

## CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

**Meeting Date:** November 14, 2022

**ITEM:** Ordinance Amendment, Amend Title 9 (Zoning) to modify regulations pertaining to fences within footprint lots - Caliber Iowa, LLC – AO-005820-2022

### **RESOLUTION: Approval of Ordinance Amendment**

**Background:** The applicant, Caliber Iowa, LLC, original developer of the Courtyards at Kings Landing development, has requested an amendment to city code to remove prohibitions for fences on footprint lots. The Courtyards development consists of detached townhomes on footprint lots, with the balance of the development's ground contained in a common lot that will be under the authority of the Homeowner's Association. This type of development generally looks and acts as a typical single-family development although by zoning it is actually a multi-family development. Because it feels like single-family, several of the residents within the development believed they could have fences, primarily for the purpose of containing pets. To allow fences, an amendment to the following chapters and sections identified below in Title 9 (Zoning) is being initiated:

Specifically, the following changes are proposed with this request:

- Title 9: Zoning
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C6: *Minimum Setbacks And Building Separations For Principal Buildings (Dwellings) in Single Family Zoning Districts*, Table 7.2 to modify standards for fences on footprint lots.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C7: *Minimum Setbacks And Building Separations For Principal And Accessory Buildings Or Structures In Multi Family Zoning Districts*, Table 7.3 to modify standards for fences on footprint lots.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C9: *Bulk Regulations, Minimum Setbacks And Building Separations For Accessory Buildings And Structures In Residential Districts*, to modify standards for fences on footprint lots.
  - Chapter 14: *Accessory Structures*, Section 11: *Fences*, Subsection B: *Height and Setback Requirements* to modify standards for fences on footprint lots.

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

- *Ordinance Amendment Intent:* Current code does not allow fencing on individual townhome footprint lots but does allow fencing on the common areas of a townhome development for purposes that benefit the development (such as fencing for visual screening, dog parks or recreational uses such as pools or tennis courts). Although the City has had townhome developments for years, until recently there were no requests to fence footprint lots. Because the footprint lots are small and close together, fencing these lot types typically do not provide for an effective yard space for the owners and they can

impede maintenance and public safety access. Unless thoughtfully designed, fences can impact the connection to the common area for the residents and minimize the sense of openness throughout the development resulting in a dense barracks like appearance to the development.

- *Key Aspects of Proposed Amendment:* Staff has put together the following code changes to allow fencing and address several of the concerns noted above.
  - Fences may be placed on footprint lots within existing and new developments in accordance with the following criteria:
    - Fence design and color shall be consistent throughout the development.
    - Fencing shall be of a design that is less than 50% opaque (for example wrought iron fencing) to promote a sense of openness throughout the development. Solid fences are not allowed.
    - Fences are allowed in one side yard and/or the rear yard up to the footprint property line.
    - Fences shall not be placed forward of the front plane of the dwelling unit. No fences allowed in the front yard.
    - Maximum fence height of 6'.
    - Fenced yards shall include gates to allow for emergency services access and maintenance.
    - Fencing for a specific dwelling shall not be placed in common areas or encroach onto a neighboring footprint lot.
    - Fences shall not be placed within public utility easements and shall not impede storm water drainage paths.
  - To accommodate useable private outdoor space (patios), setback requirements for footprint lots are proposed to be modified to allow one side or the rear yard of the footprint lot to be a maximum of 15' from the exterior wall of the dwelling unit. The setbacks of the front, other side and/or rear yards shall be a minimum of 7' and no more than 10' from the foundation.
- *Development & Planning City Council Subcommittee:* A discussion whether to amend city code was had at the Subcommittee's October 17, 2022, meeting. Individuals both in favor of the amendment, as well as against were in attendance. Residents in favor of the fencing indicated they desired fencing primarily for containment of pets and would not have bought lots in the development had they known they could not have fenced yards. Other residents indicated they purchased because of the open look of the development and felt that invisible fencing can address containment of pets and indicated that if fencing were to be allowed, they should not be solid privacy fences. Staff explained that while current code does not allow fences, the direction the City is moving with the comprehensive plan and subsequently the zoning code update is to allow smaller single-family lots which could potentially align with this type of development. As single-family, the city does not restrict the installation of fences. Additionally, it was noted that staff is receiving more and more inquiries for this type of development, including the desire for fencing.

