

ORDINANCE NO. O-2024-11

AN ORDINANCE AMENDING HIGHLAND CITY DEVELOPMENT CODE 3-612 RELATED TO FENCE AND RETAINING WALL REGULATIONS

WHEREAS, Highland City is authorized to enact land use regulations that govern the use and development of property;

WHEREAS, Highland City has previously adopted regulations regarding fences and retaining walls;

WHEREAS, a duly noticed public hearing was held by the Planning Commission regarding the proposed amendments described herein on May 28, 2024, after which hearing the Commission recommended adoption of certain amendments to the regulations;

WHEREAS, the Highland City Council provided notice of and opened a public hearing regarding the proposed amendments and to review the recommendation of the Planning Commission on June 18, 2024;

WHEREAS, the Highland City Council desires to amend its fencing and retaining wall regulations to clarify definitions, increase consistency in fencing regulations, and provide greater flexibility in fencing options to residents along trails and to public entities and public utilities;

WHEREAS, the Highland City Council finds that the proposed amendments further the public welfare and conform to the vision of Highland City, which includes scrutinizing and adjusting requirements related to the “interface between residential neighborhoods, open space, roads and other features” to meet the requirements of the community.

NOW THEREFORE, BE IT ORDAINED by the Highland City Council as follows:

SECTION 1. Section 3-612 of the Highland Development Code is amended as shown in Exhibit A, attached hereto.

SECTION 2. All ordinances and parts and provisions thereof in conflict with this ordinance are repealed to the extent of such conflict.

SECTION 3. This ordinance shall take effect immediately upon its adoption and publication, in accordance with law.

ADOPTED AND PASSED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this 2nd day of July, 2024.



Mayor

ATTESTED:



City Recorder



COUNCILMEMBER

YES NO

Brittney P. Bills
Ron Campbell
Doug Cortney
Kim Rodela
Scott L. Smith

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EXHIBIT A

1. Amendments to HDC 3-612 – General

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

1. Permit Required.

- a. All fences, theme walls, screen walls, and retaining walls shall be subject to review and approval by the Zoning Administrator ~~and shall not be constructed without first obtaining the approval of the Zoning Administrator.~~
- b. ~~All fences, 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 established by the City Council. ~~See Section 3-4112(4) for fencing around athletic courts.~~
- a. ~~The Zoning Administrator shall approve, approve with conditions, or deny an application within a reasonable time after a complete application is received. The applicant shall comply with all conditions of approval of the application. Appeals of the Zoning Administrator's final decision may be brought to the Appeal Authority per the requirements of Chapter 2, Article 3 of this Code.~~

c.

2. General.

- a. Definitions: As used in this section, the listed terms are defined as follows:
 - i. **Athletic Court Fencing.** Fencing surrounding or enclosing an athletic court, which is a solid playing surface constructed for recreational purposes such as a basketball, tennis, or pickleball court. Athletic court fencing is subject to the fence regulations of this Section and applicable zoning regulations (See Section 3-4112(4), Section 3-4212(4), and Section 3-4262(4)).
 - ii. **Fence.** Fences, walls, hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier. A fence does not include a retaining wall.
 - iii. **Fence Height.** The highest point of the finished grade to the highest point of the main fence structure. Fence posts, columns, and monuments and caps thereon may exceed the otherwise required fence height limit by no more than six (6) inches if the width of the post, column, monument, or cap does not exceed two (2) feet with a minimum spacing between posts, columns, and monuments of four (4) feet.
 - iv. **Finished Grade.** The final surface elevation of a property after completion of grading and other surface improvements. Surface improvements that do not extend more than five (5) feet perpendicularly from the fence or wall line, including planter boxes and raised garden or patio areas, are not considered surface improvements that establish the finished grade.

v. **Open or Open Style.** A fence that is constructed so a majority of the vertical surface is open, with no bars, supports, lines, or other fence structures. Where no more specific requirement is established, an open-style fence shall be a minimum of 55% open.

vi. **Privacy Fencing.** A fence that is constructed to be fully or primarily opaque throughout the vertical surface area of the fence.

vii. **Retaining Wall.**

(1) Any structure designed to resist the lateral displacement of soil or other materials to a slope that would not naturally be sustained (typically a steep, near vertical, or vertical slope) in accordance with accepted engineering practices, building code requirements, and/or manufacturer specifications. Examples include block walls, rock walls, concrete walls, and segmented walls.

