

## CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

**Meeting Date:** March 8, 2021

**ITEM:** Ordinance Amendment – Amend Title 9 (Zoning) to modify regulations pertaining to fences and walls – City Initiated – AO-004873-2020

### **ORDINANCE: Approval of Ordinance Amendment**

**Background:** Development Services Staff is initiating an amendment to the chapters and sections identified below in Title 9 (Zoning) to modify regulations pertaining to fences and walls as currently regulated within City Code.

Specifically, the following changes are proposed with this request:

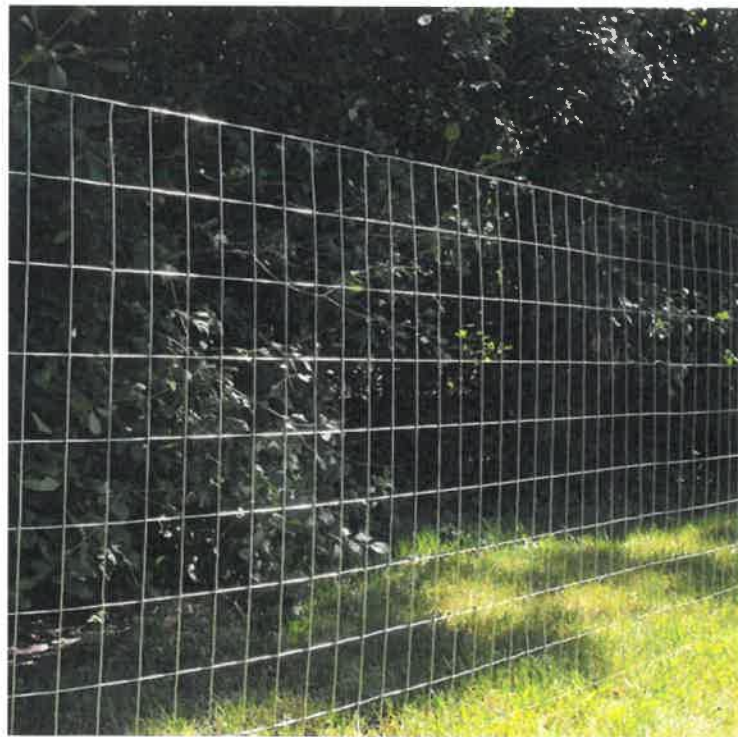
- Title 9: Zoning
  - Chapter 14: *Accessory Structures*, Section 11: *Fences and Walls* to restructure the section to only pertain to fences.
  - Chapter 14: *Accessory Structures*, Section 12: *Retaining Walls* to restructure the section to pertain to all walls.
  - Chapter 19: *Landscaping*, Section 8: *Landscape Provisions* to permit the City Council to allow certain types of fences within landscape buffers as long as there are no plat restrictions that would otherwise restrict them.

### **Staff Review & Comment:**

- **Ordinance Amendment Intent:** This update to the fence and wall regulations was triggered by complaints from residents regarding fences installed, as well as inquiries of what property owners wished to do. The intent with this Ordinance Amendment is to clarify the types of fence and wall materials allowed and installation/construction quality expectations. Also, the Ordinance Amendment proposes to allow more flexibility to accommodate fencing within street side buffers by allowing the City Council to now allow certain types of fences as long as there are no plat restrictions that otherwise prohibit fences in buffers. Staff provided the proposed ordinance amendment to fence companies in the Metro for their review: no concerns or objections were received.
- **Key Aspects of Proposed Amendment:** For the most part, the proposed ordinance doesn't change the provisions of code as much as it is a reorganizing of the regulations for clarity and ease of use. The key changes to the ordinance regulations themselves are as follows:
  - **Fence Materials & Installation:** This Ordinance Amendment proposes to modify the types of permitted materials for fences. Specifically, prohibiting permanent fences from being constructed of metal wire or other mesh materials that are not of a thickness to hold their shape. Lighter weight wire is typically sold in rolls or can be folded or rolled and often used for the penning of animals. The concern with use of this material is that it is extremely difficult to pull the wire taut enough to eliminate sag, which results in a haphazard or unprofessional appearance. Lately, staff is experiencing this material being used in lieu of chain link within residential areas.



