

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.

<u>Zoning District</u>	<u>Front Yard</u>	<u>Street Side Yard</u>	<u>Interior Side/Rear Yard</u>
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
APPROVED

October 10, 2022.



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
Third Consideration: waived

Planning Case No. #ZT-22-007

Proof Of Publication

State of Iowa

Pottawattamie County

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request of the City of Council Bluffs 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 non-conforming 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 non-conforming structures.

You are further notified that the public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 10th day of October, 2022 in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

Jodi Quakenbush, City Clerk
2022 (10) 2 - 1 Sunday

I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 02nd day of October, 2022.


Billing Representative

Sworn to and subscribed before me this 2nd day
of October, A.D. 2022.


Notary Public

State of Virginia
County of Hanover
My Commission expires _____

Kimberly Kay Harris
NOTARY PUBLIC
Commonwealth of Virginia
Reg. No. 373743
Commission Exp. Jan 31, 2025

CITY OF COUNCIL BLUFFS
209 PEARL ST.
COUNCIL BLUFFS, IA 51503

Publication Cost: \$25.56
Customer Number: 1003258
Order Number: 0000332354

E-mail

jquakenbush@councilbluffs-ia.gov

Proof Of Publication

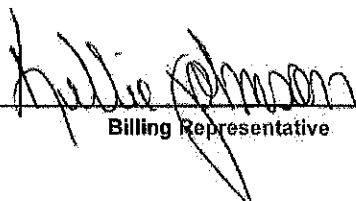
State of Iowa

Pottawattamie County


I, (the undersigned) on my oath do solemnly that I am an authorized representative of CBN Daily Nonpareil, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

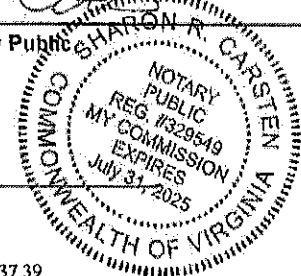
The First publication thereof began on the 14th day of October, 2022.


Billing Representative

Sworn to and subscribed before me this 14th day
of October, A.D. 2022.


Notary Public

State of Virginia
County of Hanover
My Commission expires



CITY OF COUNCIL BLUFFS
209 PEARL ST.
COUNCIL BLUFFS, IA 51503

Publication Cost: \$337.39
Customer Number: 1003258
Order Number: 000334809

E-mail

jquakenbush@councilbluffs-ia.gov

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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, for any purpose shall conform to the following requirements:

A. General Requirements for All Zoning Districts

- 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.
 - 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.
 - Fees for such permits shall be established by the city council and shall be enumerated in Chapter 2 of the Council Bluffs Municipal Code.
- 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.
- 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.
- The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.
- 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.
- 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.
- 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.
- Uncaryground 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.
- The placement, height, appearance and material of fences in planned developments shall be established as part of the adopted development plan.

B. Fence Materials

- 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.
- 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.
- 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.
- Other fences/masonry wall materials may be allowed at the discretion of the Community Development Director or their designee.
- 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

- 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.
- 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:
 - An entrance to the principal structure faces the street side yard;
 - A driveway is located within the street side yard of the property where the fence is installed;
 - 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
 - The street side yard abuts an alley that intersects a public or private street.

- 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.
- 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.
- Retaining walls used for the purposes of supporting, holding or retaining 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

- No barbed wire or electrically charged security fences shall be allowed in the West Broadway Corridor Design Overlay (CDO).
- 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.
- 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:
 - The site shall not abut any residential district; and
 - The use shall comply with all requirements for conforming use and the site development regulations in the C-2 District.
- 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.
- 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:
 - The site shall not be within 300 feet of a residential district, or a legal non-conforming residential use;
 - The use shall comply with all requirements for conforming use and site development regulations in the underlying zoning district; and
 - 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

- 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 wood and/or masonry fence, at least fifty (50) percent opaque, six feet in height;
 - A vegetation fence capable of providing a substantially opaque barrier and
 - 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
 - Any combination of the described methods that achieves a cumulative height of six feet.
- 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 Approved October 10, 2022

Matthew J. Walsh, Mayor

Attest: Allison Head, Deputy City Clerk

Council Communication

Department: City Clerk
Case/Project No.: ZT-22-007
Submitted by: Moises Monroy, Planner

Ordinances 6524 and 6525
ITEM 5.G.