The difference between this development and the recently approved Picket Fences Communities was discussed noting that Picket Fences is intentionally designed with each unit having a patio enclosed by privacy fencing with all units on one common lot rather than individual lots as in the Courtyards development. Picket Fences is to be built with the look and feel of multi-family whereas the Courtyards appear as a single-family development. Although the square footage of the Courtyard's footprint lots might be similar

to the city's smallest single-family zoning district, none of the lots in the development meet the typical 30' front yard and 35' rear yard single-family setbacks which is what helps guarantee open areas.

The Council members indicated support of the amendment with staff's criteria knowing that the comprehensive plan includes a place type for smaller single-family lots that would match to these types of developments and would not have any fencing restrictions.

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

**Planning and Zoning Commission Action:**

Date: November 14, 2022

Vote:

Recommendation:

**Planning and Zoning Commission Discussion:**

**City Council First Reading:**

Date:

Vote:

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

**Lead Staff Member: Linda Schemmel**

**Approval Meeting Dates:**

Planning & Zoning Commission	November 14, 2022
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading	

**Staff Report Reviews**

Planning & 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

<b>Publications (if applicable)</b>	
Published In:	Des Moines Register Community Section
Date(s) Published	11/4/22
Date(s) of Mailed Notices	11/4/22

<b>Council Subcommittee Review (if applicable)</b>				
Subcommittee	Development & Planning			
Date Reviewed	10/17/22			
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input type="checkbox"/>

**A RESOLUTION OF THE PLANNING AND ZONING COMMISSION**  
**NO. PZC-22-103**

**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 regulations for fences within footprint lots as currently regulated within City Code:

- Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C6: *Minimum Setbacks And Building Separations For Principal Buildings (Dwellings) in Single Family Zoning Districts*, Table 7.2.
- Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C7: *Minimum Setbacks And Building Separations For Principal And Accessory Buildings Or Structures In Multi Family Zoning Districts*, Table 7.3.
- Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C9: *Bulk Regulations, Minimum Setbacks And Building Separations For Accessory Buildings And Structures In Residential Districts*.
- Chapter 14: *Accessory Structures*, Section 11: *Fences*, Subsection B4: *Fence Height and Required Setback*.

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

**NOW THEREFORE**, the Planning and Zoning Commission of the City of West Des Moines recommends the City Council approve the Ordinance Amendment (AO-005820-2022).

**PASSED AND ADOPTED** on November 14, 2022.

\_\_\_\_\_  
Jennifer Drake, Chair  
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on November 14, 2022, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

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

Prepared by: Linda Schemmel, City of West Des Moines, Development Services Dept., P.O. Box 65320,  
 West Des Moines, IA 50265-3620, 515-222-3620  
 When Recorded Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, TITLE 9, (ZONING), CHAPTER 7 (SETBACK AND BULK DENSITY REGULATIONS) AND CHAPTER 14 (ACCESSORY STRUCTURES) PERTAINING TO REGULATIONS FOR FENCES WITHIN FOOTPRINT LOTS**

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

**Section 1. Amendment.** Title 9: Zoning, Chapter 7: Setback and Bulk Density Regulations, Section 4: Setback and Density Regulations, Subsection C6, Minimum Setbacks And Building Separations For Principal Buildings (Dwellings) In Single Family Zoning Districts, Table 7.2 is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics and renumbering notes accordingly, including superscript note indicators in table.

