



Board of Aldermen Request for Action

MEETING DATE: 1/17/2023

DEPARTMENT: Development

AGENDA ITEM: Bill No. 2969-22, Amending Fence Regulations - 2nd Reading

REQUESTED BOARD ACTION:

A motion to read Bill No. 2969-22 for Second Reading by Title Only to amend provisions of the zoning code pertaining to Fences.

SUMMARY:

The ordinance would change the zoning to clarify the fence regulations, and in particular front yard fences and what constitutes a "decorative or ornamental" fence.

BACKGROUND:

The zoning code was amended in 2003 to incorporate new fence regulations as a result of a new building code that required fence permits prior to construction. One of the items added was clarifications about front yard fences and the desire to keep the front yards of homes open to avoid neighbors building a fence that could disrupt the view of adjacent neighbors from their driveways. Over several years, those provisions were tweaked and changed which caused several problems with the ordinance. Additionally, two neighbors had constructed fences without permits that did not meet the fence code requirements for "decorative or ornamental", which brought those citizens to the Board to seek a fix. Both of those fences were chain link fences, but were vinyl coated. After several meetings and discussions, and following a public hearing, the Planning Commission ultimately recommended several changes to the code. Staff the redrafted an entire new fence code provision that addressed all issues, including height, location, barbed wire and what types of fences were appropriate for various zoning districts. The Commission reviewed the request to amend electric fence provisions, but because those provisions were more directed towards public safety and not traditional zoning issues, left that issue for the Board to discuss at a later meeting.

PREVIOUS ACTION:

The regulations concerning fences have been created, modified, and amended numerous times over the previous 50 years, including the new B-4 provisions from 2019.

POLICY ISSUE:

Improves the understanding of fence regulations and provides additional cost-effective options for decorative or ornamental fences.

FINANCIAL CONSIDERATIONS:

None

ATTACHMENTS:

- Ordinance
- Resolution
- Staff Report
- Other: Planning and Zoning meeting is available for viewing online
- Contract
- Plans
- Minutes

AN ORDINANCE AMENDING SECTIONS OF CHAPTER 400, THE ZONING CODE RELATED TO FENCES.

WHEREAS, the Planning Commission advertised and held a public hearing on November 8, 2022, related to potential changes to various fence regulations; and

WHEREAS, following the public hearing, the Planning and Zoning Commission recommended changes to a draft of a proposed ordinance and continued the matter to review the final draft at the December 13, 2022 meeting.

WHEREAS, the Planning Commission met on December 13, 2022 to review the final draft and recommended approval of revisions to the fence regulations.

WHEREAS, the Smithville Board of Aldermen deems it to be in the best interest of the City of Smithville to adopt said amendments to provide for various fence regulation amendments that is both beneficial to both businesses and the public.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI AS FOLLOWS:

SECTION 1. Chapter 400 of the Code of Ordinance is amended by deleting Section 400.350 related to fences and replacing the entire section with a new provision to be numbered and read as follows:

Section 400.350. Fences

A. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

1. As used in this Chapter, the following terms shall have the meanings indicated:

a. Fence, decorative or ornamental

A fence constructed of wood, metal, vinyl, vinyl coated chain link or a combination of such materials that is not more than four (4) feet in height and is at least fifty percent (50%) open OR is a stone or brick wall that does not exceed three (3) feet in height. Non-coated chain-link, or wire, wire mesh, snow fences or fences constructed in any part with such materials shall not be considered decorative or ornamental.

b. Front Yard Fence

A decorative or ornamental fence located in a front yard that contains or abuts an adjacent lot that contains, the primary entrance to the building or a driveway access to the lot, or both.

2. All fences erected in the City of Smithville must have a permit, except those in the agricultural districts. Applications for a fence permit shall be accompanied by a general layout of the property indicating the location of the fence to be erected on the lot.
3. All fences shall conform to the requirements of the sight triangle as defined by these regulations. For purposes of these fence regulations, an alley shall also be subject to the sight triangle regulations at an intersection with a public street.
4. No fence shall be constructed which will constitute a traffic hazard nor shall be constructed within one (1) foot of any street right of way.
5. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous. This would include barbed wire, electrically charged or otherwise detrimental to persons, except as stated herein. Barbed wire fences may be constructed in the agricultural districts; and barbed wire may be used in the industrial districts and the B-3 district, but only as a component of security or anti-climb fences with such component not less than eight (8) feet above the outside adjacent grade. The use of barbed wire arms is limited to those not larger than 18", and upon attachment of the arm, the extended portion of the arm and wire shall not extend beyond any property lines.
6. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than eight (8) feet in the industrial districts, not including barbed wire arm attachments on security fences, which may extend an additional two feet. In the business and residential districts, fences shall not exceed six (6) feet in height, except for hedges and shrubs, which do not have a height restriction, except as noted otherwise in this Chapter. In the B-3 district, any security or anti-climb fence that includes barbed wire tops may be constructed up to eight (8) feet tall and the barbed wire security component may extend an additional two (2) feet above the standard height.
7. All fences shall be constructed to face the neighboring property with its structural elements on the building side of the fence. A shadow-box style fence shall be considered compliant with this provision.
8. On lots with more than one Front Yard (e.g., Corner lots or double frontage lots) as defined in this Chapter shall construct a front yard fence as defined herein where required and rear and side and rear yards may have other fences that meet the standards of this section.
9. These fence regulations are independent of any rules or regulations imposed by homeowners' associations or other agencies not affiliated with the City of Smithville.
10. Any provision of §400.575.C. to the contrary notwithstanding, the repair or replacement of fifteen percent (15%) or more of any portion of an existing fence shall trigger the requirement that the entire fence be brought into compliance with this section.

SECTION 2. This ordinance shall be in full force from and after the date of its passage and approval.

BE IT REMEMBERED that the above was read two times, by title only, **PASSED AND APPROVED** by a majority of the Smithville Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri this 17th day of January, 2023.

Damien Boley, Mayor

ATTEST

Linda Drummond, City Clerk

First Reading: 12/20/2022

Second Reading 01/17/2023

EXHIBIT A

STATEMENT OF PLANNING COMMISSION ON OUTDOOR STORAGE CODE AMENDMENTS

In accordance with 400.560.B, the Planning Commission recommends approval of the foregoing ordinance changes and makes the following statements:

1. These changes are consistent with the intent and purpose of these regulations.
2. The areas of the city which are most likely to be directly affected by these changes are those zoned commercially, and these properties will be affected by the new provisions for outdoor storage behind storage screening where it is currently completely prohibited.
3. This amendment is made necessary as a result of significant investment in commercial construction and the commercial development of the city, as well as the evolving nature of the districts.

Planning and Zoning Commission Chair