Wire and other metal mesh materials of an architectural grade or which are of a thickness/gauge that do not easily bend, and which holds a uniform shape, grid and/or pattern when vertical would be allowed with the proper attachment and/or framing.



Along with the choice of materials, the manner in which it is installed also plays into the appearance and durability of the fence. As illustrated in the first photo above, the use of T-posts instead of thicker wood or metal posts intended for fencing, in combination with a top rail of insufficient thickness to not sag itself results in a very unprofessional fence

that is visually undesirable. Staff is also receiving complaints of chain link fences being installed with support materials besides the industry standard. Existing code has no provisions to require otherwise, therefore, this amendment proposes to establish regulations for the construction/installation of chain link fences to be installed using industry standard materials and methods.



- **Fences in Buffers:** The City has received many requests over the years to install fences within landscape buffers located adjacent to the rear property lines of single-family residential homes, especially when the rear yard abuts a street. The requests are a combination of wanting privacy, but also to contain children and pets and overall property security. City practice has been to not allow fences in street side buffers due to the alley effect that can be created and potential for a hodge-podge of fence types and colors and due to the desire for visibility of the vegetation required within the buffer to provide green and soften hard material expanses of pavement.



If a fence is desired it is required to be placed on the private side of a street side buffer, typically thirty feet (30') into the property. While staff feels that this is a good practice as it relates to solid privacy fences, there is opportunity to allow open fencing that achieves the desire of property owners for containment and security while allowing travelers on the roadways to experience the green of the vegetation. This amendment proposes to allow up to a maximum six-foot (6') metal ornamental fence, substantially similar to the image below along the public side of a buffer (street side). This type of fence could be permitted with approval by the City Council as long as the associated final plat does not include a note specifically restricting fences (no-build/no-structure) within a buffer. The intent of this allowance is to allow fencing while controlling the visual clutter that can result in varying fence designs and materials. Therefore, for visual consistency, the same fence shall be installed for the length of the block. The first fence installed within the block shall determine the design and color of the fence. This basic 3-rail design was chosen in part for its simplicity, but also due to the fact that all fence companies in the Metro carry a version of it.



- **Walls:** There are no substantive changes to wall regulations themselves but rather a reorganization to bring all wall types (retaining, free-standing and screen (equipment) walls) together in one section rather than spread across multiple sections depending on the purpose of the wall.

- ***Development & Planning Subcommittee:*** This proposed Ordinance Amendment was discussed with the Development & Planning Subcommittee on August 3, 2020 to advise the Subcommittee the reason for this amendment was to modify regulations for permitted fence materials and for the sturdy construction of fences within the City. At the March 1, 2021, Development & Planning Subcommittee staff discussed including language for the allowance of open fencing within landscape buffers. The Subcommittee questioned the ability to allow property owners the options to use open fencing of a different design. Staff informed the intent would be to minimize the visual presence of the fence and to have consistency along the block, but ultimately it would be up to the City Council as to what they allow. Subcommittee indicated they were in favor of the amendments to the City Code.

**Outstanding Issues:** There are no outstanding issues.

**Recommendation:** Approve the Ordinance Amendment to City Code.

**Lead Staff Member: Brian Portz**

**Approval Meeting Dates:**

Plan & Zoning Commission	March 8, 2021
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading	

**Staff Report Reviews**

Plan & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator/Director	<input checked="" type="checkbox"/> Legal Department
City Council	<input type="checkbox"/> Director	<input type="checkbox"/> Legal Department
	<input type="checkbox"/> Appropriations/Finance	<input type="checkbox"/> Agenda Acceptance

**Publications**

Published In	Des Moines Register Community Section
Date Published	February 26, 2021

**Subcommittee Review (if applicable)**

Committee	Development & Planning		
Date Reviewed	August 3, 2020 & March 1, 2021		
Recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Split

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION  
NO. PZC-21-010**

**WHEREAS**, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, staff requests approval of an Ordinance Amendment to the following chapters and sections identified below in Title 9 (Zoning) to modify regulations pertaining to fences and walls as currently regulated within City Code.