Council Action: 10/10/2022

Description

Amending the following sections of Title 15: Zoning of the Municipal Code;

1. Ordinance 6524 to amend Chapter 15.24, Supplemental Use and Site Development Regulations, by amending Section 15.24.040 "Fencing Regulations."
2. Ordinance 6525 to amend Chapter 15.34, Renewable Energy, by amending Section 15.34.030 "Solar Energy Conversion Systems."

Background/Discussion

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report	Staff Report	9/16/2022
Attachment A: Proposed Section 15.34.030, Solar Energy Conversion Systems	Code Section	9/16/2022
Attachment B: Proposed Section 15.24.040, Fence Regulations	Code Section	9/16/2022
Attachment C: Fence diagrams for fencing in a street side yard	Other	9/16/2022
Public Hearing Notice	Notice	9/16/2022
Ordinance 6424	Ordinance	10/5/2022
Ordinance 6425	Ordinance	10/5/2022

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
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Subject/Title

Request: Public hearing on the request of the City of Council Bluffs 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.

Background

The Community Development Department is requesting to amend Title 15: Zoning of the Council Bluffs Municipal Code as follows:

1. Amend Section 15.24.040(C), Fence Height Requirements, by updating subsection (2) relative to the maximum height allowed for fences in the street-side yard;
2. Amend Section 15.34.030(A), Solar Energy Conversion Systems – General Provisions, 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), 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
4. Amend 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.

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.

All City Departments and local utilities were notified of the proposed text amendments. No adverse comments have been received.

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 Monrroy, 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, Danielsen, 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

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:

C. Fence Height Requirements

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

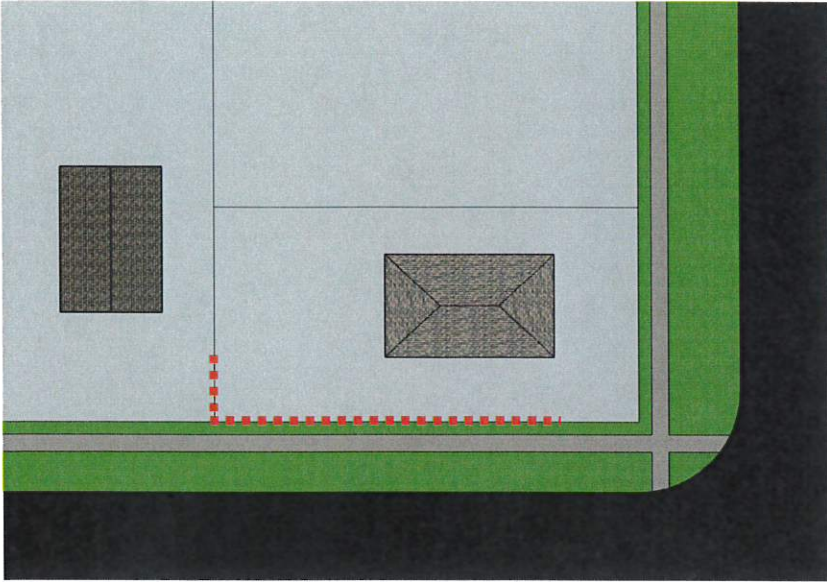
<u>Zoning District</u>	<u>Front Yard</u>	<u>Street Side Yard</u>	<u>Interior Side/Rear Yard</u>
Residential	4 feet <small>see 1 below</small>	6 feet <small>see 2 below</small>	6 feet
Commercial	4 feet <small>see 1 below</small>	6 feet	6 feet
Industrial <small>see 3 below</small>	8 feet	8 feet	8 feet
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 fence is located within five feet of t~~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;** or
 - d. The street side yard abuts an alley that intersects a public or private street.

