

**ORDINANCE NO: O-2023-11**

**AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-612 OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO MUNICIPAL FENCING, HOW FENCE HEIGHT IS MEASURED, AND ADJUSTING FENCE DESIGN REQUIREMENTS ADJACENT TO TRAIL CORRIDORS AS SHOWN IN FILENAME TA-23-06.**

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the "Commission") and the Highland City Council (the "City Council") were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on April 25, 2023 and

WHEREAS, the City Council held a public hearing on this Ordinance on May 2, 2023 and May 16, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Section 3-612 Fences, Retaining Walls, Theme And Screen Walls of the Development Code is hereby amended as shown on "Exhibit A" attached hereto and incorporated herein.


SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from May 16, 2023 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, May 16, 2023

HIGHLAND CITY, UTAH

  
\_\_\_\_\_  
Kurt Ostler  
Highland City Mayor

ATTEST:

*Stephannie Cottle*

Stephannie Cottle  
Highland City Recorder



COUNCIL MEMBER	YES	NO
Timothy A. Ball	<input type="checkbox"/>	<input type="checkbox"/>
Brittney P. Bills	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sarah D. Petersen	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kim Rodela	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott L. Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ABSENT

## EXHIBIT A

### 3-612 Fences, Retaining Walls, Theme Walls, And Screen Walls, And Retaining Walls

1. Permit Required. All fences, ~~screen walls, and theme walls,~~ screen walls, and retaining walls shall be subject to review and approval by the Zoning Administrator. All fences, ~~screen walls, and theme walls,~~ screen walls, and retaining walls shall comply with the conditions set forth herein, unless a more specific standard applies. An application shall contain an application form, any information specifically required by this ordinance, such additional information specified by the Zoning administrator, and when required, a fee. See Section 3-4112(4) for fencing around athletic courts.
- ~~2.1. Fences. For the purposes of this section, fences shall include walls and hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier. In no event shall a fence be installed within the front setback parallel to a street.~~
- a.2. General. All fences, screen walls, and theme walls shall comply with the following regulations, unless a more specific standard applies:
  - a. Fences shall be set back not less than the front setback approved for the subdivision.
    - ~~i. Fences shall not exceed six (6) feet in height.~~
    - ~~ii.a. Fences may be installed on the side and rear lot lines behind the front setback. The fence shall not exceed six (6) feet in height. A fence along the side lot lines may extend into the front set back up to fourteen (14) feet from the back of curb with a maximum height of three (3) feet.~~
    - b. Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. "Finished grade" means the average finished grade of the property within five (5) feet of either side provided that the fence shall not exceed eight (8) feet in total height as measured from the lowest point within five (5) feet of either side of the fence nearest the fence.
    - ~~iii.c. Fences subject to the parkway detail shall follow location height, and setback requirements as specified therein. All other fences shall follow the requirements set forth in this Chapter.~~
    - ~~iv. Berms, or other means to raise the elevation of the ground upon which a fence is proposed to be located, shall be included in the measurement of fence height.~~
    - ~~v.d. Fences on or adjacent to Retaining walls are subject to Subsection 6 Retaining Walls, considered as part of the fence height.~~
    - ~~b. When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from the height of the higher property grade within five (5) feet of the property line but shall not exceed eight (8) feet in total height as measured from the lower property grade.~~
3. Residential Fences. For the purposes of this section, fences shall include walls and hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier within or on any residential lot or parcel. All such fences shall comply with the following regulations in addition to all other applicable regulations set forth in this Chapter: ~~In no event shall a fence be installed within the front setback parallel to a street.~~
  - a. Location

i. Fences may be installed on the side and rear lot lines behind the front setback. The fence shall not exceed six (6) feet in height. A fence along the side lot lines may extend into the front set back up to fourteen (14) feet from the back of curb with a maximum height of three (3) feet.

ii. A fence shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street. This setback may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

iii. All fences shall not exceed three (3) feet in height in the clear vision area and shall comply with the clear view area requirements as defined in Section 3-610 Clear View of Intersecting Streets.

iv. In no event shall a fence be installed within the front setback parallel to a street.

e.b. Materials

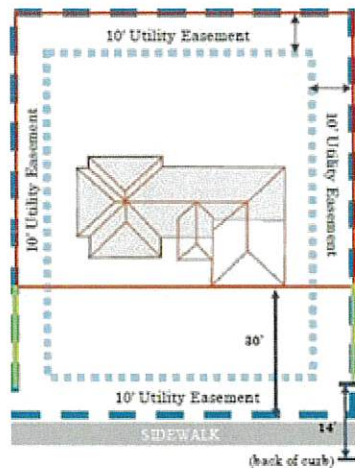
i. Permitted: Vinyl, wood, open style metal fencing with the appearance of wrought iron, precast concrete, concrete, steel cable, gabion, stone, masonry, and hog/horse wire within wooden or metal beams and posts. Hog/horse wire without beams are permitted for animal enclosures required for large animals.

ii. Prohibited: Chain link and all other materials not listed above are prohibited.

e.c. Specific lot considerations

i. Typical Lot

i.

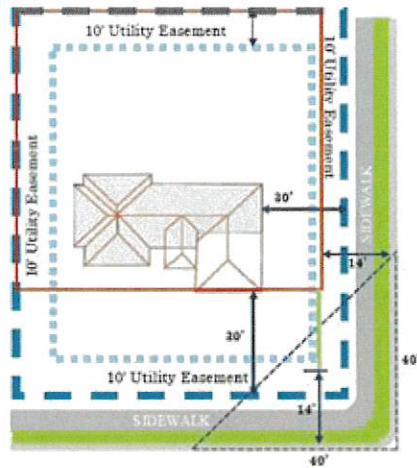


KEY

- 6-foot fence
- 3-foot fence

(1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

ii. Corner Lot



**KEY**

- 6-foot fence
- 3-foot fence
- Sight Triangle (nothing taller than 5' can be in this triangle, including landscaping.)