- Chapter 14: *Accessory Structures*, Section 11: *Fences and Walls*
- Chapter 14: *Accessory Structures*, Section 12: *Retaining Walls*
- Chapter 19: *Landscaping*, Section 8: *Landscape Provisions*

**WHEREAS**, the Ordinance Amendment request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

**NOW THEREFORE**, the Plan and Zoning Commission of the City of West Des Moines recommends the City Council approve the Ordinance Amendment (AO-004873-2020).

**PASSED AND ADOPTED** on March 8, 2021.

\_\_\_\_\_  
Erica Andersen, Chair  
Plan and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on March 8, 2021, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

\*\* Currently have only 6 Commissioners as one seat is vacant

ATTEST:

\_\_\_\_\_  
Recording Secretary

## ORDINANCE NO.

### AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 9 (ZONING), CHAPTER 14 (ACCESSORY STRUCTURES) AND CHAPTER 19 (LANDSCAPING), TO MODIFY FENCE AND WALL REGULATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

**Section 1. Amendment.** Title 9 (zoning), Chapter 14 (Accessory Structures), Section 11 (Fences and Walls) is hereby amended by deleting the language in its entirety and replacing it with the following bold italic lettering.

#### **9-14-11: FENCES:**

*The following standards shall apply to all fences and other similar structures built for landscaping or screening purposes in any zoning district unless otherwise provided for a specific zoning district:*

#### **A. Fences:**

- 1. Materials Permitted; With the exception of temporary fences as provided herein, and fences internal to a property around the perimeter of a garden or animal enclosures, permanent fences shall comply with the following:**
  - a. Be constructed of customarily used materials such as, but not limited to: wrought iron, aluminum, metal and wood as provided below, polyvinyl chloride (PVC), composite and other similar materials that are durable and can be installed in such a way as to provide a clean finished appearance. Chain-link is permitted in Single Family Residential zoning districts, however, may not be appropriate for all zoning districts and therefore will be reviewed on a case by case basis.**
    - i. Natural wood fences shall be constructed of treated lumber, cedar, redwood, bamboo (not to include reed or bamboo grasses) or similar species that are resistant to decay.**

- ii. **Welded wire and other metal mesh materials of an architectural grade or which are of a thickness/gauge that does not easily bend, and which holds**
- iii. **a uniform shape, grid and/or pattern when vertical may be allowed with the proper attachment and/or framing.**
- iv. **The use of chain-link fence must be installed to make a complete and uniform fencing system utilizing industry standard round metal posts, top rails, connectors, gates, or similar parts. Alternate materials to frame chain-link to provide a clean, non-sagging appearance may be allowed with specific city approval.**
- b. **All sides of fences easily visible from outside of the property upon which they are located must be of an earth tone, neutral, or natural color such as white, black, gray (silver), tan, or brown, unless otherwise specifically approved by the City for a designated and apparent design theme.**
- c. **Single faced fences shall have the unfinished side (side with exposed posts) facing toward the property on which the fence is erected.**
- 2. **Materials Prohibited: Permanent fences are not to be constructed of or include the following:**
  - a. **Temporary construction or snow fencing.**
  - b. **Metal wire or other mesh materials that are sold in rolls or can be folded or rolled, which are traditionally used for the penning of animals and which typically cannot be pulled taught without sag or sway. This should not be read to prohibit the use of these materials for fencing for the purpose of garden or animal enclosures interior to a property.**
  - c. **Bright or fluorescent colors.**
  - d. **Slats, strips or other materials intended to increase opacity attached to or weaved through openings within a fence material, with the exception of sun and/or wind screen material designed for and directly associated with a sports or recreation facility, subject to the provisions of 9-14-11B4c.**
  - e. **Copy, pictures, images, lettering, logos, graphics, or artwork on any side of a permanent fence visible at the ground level from outside of the property upon which it is located, unless approved as a permitted sign.**
  - f. **With the exception of barbed wire and electrical fences as provided elsewhere in this Code, materials and the fence design may not such so as to cause pain or injury to humans or animals.**
- 3. **Fences for the protection of gardens or penning of animals in single family zoning districts except the Residential Estate district may be allowed interior to the site when setback a minimum of five feet (5') from a side or rear property boundary. Fencing for gardens and penning of animals shall not be allowed within the front yard of a property.**
- 4. **Temporary fences installed to provide site security and/or safety in conjunction with construction work shall be allowed to be comprised of cloth screening fabric and plastic snow fence type materials. Copy, pictures, images, lettering, logos, graphics, or artwork shall be allowed in accordance with Chapter 18: Signs, within this title. Unless otherwise approved by the City, any such temporary fences shall be removed if construction ceases for a period of six (6) months or upon issuance of an occupancy permit, including temporary occupancy.**
- 5. **Temporary fences comprised of snow fence material, moveable gates or panels, barricades, railings, or other shall be allowed as part of an approved special event or temporary use permit. Any such temporary fences shall be removed from the site upon conclusion of the event.**