(2) Walls that are parts of buildings or underground structures, such as foundation walls, basement walls, vault walls, tunnels, and swimming pool structures are not considered retaining walls. Walls that are not foundation or basement walls, but provide access to basement or below-grade entrances (e.g., daylight basements and window wells) are considered retaining walls and shall be subject to all applicable retaining wall regulations.

(3) Retaining walls are not considered fences, provided that any portion of a retaining wall that extends above the retained material and is not required to resist the lateral forces or lateral displacement of the retained material is considered a fence and shall be subject to all applicable fence regulations, including height regulations.

viii. **Screen Wall.** A fence that is installed by a developer or subdivider of a non-residential development between different land uses or to screen trash enclosures, loading docks, utility connections and equipment, outdoor storage areas, or other similar features as determined during the development review process.

ix. **Theme Wall.** A fence installed by a developer or subdivider of a residential subdivision or a planned development with residential uses along state highways, arterial and collector streets, and trails and open space areas as determined during the development review process.

b. All fences, retaining walls, screen walls, and theme walls shall comply with the following general regulations and all other specific regulations set forth in this Section, unless a more specific standard applies:

i. ~~Fences shall be set back not less than the front setback approved for the subdivision.~~ Fences shall not exceed six (6) feet in height.

ii. Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. Where there is a difference in finished grade within five (5) feet of either side of a fence, the fence height shall instead be measured from “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.

iii. 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. Fences on or adjacent to retaining walls are subject to Subsection 6 Retaining Walls.

iv.v. Fences, retaining walls, screen walls, and theme walls, including all posts, footings, and other support structures, shall be located entirely on the applicant's property, unless the applicant obtains the written approval of the adjacent property owner.

~~2.3.~~ 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:

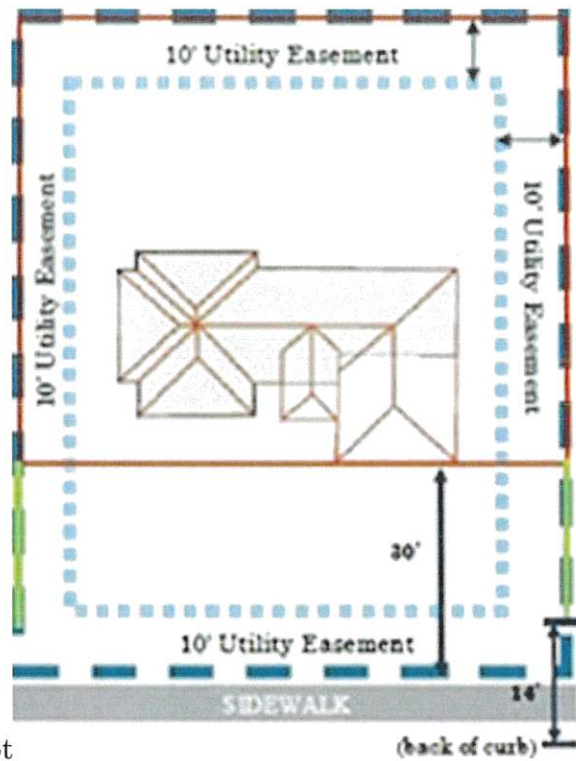
a. Location

- i. Fences may be installed on the side and rear lot lines behind the front setback of the applicable zone. ~~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 if the fence is 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 of the applicable zone parallel to a street.

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.