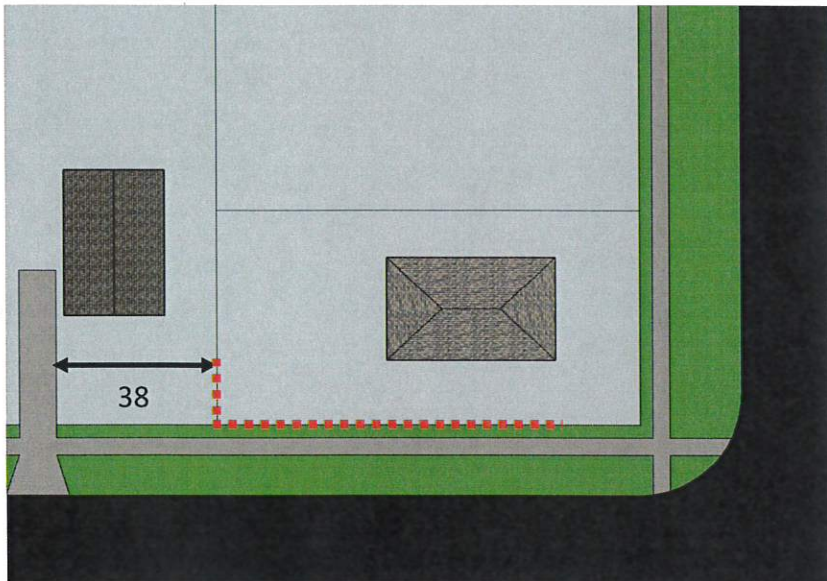
3. In the I-2 and I-3 Districts when a parcel contains 50 contiguous acres or more of total land area, a maximum 10-foot tall fence may be allowed in the interior side, street side and rear yards. In the front yard, the height of the fence shall not exceed eight feet unless its placement meets the setback 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.

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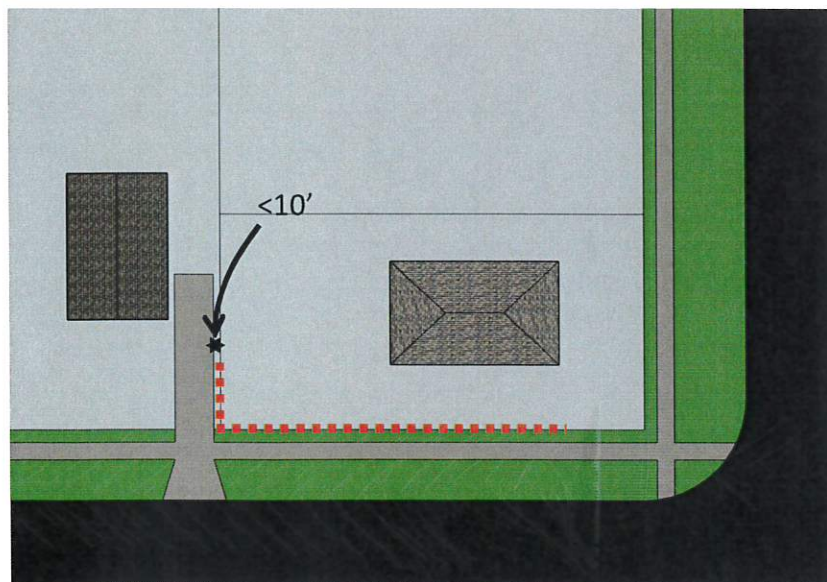
Section 15.24.040(C)(2)(c) - Fence Height in the Street-Side Yard When There is a Driveway on an Adjoining Property



If there is no driveway on the adjoining property, then the maximum fence height allowed shall be **six feet**



If the driveway on the adjoining property is located more than 10 feet from the shared property line, then the maximum fence height allowed shall be **six feet**



If the driveway on the adjoining property is located 10 feet or less from the shared property line, then the maximum fence height allowed shall be **four feet**

..... Fence

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request of the City of Council Bluffs 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.

You are further notified that the public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 10th day of October, 2022 in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

Jodi Quakenbush, City Clerk