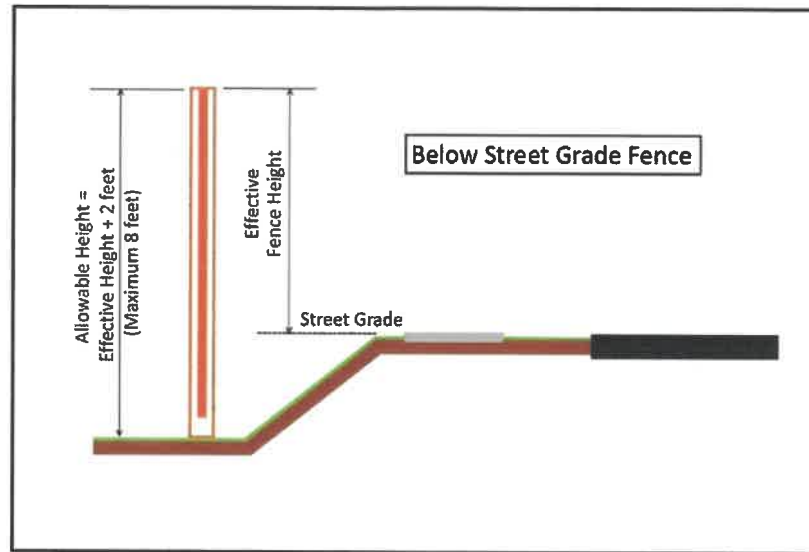


6. *All fences shall be constructed in a sound and sturdy manner and shall be maintained in an upright and non-sagging manner and in a good condition, including the replacement of defective or missing parts, painting, and other acts required for maintenance.*
7. *Provisions for landscaping to soften the presence of the fence and provide additional buffering or screening may be required and will be reviewed on a case by case basis. Not applicable between individual single-family lots.*
8. *Any fence that does not conform to this section, but is considered by the Director of Development Services, or his/her designee, to satisfy the spirit and intent of the ordinance may be approved at their discretion.*

**B. Height and Setback Requirements:**

1. *For the purposes of determining height and setback allowances:*
  - a. *The front yard shall be considered that side of a lot that lies forward of the main plane of the structure towards the street.*
  - b. *The side yard shall be considered that portion of the lot beginning at the rear lot line extending to a point formed by a line projected along the same plane as the front plane of the structure to the nearest side lot line.*
  - c. *The street side yard shall be the same as a side yard except that the side borders a street instead of another private lot.*
  - d. *The rear yard shall be considered to be that lot boundary generally parallel to the rear plane of the structure.*
2. *Unless minimum setback requirements are otherwise specified herein, or specifically approved by the City Council, all fences may be located on the property line or ultimate street right-of-way line, whichever is more restrictive.*
3. *Measuring Fence Height:*
  - a. *The height of the fence shall be determined by a measurement from the ground beneath the fence as follows:*
    - i. *On a street side yard, the total effective height above the finished grade shall be measured on the side nearest the street. If a property or premises is lower than an adjacent street, then the effective height of the fence shall be determined by a measurement from the street grade at a ninety-degree (90°) angle from the fence. Up to an additional two feet (2') of height may be allowed to achieve an effective height of six feet (6'); however, the total vertical measurement from the ground beneath the fence to the top of the fence shall not exceed eight feet (8'). (See figure #4 of this section.)*
    - ii. *In any other yard the allowable height shall be the vertical measurement from the ground beneath the fence to the top of the fence.*