- (1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

iii. Lots adjacent to trails or open space

- (1) Open style fences along the side or rear lot lines that are adjacent to a trail or open space are permitted. The Solid or closed style fences along the side or rear lot lines that is adjacent to a trail or open space must be a maximum of four (4) feet solid with at least the top two (2) remaining feet at least 55% open in either of the following circumstances:

- (A) The trail or open space area is less than ~~thirty (30)~~ ~~forty (40)~~ feet in width and is not immediately adjacent to a public street.
- (B) The trail or open space corridor is wider than ~~thirty (30)~~ ~~forty (40)~~ feet but cannot be seen from two public areas such as a street or park.

- (2) The Zoning Administrator may approve an alternative fence design for either circumstance described above based on the following factors:

- (A) The proposed alternative meets the intent of this section; and,
- (B) There are special circumstances attached to the property that do not generally apply to other properties in the same subdivision; and,

(C) The natural visibility or observation of the trail or open space is not diminished if the proposed alternative is constructed on all the lots adjacent to the trail or open space.

iv. Highways/arterial lots

(1) On all state highways or arterial streets, fences shall be set back a minimum of thirty (30) feet from the back of curb or as required by the parkway detail. This 30-foot restriction is applicable to fences along the front, side, and rear property lines that abut the highway or arterial street, no matter the height.

v. Lots with side or rear property lines adjacent to a golf course facility

(1) The fence may be a maximum of fifteen (15) feet in height. The materials of this fence are limited to open style netting with black support posts or beams no closer than five (5) feet apart.

~~3.1. Retaining Walls~~

~~a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in height. The maximum height of retaining wall in any other location is six (6) feet.~~

~~i. Retaining walls for daylight basements or window wells have a maximum height of eleven (11) feet.~~

~~b.a. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall.~~

~~e.a. Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane. If a privacy fence that is on top of a retaining wall would exceed eight (8) feet, it shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.~~

~~d.a. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed.~~

~~e.a. Retaining walls require a building permit if it exceeds four (4) in height. The submittal for the building permit must include:~~

~~i. a stamped engineered plan from the licensed engineer;~~

~~ii.i. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location;~~

~~iii.i. \_\_\_\_\_ plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah Law (UCA 54-3-27).~~

4. Theme Walls. A *theme wall* is a wall that is installed along state highways, arterial, and collector streets, and open space areas as determined during the development review process.

a. Any developer of a residential subdivision shall provide a six (6) foot theme wall adjacent to all arterial and collector streets, open space areas, and trails except as provided herein. Gates connecting to open space areas may be allowed in theme

walls if approved as part of the development review process. All theme walls shall be located on private property and owned by the owner of such private property or by a homeowners' association, unless the City agrees otherwise by way of a condition of approval during the development review process or recorded agreement.

b. Materials and Design

i. Permitted Materials: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features are also permitted.

ii. Prohibited: Vinyl, wood, chain link.

iii. All theme walls between different uses shall provide columns every fifty(50) feet to provide variety and visual interest. Said columns shall extend a minimum of six (6) inches from the face of the theme wall and be architecturally enhanced as required above.

c. Maintenance and Reconstruction

i. The owner of the theme wall shall maintain the theme wall in reasonably good and safe condition.

iii.ii. Any reconstruction of the theme wall shall conform to the theme wall design approved as part of the development review process, unless a different design is approved by the City Council.

5. Screen Walls. A *screen wall* is a wall that is installed between different land uses as required in this section or used to screen trash enclosures, loading docks, outdoor storage areas, etc., or as determined during the development review process.

a. The developer of any residential development with a density greater than six (6) units per acre which abuts any R-1-40, R-1-30, R-1-20, or A-1 district must provide a screen wall with a minimum height of six (6) feet along the abutting property line.

b. The developer of any nonresidential use that abuts any residential district must provide a screen wall with a minimum height of six (6) feet along the abutting property line. Any loading docks within one hundred (100) feet of a residential district must have a separate eight (8) foot high screen wall of similar materials compatible with the building design to screen the dock areas.

c. All outdoor storage areas shall have a six (6) foot screen wall as required in this section.

d. Materials and Design

i. Permitted: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better-quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features.

ii. Prohibited: Vinyl, wood, chain link.

iii. If a screen wall is erected as an enclosure, a gate of equal height shall be required in order to secure the enclosure. The gate shall be opaque and shall be compatible with the design of the building(s).

6. Retaining Walls

- a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in exposed height. The maximum height of a retaining wall in any other location is six (6) feet exposed height. A retaining wall shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street.
  - b. Retaining walls for daylight basements or window wells have a maximum exposed height of eleven (11) feet.
  - c. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall.
  - d. Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane measured from the finished grade of the lower property. If a privacy fence or other opaque, non-open style fencing –that is on top of a retaining wall would exceed eight (8) feet measured from the finished grade of the lower property, ~~if the fence~~ shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.
  - e. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed.
  - f. Retaining walls require a building permit if it exceeds four (4) feet in height measured from the bottom of the footing to the top of the retaining wall. The submittal for the building permit must include:
    - i. a stamped engineered plan from ~~the~~ a licensed engineer.
    - ii. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location.
    - iii. plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah Law (UCA 54-3-27).
7. Municipal Fencing and Retaining Walls. Fences for Highland City may be chain link. Fences and retaining walls for Highland City may deviate from the standards set forth in this Chapter for the benefit of the public and public resources.