TABLE 7.2

Setbacks - Standard Lots <sup>3</sup>

Required Standards	OS	RE	RS				R-1	SF-CR	SF-VJ	VJHB	MH <sup>5</sup>
			5,000 To 7,999 Sq. Ft.	8,000 To 9,999 Sq. Ft.	10,000 To 14,999 Sq. Ft.	15,000 Sq. Ft. Or Greater					
Front yard setback <sup>1,2</sup>	50'	50'	30'	35'	35'	35'	30'	20'	20'	20'	20'
Rear yard setback	50'	50'	35'	35'	35'	35'	35'	20'	35'	35'	10'
Minimum side yard setback on any 1 side	50'	20'	7'	8'	8'	8'	7'	5'	5'	5'	5'

Minimum sum of side yard setbacks	100'	40'	14'	20'	20'	20'	14'	10'	10'	10'	10'
Street Side Yard (see Title 10, Chapter 3, Section 1)			20' 25' to garage opening	20' 25' to garage opening	20' 25' to garage opening	20' 25' to garage opening	20' 25' to garage opening				

Setbacks And Building Separation For Detached Dwellings On Footprint Lots <sup>3,6,7</sup>

Required Standards	OS	RE	RS	R-1	SF-CR	SF-VJ	VJHB	MH
Minimum setback of all yards for footprint lot <sup>4</sup>	7'	7'	7'	7'				
<b>Maximum setback of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas <sup>3,4</sup></b>	<b>15'</b>	<b>15'</b>	<b>15'</b>	<b>15'</b>				
Maximum setback of all <b>other</b> yards for footprint lot, unless noted otherwise <sup>4</sup>	10'	10'	10'	10'				
Minimum separation between principal structures	14'	14'	14'	14'				

Notes:

1. In any existing platted property where the average front yard setback is different than that required for the specific zoning district, the front yard setback for the subject lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street including the existing dwelling of the subject property. Resulting front yard setback shall not be less than the minimum required side yard setback for the zoning district. Front yard setback measured from the face of any garage accessed from the street will be a minimum of 25 feet regardless of the averaged front yard depth. If the overall depth of the lot from the subject front yard is 50 feet or less, the setback for any garage accessed from the street will be a minimum of 20 feet. The average front yard setback requirement shall not be applicable in situations in which the greatest extent of an improvement made on the subject lot is seventy-five feet (75') or greater from the closest element of a structure on both of the lots on either side of the subject lot.
2. Open porches with a minimum depth of 6 feet are allowed to encroach up to 8 feet into the standard lot front yard setback (**not footprint lots**).

3. ~~Accessory buildings over one thousand (1,000) square feet, which are only permitted in Residential Estate, Agricultural/Open Space zoning and for religious, institutional, or civic uses within residential districts, shall meet the minimum front yard setback of their respective zoning district and be set back a minimum of twenty feet (20') from the side and rear property lines.~~
4. Outdoor living areas associated with and adjacent to the dwelling unit for footprint lots must be contained in the footprint lot and meet the following setback requirements:
  - a. Patios: set back a minimum of 1 foot from the footprint property line.
  - b. Decks that do not exceed 30 inches in height or open trellises: set back a minimum of 5 feet from footprint property line.
  - c. Structures that exceed 30 inches in height such as decks, porches and sunrooms: set back a minimum of 7 feet from footprint property line.
5. Manufactured homes within a land lease manufactured home park must be completely contained within the land lease area and comply with separation or fire protection requirements under the authority of 42 USC section 5403 (Federal Manufactured Home Construction and Safety Standards). Manufactured homes not within a land lease manufactured home park must meet the setback and separation distances of the applicable zoning district.
6. Maximum unit density, aggregate minimum lot area, minimum street frontage and building setbacks for the development must meet applicable zoning district requirements.
7. Developments with footprint lots will require review and approval of a site plan permit in addition to any other required review process.

**Section 2. Amendment.** Title 9: Zoning, Chapter 7: Setback and Bulk Density Regulations, Section 4: Setback and Density Regulations, Subsection C7, Minimum Setbacks And Building Separations For Principal And Accessory Buildings Or Structures In Multi Family Zoning Districts, Table 7.3 is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics.