**Figure 4:**



- b. The intentional implementation of earthen berming, retaining wall, or raised planter for the sole purpose of achieving a height above that provided herein shall not be allowed in Single Family Residential districts. Fences may be located on top of retaining walls or raised planters in Single Family Residential as long as the top of the fence as measured from the bottom of the retaining wall or planter does not exceed eight feet (8') in total allowable height in the Residential Estate district or six feet (6') in total allowable height in all other Single Family Residential zoning districts.**
- 4. Fence Height and Required Setback:**
- a. All Districts, except as provided below in this section:**
- i. A fence, not exceeding four feet (4') in allowable height may be placed in the front yard including at the property line of a street side yard of corner lots provided visual clearance is maintained at intersecting street corners and the intersection of the street and private driveways.**
  - ii. Except as provided in 9-14-11B3ai herein, fences not exceeding six feet (6') in allowable height may be placed in a street side yard (corner lots) when the fence maintains a minimum setback from the ultimate right-of-way of no less than fifteen feet (15'). However, on existing properties zoned Single Family Residential where the dwelling is located at a legal non-conforming side yard setback of less than fifteen feet (15') from the ultimate right of way, a fence not exceeding six feet (6') in allowable height may be placed at the same plane as the dwelling, but in no instance shall be located closer than five feet (5') to the lot line.**
  - iii. Fences not exceeding six feet (6') in allowed height are allowed within the limits of side and rear yards (non-corner lots).**
  - iv. Double Frontage Lots: For the purposes of this section, the regulations below relate to placement of fences within the rear yard only.**
    - a) On double frontage lots with a required landscape buffer (also see 9-19-8E) with no plat restriction to the contrary:**
      - i.) No fence shall be located within the buffer itself unless specifically approved by the City Council.**