c. Specific lot considerations

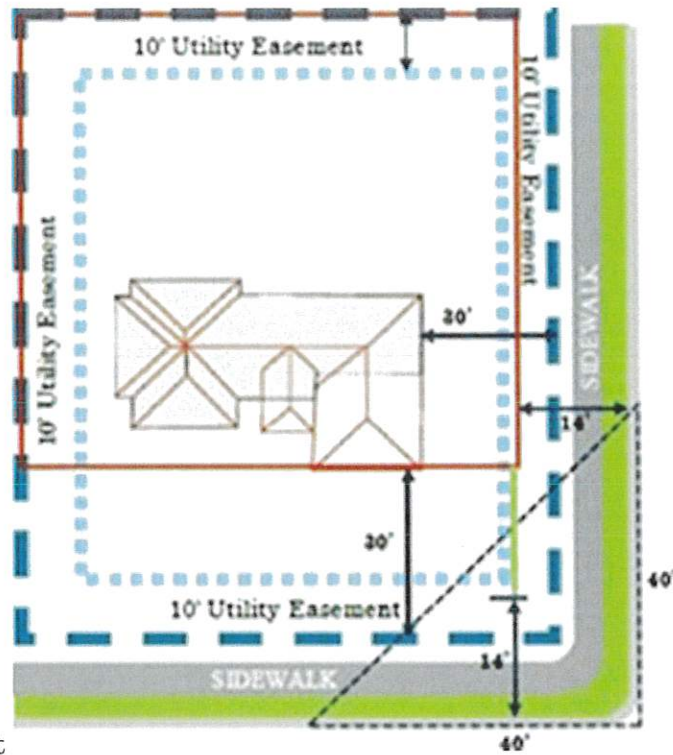


i. Typical Lot

KEY

- 6-foot fence
- 3-foot fence
- - - Sight Triangle (nothing taller than 3' 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.



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 and privacy fences less than four (4) feet in height along the side or rear lot lines that are adjacent to a trail or open space are permitted. ~~Solid or closed style fences~~

- (1)(2) Privacy fences higher than four (4) feet in height along the side or rear lot lines that are adjacent to a trail or open space are permitted, up to the maximum allowed fence height, except that privacy fencing along the side or rear lot lines adjacent to a trail or open space ~~must be~~ is limited to a maximum of four (4) feet ~~solid or~~ privacy fencing, 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) feet in width and is not immediately adjacent to a public street.
- (B) The trail or open space ~~corridor area~~ is wider than thirty (30) feet but cannot be seen from two public areas such as a street or park.

~~(2)~~(3) The Zoning Administrator may approve an alternative fence design for fencing adjacent to trails or open space ~~if 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 lot

- (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.

~~3.4.~~ Theme Walls. Theme walls shall comply with all regulations applicable to fences, except to the extent such regulations conflict with the requirements of this Subsection, in which case the requirements of this Subsection shall control. ~~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.

b. Gates connecting to open space areas may be allowed in theme walls if approved as part of the development review process.

~~a.c.~~ 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.d. 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.

iii-iv. Theme walls and gates shall be privacy fencing, provided that theme walls and gates adjacent to open space and trails shall meet the requirements of Subsection 3(c)(iii).

e.e. Maintenance and Reconstruction

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

4.5. Screen Walls. Screen walls shall comply with all regulations applicable to fences, except to the extent such regulations conflict with the requirements of this Subsection, in which case the requirements of this Subsection shall control. 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 abut 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-privacy fencing and shall be compatible with the design of the building(s).

iii-iv. Screen walls and gates shall be privacy fencing, provided that screen walls adjacent to open space and trails shall meet the requirements of Subsection 3(c)(iii).

5.6. 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, measured from the back side of the lower wall to the front side of the higher wall.

d. Fences and Retaining Walls: Fences on or adjacent to retaining walls are subject to the following regulations:

- i. Privacy fences are permitted to be on the same vertical plane as a retaining wall, provided that the ~~Under no condition shall~~ height of the combined aprivacy fence and retaining wall may not exceed eight (8) feet in height ~~on the same vertical plane~~ measured from the finished grade of the lower property,. If a privacy fence and retaining wall ~~or other opaque, non-open style fencing that is on top of a retaining wall~~ would exceed eight (8) feet in height, measured from the finished grade of the lower property, the privacy fence shall be set back at least four (4) feet from the back side of the retaining wall. Under no event may the height of a privacy fence exceed six (6) feet measured from the finished grade of the higher property.

- ii. Open style fences are permitted to be on the same vertical plane as a retaining wall. The height of an open style fence may not exceed six (6) feet measured from the finished grade of the higher property.

~~d.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 or may be installed in the near future.

f. Retaining walls require a building permit if there is a four (4) foot difference between the grades on either side of the retaining wall or the retaining wall supports a surcharge, per building code. it exceeds four (4) feet in height measured from the bottom of the footing to the top of the retaining wall.

e.g. The application submittal for ~~the a~~ building permit for a retaining wall must include:

- i. a stamped engineered plan from 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 State Law (UCA 54-3-27).

7. ~~Municipal Public and Utility~~ Fencing and Retaining Walls.

a. Fences for Highland City, other public entities, and public utilities may be chain link.

- b. Fences and retaining walls for Highland City, other public entities, and public utilities may deviate from the standards set forth in this Chapter for the benefit of the public and public resources with the approval of the Zoning Administrator.
- c. Fences for non-Highland City public entities and utilities are required to be open style fencing along trail corridors that are less than thirty (30) feet wide.
- ~~f.~~d. Nothing herein shall exempt non-Highland City entities from applying for and obtaining City approval of fences and retaining walls prior to construction.