TABLE 7.3

Required Standards	RM	RH
Detached dwellings (detached townhomes): <i>(no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)</i>		
Front yard setback <sup>1</sup>	30'	30'
Rear yard setback	35'	35'
Side yard setback	7'	7'
Minimum <b><i>setback from building foundation</i></b> of all yards for footprint lot <sup>2</sup>	7'	7'
<b><i>Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas</i></b> <sup>2,5</sup>	<b>15'</b>	<b>15'</b>

Maximum <b>setback from building foundation</b> of all <b>other</b> yards for footprint lot <sup>2</sup>	10'	10'
Minimum separation between principal buildings	14'	14'
Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	10'	10'
Attached dwelling building up to 2 stories, 4 units or less per building (townhomes, apartments or condominiums):		
Minimum setback <sup>1</sup> : <b>(no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)</b>	35'	35'
- From perimeter of development		
Front and rear yard setback <sup>1</sup> :	15'	15'
- Internal to the development		
- The minimum setback for garages facing a street or drive is 25' from sidewalk or back of curb		
Side yard setback:	7'	7'
- Internal to the development		
Minimum <b>setback from building foundation</b> of all yards for footprint lot <sup>2</sup>	7'	7'
<b>Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas<sup>2,5</sup></b>	<b>15'</b>	<b>15'</b>
Maximum <b>setback from building foundation</b> of all <b>other</b> yards for footprint lot <sup>2</sup>	10'	10'
Minimum separation between principal buildings	14'	14'
Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	10'	10'
Attached dwelling building up to 2 stories, more than 4 units per building or 3 stories or greater, 4 units or less per building (townhomes, apartments or condominiums):		
Front yard setback <sup>1,3</sup>	50'	50'
- From perimeter of development <b>(no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)</b>		
Rear and side yard setback <sup>3</sup> :	35'	35'
- From perimeter of development		
Front and rear yard setback <sup>1,3</sup>	20'	20'
- Internal to the development		



- The minimum setback for garages facing a street or drive is 25 feet from sidewalk or back of curb		
Side yard setback <sup>3</sup> :	10'	10'
- Internal to the development		
Minimum <b>setback from building foundation</b> of all yards for footprint lot <sup>2</sup>	7'	7'
<b>Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas</b> <sup>2,5</sup>	<b>15'</b>	<b>15'</b>
Maximum <b>setback from building foundation</b> for all <b>other</b> yards of a footprint lot <sup>2</sup>	10'	10'
Minimum separation between principal buildings	20'	20'
Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	20'	20'
Attached dwelling building 3 stories or greater, more than 4 units per building (townhomes, apartments or condominiums):		
Front yard setback <sup>1,3</sup>	60'	60'
- From perimeter of development		
Rear and side yard setback <sup>3</sup> :	35'	35'
- From perimeter of development		
Front and rear yard setback <sup>1</sup>	30'	30'
- Internal to the development		
Side yard setback:	15'	15'
- Internal to the development		
Minimum <b>setback from building foundation</b> for all yards of a footprint lot <sup>2</sup>	7'	7'
<b>Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas</b> <sup>2,5</sup>	<b>15'</b>	<b>15'</b>
Maximum <b>setback from building foundation</b> for all <b>other</b> yards of a footprint lot <sup>2</sup>	10'	10'
Minimum separation between principal buildings	30'	30'
Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	20'	20'

Notes:

1. Open porches with a minimum depth of 6 feet are allowed to encroach up to 8 feet into the standard lot front yard setback (**not footprint lots**). Porches are not allowed to encroach into any perimeter setback.

2. Outdoor living areas associated with, and adjacent to the dwelling unit for footprint lots must be contained in the footprint lot and meet the following setback requirements:
  - a. Patios: set back a minimum of 1 foot from the footprint property line.
  - b. Decks that do not exceed 30 inches in height or open trellises: set back a minimum of 5 feet from footprint property line.
  - c. Structures that exceed 30 inches in height such as decks, porches and sunrooms: set back a minimum of 7 feet from footprint property line.
3. For any building over 3 stories, an additional 10 feet of building setback is required for every story over 3 stories.
4. Accessory buildings over 1,500 square feet must meet primary building setbacks and separations, including setbacks adjusted for primary building height.

**Section 3. Amendment.** Title 9: Zoning, Chapter 7: Setback and Bulk Density Regulations, Section 4: Setback and Density Regulations, Subsection C9, Bulk Regulations, Minimum Setbacks And Building Separations For Accessory Buildings And Structures In Residential Districts is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics.