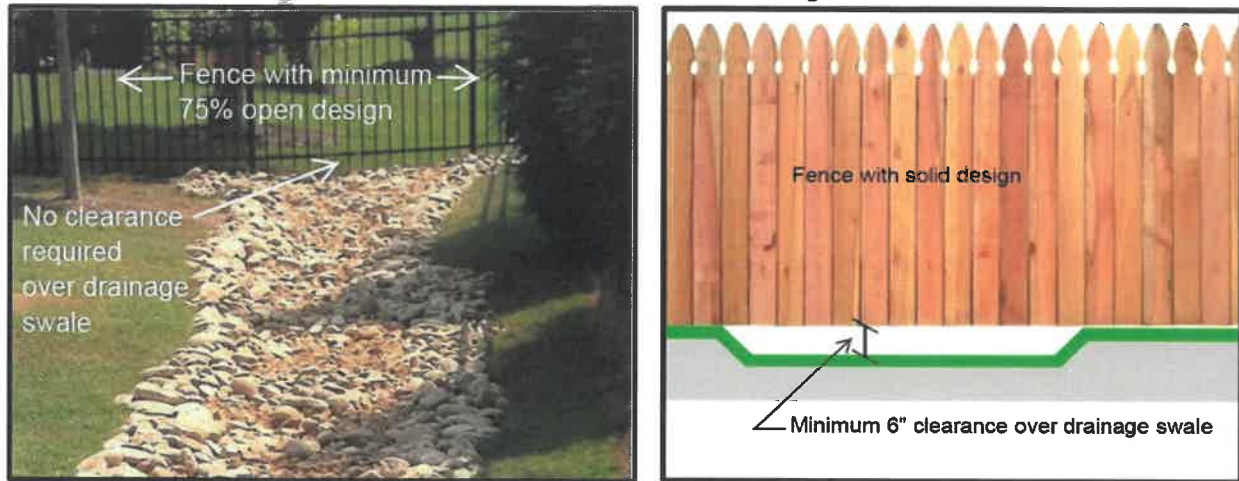
- ii.) **A six-foot (6') privacy fence compliant with this section (9-14-11) may be located on the private side of the buffer (dwelling side).**
  - iii.) **A six-foot (6') open fence generally consistent with that provided in Chapter 19, Section 8, may be located on the public side of the buffer (street side) with the approval of the City Council. The City Council shall have the authority to approve an alternate open fence design than that indicated in Chapter 19.**
- b) **On double frontage lots without a required landscape buffer and no plat restriction to the contrary:**
  - i.) **Except as provided in 9-14-11B3ai herein, privacy fences not exceeding six feet (6') in allowable height may be placed in a rear yard and a street side yard when the fence is located no less than fifteen feet (15') from the ultimate right-of-way line. Open fences consistent with that provided in Chapter 19, Section 8 for 'double frontage lots with a buffer' may be located up to the ultimate right-of-way line by right.**
  - ii.) **A solid or open fence a maximum four-foot (4') in height may be allowed up to the ultimate right-of-way line (fifteen-foot (15') setback not required).**
- c) **The placement of a fence along the rear lot line does not negate the property owner's responsibility of maintenance of the right of way (area between the fence and curb) or snow removal from public sidewalk(s) adjacent to the property.**
- v. **Swimming Pool Enclosures: Regardless if a pool has an operational powered safety cover, barriers constructed for the purpose of enclosing swimming pools are subject to the height requirements of section 9-14-11 of this chapter, adopted building codes and Iowa Department of Public Health regulations, as applicable.**
- b. **The following shall be allowed in the specified zoning districts:**
  - i. **Residential Estate (RE):**
    - a) **Fences not to exceed eight feet (8') in height shall be allowed within the limits of side and rear yards. Fences that exceed six feet (6') in height shall only be permitted in the side and rear yards of RE zoned lots that exceed forty thousand (40,000) square feet in size and when the fence is constructed of decorative metal and provides seventy-five percent (75%) openness for the full length of said fence. The openness percentage shall be provided at the time of a fence permit application. The use of chain link for this purpose shall be prohibited. Solid fencing up to six feet (6') in height shall be allowed in side and rear yards compliant with all other regulations in this Chapter.**
    - b) **Woven wire and electrified fencing shall only be allowed at the property line on side and rear yards to contain livestock or to protect crops and plantings.**
  - ii. **Industrial Districts:**
    - a) **Fences up to eight feet (8') in height are allowed within the limits of side and rear yards.**
    - b) **The use of barbed wire may be allowed as part of a site plan approval process, provided the barbed wire is not located less than six feet (6') above the ground.**

- c) *All outdoor storage yards shall be surrounded with an opaque enclosure not to exceed eight feet (8') in height.*
- iii. *Warehouse Retail District:*
  - a) *Fences not exceeding twelve feet (12') in height are allowed within the limits of side and rear yards.*
- iv. *Agriculture/Open Space Districts (OS): Whether designated as such on the zoning map or 'unzoned' but designated on the comprehensive plan land use map as open space. Barbed wire, woven wire and electrified fencing may be allowed at the property line to contain livestock or to protect crops and plantings.*
- c. *Recreational Purposes: In all zoning districts, fences associated with a sports or recreational facility or other similar area owned or associated with a municipality, school, park, or is otherwise generally available for use by the public, shall not be subject to the height and setback restrictions specified elsewhere in this section or provided elsewhere within title 9, provided that such fence is constructed of materials that are at least seventy five percent (75%) open for the full length of the fence (chain link is acceptable). This openness requirement shall not be interpreted to prohibit the use of windscreen or sunscreen materials in conjunction with the fence. Any such fence is subject to design review and approval as part of a site plan application.*
- d. *Decorative Features: In all zoning districts, intermittent decorative features such as individual posts, trellises, brick or stone columns, and similar features constructed as part of a fence may exceed the maximum fence height by no more than twelve inches (12"). Decorative features shall not be counted toward the open space percentage of the fence. At pedestrian access points arbors, arched entries, or arcades may exceed the maximum allowable fence height up to three feet (3') in any yard.*
- e. *Screening Of Mechanical Units: Except for single-family zoning districts and unless otherwise specified herein, fences installed as a method of screening mechanical equipment may exceed height limitations of the specific zoning districts in order to effectively screen the mechanical equipment if they are located in direct proximity to the equipment. All screen fences shall be opaque in design and be built out of materials consistent with the architecture and materials of the principal building. Any open area required for ventilation of the equipment shall be designed to prevent full view of the equipment. The design of the screen fence and the height required for full screening shall be provided at the time of a building permit or site plan application.*

