amending Section 15.24.040, "Fencing Regulations" to read as follows:

15.24.040 Fence Regulations

Fences, including electric fences, masonry walls, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, whether above or below ground, placed on private property, used for any purpose shall conform to the following requirements:

A. General Requirements for All Zoning Districts
    1. No person or entity shall be allowed to erect or otherwise install any fencing (other than vegetation) under the requirements of this section unless they have first applied for and received a permit from the City of Council Bluffs Building Division.
        a. As part of the permit, the applicants shall certify that they will abide by all applicable municipal codes of the City of Council Bluffs and shall assume full responsibility for any public or private property disputes associated with the installation of the applicant's fence, including, but not limited to, trespass and property line/boundary location disputes.
        b. Fees for such permits shall be established by the city council and shall be enumerated in Chapter 2 of the Council Bluffs Municipal Code.
    2. No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.
    3. The height of a fence shall be measured from the grade on which the fence is placed to the highest point of the fence structure. Sharp or pointed projections, outriggers, and barbed wire strands may project an additional two feet from the maximum fence height allowed in the underlying zoning district, if applicable.
    4. The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.
    5. No fence shall be placed within a front yard or street-side yard that creates a safety hazard by obstructing the clear view of pedestrians or vehicles.
    6. No fence or any other obstruction shall be placed within an equilateral triangle having sides of thirty-five (35) feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.

7. No fence shall be placed within three feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.
8. Underground electric fences shall be permitted in all zoning districts for the purposes of containing household pets and/or livestock and shall comply with all requirements in CBMC 4.20.140.
9. The placement, height, appearance and material of fences in planned developments shall be established as part of the adopted development plan.

B. Fence Materials

1. In all zoning districts, fences visible from the public right-of-way or an abutting property shall be constructed of the following materials or a combination thereof: wood, vinyl, composite fencing, wrought iron, aluminum, architectural decorative metal panel fencing, chain link or coated chain link.
2. In open space/recreation and industrial districts, metal may be allowed as an acceptable material for fences visible from the public right-of-way or an abutting property.
3. In all zoning districts, masonry walls visible from the public right-of-way or an abutting property shall be constructed of the following materials or a combination thereof: brick, stone, cast-stone, split-face blocks or masonry blocks.
4. Other fence/masonry wall materials may be allowed at the discretion of the Community Development Director or their designee.
5. Fences and walls not visible from the public right-of-way or an abutting property may be constructed out of any material.

C. Fence Height Requirements

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

Zoning District	**Front Yard**	**Street Side Yard**	**Interior Side/Rear Yard**
Residential	4 feet see 1 below	6 feet see 2 below	6 feet
Commercial	4 feet see 1 below	6 feet	6 feet
Industrial see 3 below	8 feet	8 feet	8 feet
Open Space/Recreation	8 feet	8 feet	8 feet

1. In residential and commercial districts, a maximum six-foot tall fence may be allowed in the front yard if the fence is placed behind the wall of the principal structure facing a public or private street and does not create a safety hazard by obstructing the clear view of pedestrians or vehicles. Ornamental iron fences located in the front or street side yards may exceed four feet in height, but are limited to six feet in overall height.

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:

    a. An entrance to the principal structure faces the street side yard;

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

installed;

c. The driveway entrance of an adjoining property 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; or

d. The street side yard abuts an alley that intersects a public or private street.

3. In the I-2 and I-3 Districts when a parcel contains 50 contiguous acres or more of total land area, a maximum 10-foot tall fence may be allowed in the interior side, street side and rear yards. In the front yard, the height of the fence shall not exceed eight feet unless its placement meets the setback requirements for structures. Ten-foot tall fences shall only be constructed out of wood, vinyl-coated chain link or architectural precast concrete panels, and shall not incorporate any sharp or pointed projections, outriggers, or barbed wire strands. High-gauge deep-rib structural fencing may be allowed as an acceptable material for ten-foot tall fences if not visible from a major arterial street.

4. In residential districts, fences proposed to exceed six feet in height due to topographical conditions or unusual circumstances shall be reviewed on a case-by-case basis by the Community Development Director or their designee.

5. Retaining walls used for the purposes of supporting, holding or restraining soil between two different elevations shall be exempt from the requirements of this Section provided it does not create a safety hazard by obstructing the clear view of pedestrians or vehicles.

D. Security Fence Requirements

1. No barbed wire or electrically charged security fences shall be allowed in the West Broadway Corridor Design Overlay (CDO).
2. Security fences containing sharp or pointed projections, outriggers, or barbed wire strands may be allowed in the A-1, A-2, I-1, I-2 and I-3 Districts.
3. Security fences containing sharp or pointed projections, outriggers, or barbed wire strands may be allowed in the C-2 District when placed on top of an otherwise conforming fence, subject to the following conditions:
    a. The site shall not abut any residential district; and
    b. The use shall comply with all requirements for conforming use and the site development regulations in the C-2 District.
4. Security fences containing outriggers shall have a minimum height of six feet. Outriggers may project an additional two feet from the maximum fence height allowed in the underlying zoning district, and shall be installed at a maximum angle of 45 degrees.
5. Electrically charged security fences may be allowed in the C-2, I-1, I-2 and I-3 Districts in accordance with CBMC 13.16.485, subject to the following conditions:
    a. The site shall not be within 300 feet of a residential district, or a legal non-conforming residential use;
    b. The use shall comply with all requirements for conforming use and site development regulations in the underlying zoning district; and
    c. The fence shall not be located within the area defined as the front yard setback, street-side yard setback, or the area between a structure and the front property line or street-side property line, if greater than the minimum required setback.

E. Required Fences

1. A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:
    a. A wood and/or masonry fence, at least fifty (50) percent opaque, six feet in height;
    b. A vegetation fence capable of providing a substantially opaque barrier and
    c. A landscaped earth berm with a maximum slope of three to one vertical/horizontal, no more than six feet above the existing grade of the property line separating the zoning districts; or
    d. Any combination of the described methods that achieves a cumulative height of six feet.
2. All swimming pools shall be fenced in accordance with CBMC 17.02.065.

F. Maintenance.
Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

(Ord. 5963 § 1, 2008)

(Ord. No. 6255, § 1, 1-11-2016)

HISTORY
Amended by Ord. 6480 on 2/28/2022

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND October 10, 2022.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
ALLISON HEAD Deputy City Clerk

First Consideration: 9-26-22
Second Consideration: 10-10-22
Public Hearing: 10-10-22

Planning Case No. #ZT-22-007

Third Consideration: _____