9. Bulk Regulations, Minimum Setbacks and Building Separations for Accessory Buildings and Structures in Residential Districts:
  - a. See chapter 14, "Accessory Structures", of this title for additional standards and construction requirements for accessory buildings and structures.
  - b. Accessory buildings and structures (***other than fences and walls***) that meet the minimum separation distance from the principal building are considered detached accessory structures. In such case, the detached accessory structure must meet the setback requirements as noted in Table 7.5 of this subsection C9.
  - c. Accessory structures (***other than fences and walls***) that do not meet the minimum separation from the principal structure are considered part of the principal structure, no matter if they are physically separate from the principal structure. In such case, the accessory structure must meet the setback requirements for a principal structure except as noted below.
    - (1) Accessory structures (other than fences and walls) that do not exceed thirty inches (30") in height as measured from grade to the highest element and any railing or trellis designed to be open fifty percent (50%) or more may follow the detached accessory structure setbacks, no matter their proximity to the principal structure.
    - (2) Accessory structures that are considered part of the principal structure and which exceed thirty inches (30") in height must be setback a minimum of twenty feet (20') from the rear property line(s) and must meet the pertinent side and front yard setback of the principal structure.
  - d. Accessory structures cannot encroach into any buffer area or perimeter setback.

- e. In a footprint *lot* development, detached accessory structures ~~and fences~~ are not allowed within footprint lots and are only allowed for development use ***when located*** on common ***development*** property. ***Fences are allowed on or within the boundaries of individual footprint lots for purposes that serve the occupants of the dwelling. Fences are only allowed on common development property for purposes that serve the development as a whole. See Chapter 14 of this Title (Fences), Section 4 (Fence Height and Required Setback) for additional fencing requirements for footprint developments.***
- f. Accessory buildings over one thousand (1,000) square feet, which are only permitted in Residential Estate, Agricultural/Open Space zoning and for religious, institutional, or civic uses within residential districts, shall meet the minimum front yard setback of their respective zoning district and be setback a minimum of twenty feet (20') from the side and rear property lines.
- g. Accessory buildings over one-thousand, five hundred (1,500) square feet in multi-family residential districts must meet primary building setbacks and separations including setbacks adjusted for primary building height.

**Section 4. Amendment.** Title 9: Zoning, Chapter 14: Accessory Structures, Section 11: Fences, Subsection B4, Fence Height and Required Setback is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics.

4. Fence Height and Required Setback:

- a. All Districts, except as provided below in this section:
  - (1) 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.
  - (2) 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.
  - (3) Fences not exceeding six feet (6') in allowed height are allowed within the limits of side and rear yards (non-corner lots).
  - (4) 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 9-14-11B.3.a.(1) 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.

**(5) Footprint Lots: For the purposes of this section, the regulations below relate to placement of fences within footprint lots only.**

**(A) Fences for an individual dwelling shall not be placed in common areas or encroach onto a neighboring footprint lot. (Fences may be located in common areas of the development for purposes that benefit the development (i.e., dog parks, recreational areas, visual screening of negative elements)).**

**(B) No fence shall be placed forward of the front plane of the dwelling unit. No fences allowed in the front yard.**

**(C) Up to a six-foot (6') open fence (less than 50% opaque) generally consistent with that provided in Chapter 19, Section 8, may be located up to the footprint lot line on the side and rear yards of individual dwelling lots. Fences may only be located within one side yard and the rear yard of a lot.**

**(D) Fenced yards within footprint lots shall include gates to allow for emergency services access and maintenance.**

**(E) Fences shall not be placed in public utility easements without the approval of the city and shall not impeded storm water drainage paths.**

**(F) Fence design, including color for individual footprint lots shall be determined by the developer or owner's association and shall be consistent throughout the development.**

**(6) (5) 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.

**Section 5. Repealer.** All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 6. 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 7. 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 8. Other Remedies.** In addition to the provisions set out in 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 9. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Russ Trimble, Mayor

Attest:

\_\_\_\_\_  
Ryan Jacobson, City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2022, and published in the Des Moines Register on \_\_\_\_\_, 2022.