**C. Overland Flowage Easements:**

1. *Fences may encroach into an overland flowage easement provided measures are taken to make certain that design and maintenance of the fence does not impede or alter the flow path of water, cause siltation or debris buildup, etc.*
2. *Solid fencing shall be elevated a minimum of six inches (6") above the ground plane through the swale part of the easement to allow water flowage. (See figure #5 of this section.)*
3. *Fences which are not elevated at the base shall be of a design that is at least seventy-five percent (75%) open to allow for water flow. Chain link shall be allowed on single-family properties. Regular maintenance by the resident to remove debris build-up shall be done to ensure the flow of water is not impeded or water flow path altered.*

**Figure 5: Fences within Overland Flowage Easements**



**Section 2. Amendment.** Title 9 (Zoning); Chapter 14 (Accessory Structures); and 12 (Retaining Walls) is hereby amended by deleting in its entirety and replacing with the text in bold italics.

**9-14-12: WALLS:**

***The following standards shall apply to walls including free-standing walls, retaining walls and screen walls in any zoning district unless otherwise provided for a specific zoning district:***

- A. Retaining Walls: Retaining walls shall be defined as a structure for holding in place a mass of earth at the edge of a terrace or excavation and shall comply with the following:**
- 1. Be constructed of materials such as brick, stone, textured concrete, precast concrete, tile block, timbers, railroad ties, utility poles and other wood materials. Hard materials are preferred over wood due to longevity and potential for rot and decay of wood materials.***
  - 2. Retaining walls shall be set back from the property line one foot (1') for every one foot (1') of visible height, unless a written agreement on the height and location of the retaining wall has been made with the adjoining property owner(s) whose property the retaining wall is built near, said document is filed with the applicable County and a copy of the recorded agreement provided to the City.***
  - 3. There shall be no height limit for retaining walls; however, no single exposed wall face shall be greater than six feet (6') in height without terraces to break up the wall expanse. A minimum one foot (1') of terrace shall be provided for each two feet (2') of exposed wall height. In non-single-family residential zoning districts, each terrace shall contain shrubs and ground cover vegetation necessary to serve as a barrier to prevent falls and to provide visual interest to the terrace.***
  - 4. Safety rails, fencing, vegetation of sufficient size and quantity or other barrier acceptable to the City may be required on walls that exceed thirty inches (30") in height.***

**B. Free-Standing Walls: Free-standing walls constructed for privacy, area enclosure or decorative purposes shall comply with the following:**

- 1. Be constructed of brick, stone, textured concrete, precast concrete, tile, block, railroad ties, timbers, power poles, or similar material.**
- 2. Shall not be designed to cause pain or injury to humans or animals.**
- 3. All sides of walls easily visible from outside of the property upon which they are located must be of an earth tone, neutral, or natural color such as white, black, gray (silver), tan, or brown unless otherwise specifically approved by the City for a designated and apparent design theme.**
- 4. Single faced walls shall have the unfinished side, if applicable facing toward the property on which the wall is erected.**
- 5. Heights and setbacks for free-standing walls shall follow the same regulations as provided for fences within 9-14-11. No wall shall be allowed on the public side of a buffer located on a double frontage lot.**

**C. Screen Walls: Screen walls for the protection and visual mitigation of mechanical equipment, dumpsters and generators shall comply with the following:**

- 1. Allowed in non-single-family residential districts only.**
- 2. Shall be of materials and colors consistent with the architecture and materials of the principal building.**
- 3. May exceed height limitations of the specific zoning districts in order to effectively screen the equipment, dumpster or generator when located in direct proximity to the equipment, dumpster or generator; however, shall be no taller than necessary to effectively screen views of mechanical equipment or to meet minimum security requirements. The design of the screen wall and the height required for full screening shall be provided at the time of a building permit or site plan application.**
- 4. Any openings within the wall material itself (mesh, louvers, etc.) or other openings within the wall required for ventilation of the equipment shall, to the greatest extent possible, be designed to prevent view of the equipment.**

**D. All Types of Walls:**

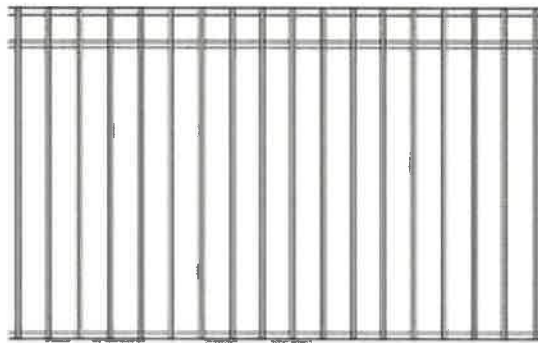
- 1. Regardless of type, no wall that by design would impede or alter the flow of water shall be allowed without approval of the City of a plan to manage and direct water flow.**
- 2. Retaining walls which exceed four feet (4') in height shall be structurally engineered to ensure proper design. The design specifications, elevations and site plan showing the exact location of the wall shall be provided to the City prior to construction, either with the Site Plan Development application or submittal of the Building Permit for the subject property.**
- 3. For purposes of calculating the total property or lot area occupied by accessory structures, the total area occupied by a wall shall not be included in the calculation.**
- 4. All walls shall be constructed in a sound and sturdy manner and shall be maintained in good condition, including addressing any tilting of the wall.**
- 5. Provisions for landscaping to soften the presence of the wall may be required and will be reviewed on a case by case basis. Not applicable between individual single-family lots.**
- 6. Any wall that does not conform to this section, but is considered by the Director of Development Services, or his/her designee, to satisfy the spirit and intent of the ordinance may be approved at their discretion.**

**Section 3. Amendment.** Title 9 (Zoning); Chapter 19 (Landscaping); Section 8 (Landscape Provisions); Subsection E.9 is hereby amended by adding the text in bold italics.

9. Fences: Fences may be allowed ***in lieu of a buffer or*** within buffers ***as indicated below*** ~~only if said buffer is located between two (2) dissimilar land uses and is not located alongside a public or private street.~~ Fences shall be reviewed for aesthetic quality and for sturdiness of materials as described in section [9-14-11](#) of this title and must comply with all other code requirements.

- a. ***An opaque fence may be allowed in lieu of a buffer if said buffer is located between two (2) dissimilar land uses and is not located alongside a public or private street.***
- b. ***With specific approval by the City Council, up to a maximum six foot (6') metal ornamental fence to be substantially similar to the example image below shall be permitted along the public side of a buffer (street side), as long as the associated final plat does not specifically restrict fences within a buffer. There shall be no other types of fences or materials (i.e. chicken wire, temporary fencing, etc.) attached to the fence. The right of way area between the fence and curb, including the public sidewalk, shall still be maintained by the property owner installing the fence.***

***The intent of this allowance is to allow fencing while controlling the visual clutter that can result in varying fence designs and materials. Therefore, for visual consistency, the same fence shall be installed for the length of the block. The first fence installed within the block shall determine the design and color of the fence.***



**THREE RAIL  
FLAT TOP**

**Section 4. Repealer.** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

**Section 5. Savings Clause.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 6. Violations and Penalties.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 of the City Code of the City of West Des Moines, Iowa.

**Section 7. Other Remedies.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**Section 8. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2021 and approved this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T Jacobson  
City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2021, and was published in the Des Moines Register on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk