

ORDINANCE 2021-017

PASSED: APRIL 26, 2021

AMENDING CHAPTER 23 "UNIFIED DEVELOPMENT ORDINANCE", ARTICLE 7.06(8) "FENCES", OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE AS IT PERTAINS TO BARBED WIRE FENCING.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government which may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City has adopted a Unified Development Ordinance (the "UDO"), which sets forth the City's zoning and subdivision standards and procedures; and,

WHEREAS, the City wishes to amend a portion of the UDO regulating "Fences" (Article 7.06) as more fully set forth in Exhibit A attached hereto and incorporated herein (the "Text Amendment"); and,

WHEREAS, on April 19, 2021, the City's Planning and Zoning Commission held a public hearing on the Text Amendments and recommended approval of the Text Amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The City's corporate authorities approve the Text Amendment and amend Chapter 23 "Unified Development Ordinance" of the City's Municipal Code, Article 7.06 "Fences", as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2: Except as may otherwise be amended by this Ordinance, the UDO shall remain in full force and effect. To the extent that this Ordinance conflicts with prior versions of the UDO, the provisions of this Ordinance shall prevail, and the terms of the prior conflicting ordinances are hereby repealed.

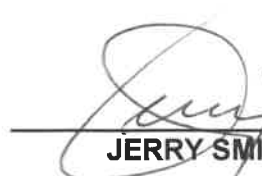
SECTION 3: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

SECTION 4: This Ordinance shall be in full force and effect after passage and approval as provided by law. Publication date: April 27, 2021. Effective date: May 6, 2021.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 26th day of April 2021 and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None. Second Reading waived by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None.

ATTEST:


RUTH A. SCOTT, Executive Assistant


JERRY SMITH, Mayor

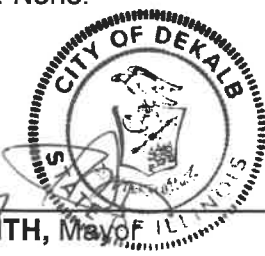


EXHIBIT A
(Text Amendment)

EXHIBIT A

2. Residential developments, when approved as part of a Planned Development, subdivision, rezoning, special use permit, or any other zoning or subdivision action, shall provide the same landscaping and screening as in Paragraph 1, above, when located adjacent to an existing commercial or industrial zoned property, whether developed or vacant. This provision shall not apply to lots platted prior to this Amendatory Act of 2004, when a building permit is all that is necessary to construct a development on that lot.
3. Rooftop mechanical equipment shall be enclosed by an opaque architectural screen or louver that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of such equipment.
4. Outdoor storage areas must be screened with an opaque architectural screen or fence that substantially conforms to the color and building materials of the principal structure, and of a height not less than the height of the materials stored.
5. Outdoor storage areas shall be paved or hard surfaced in accordance with the Construction Requirements set forth in Article 12.03, Paragraph 1.

7.06 Fences

1. For the purposes of this section, there shall be the following types of fences:
 - a. *Open Fence*: A fence in which the openings in the materials of which the fence is constructed represent more than fifty (50) percent of the area of the fence and which do not interfere with visibility, or the free passage of air, through the fence;
 - b. *Privacy Fence*: All fences other than Open Fences.
2. In residential districts, open fences six (6) feet or less in height are permitted in the rear yard, and in the side yard behind the front of the principal structure. Except as provided for elsewhere in this Ordinance, open fences in non-residential districts shall not exceed four feet in height in the front yard, but may be erected to any height anywhere else on a lot.
3. In residential districts, privacy fences six (6) feet or less in height are permitted in the rear yard and in the side yard behind the nearest front of the principal building on the lot, provided that said fence is located at least five (5) feet from any principal building on adjacent property. In commercial or industrial districts, privacy fences are also allowed in the front yard, but not closer to the street than the required building setback line, when providing screening required elsewhere in this Ordinance.
4. Through lots and corner lots with frontage on more than one street (2009-050):
 - a. *Through lots*: On residential lots that are through lots (lots with frontage on one street and the rear yard having frontage on another street) the front and side fence placement shall comply with Article 7.06.2 or Article 7.06.3. The location of the rear yard fence may abut the property line unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval.
 - b. *Corner lots with frontage on more than one street*: On residential corner lots that have frontage on two or more streets, no privacy fences greater than thirty-six (36) inches in height or open fence greater than forty-eight (48) inches in height shall be permitted in the frontage yards (yards that front on the streets). The location of the side and rear yard fence shall comply with Article 7.06.02 or Article 7.06.3 unless the Plat of Subdivision specifically identifies a greater set-back from the property line. Prior to issuance of a Fence Permit, a Certified Plat of Survey must be submitted to the Building and Code Enforcement Division for review and approval."

5. The maximum height of an open fence in front of the front building line established by the principal structure shall be forty-eight (48) inches.
6. The maximum height of a privacy fence in front of the front building line established by the principal structure shall be thirty-six (36) inches, unless allowed elsewhere in this Article.
7. Fences may exceed the above stated maximum heights in a Planned Development, Commercial (PD-C) or any Industrial zoning district when approved as part of a landscaping plan, or as part of a buffering or screening requirement as may be provided for elsewhere in this Ordinance. Also, fences (or walls), used as a decorative feature and/or as a backdrop to an identification sign at subdivision, apartment, condominium or planned development entrances, may exceed the above stated maximum heights, if approved by the Community Development Director.
- ~~7.8. Barbed wire may be used as part of a fence in the "GC" General Commercial District, "ORI" Office, Research, Light Industrial District, "LI" Light Industrial District, "HI" Heavy Industrial District, "PD-C" Planned Development-Commercial District or the "PD-I" Planned Development - Industrial District when located in the side or rear yard, and is attached to the fence above six (6) feet and is at a 45 degree angle. Barbed wire may be used as part of a fence in the "GC", "ORI", "LI", "HI", "PD-C" or "PD-I" Districts in the front yard when used in association with an electric power substation, transformer station, communications facility, publicly owned property or a use requiring a secured entrance as determined by the City Manager. Fences using barbed wire that is angled towards the exterior of the property shall be setback a minimum of two (2) feet from the property line. Razor wire fencing is prohibited.~~
- ~~8. Barbed wire shall not be used to constitute any part of a fence in any zoning district except that part of a fence in a side or rear yard, which is at least six (6) feet above the grade, with the barbed wire attached to the fence above six (6) feet and at a 45 degree angle towards the interior of the property, and either:

 - ~~a. is used to protect an electric power substation or transformer station;~~
 - ~~b. is located in an "ORI" Office Research and Light Industrial, "LI" Light Industrial District, "HI" Heavy Industrial District, or in a "PD-I" Planned Development - Industrial District;~~
 - ~~c. is located in a "GC" General Commercial District; except that the use of barbed wire in a "GC" General Commercial District, must be approved by the City Council after a report from the Community Development Director.~~~~
9. Fences may be placed at the property line, except no fence shall be erected along, parallel to or substantially parallel to and within five (5) feet of an adjoining property line unless the finished side of the fence faces the adjoining property. If a fence is erected with posts and supports, the side on which the posts and supports are most visible shall be considered the unfinished side. No fence shall be constructed in such a manner or location as to block any natural or planned stormwater conveyance system, nor shall any fence be constructed over or within a stormwater drainage easement.
10. All fences shall conform to the requirements of Section 7.10, "Sight Distance Triangle," of this Article.
11. Prohibited Fences: Electrically charged, chicken wire, permanent snow or any other fence constructed of materials from used or discarded materials including but not limited to corrugated metal, plywood or other type of sheet metal. An underground electrical pet fence is exempt from this prohibition. (2019-025)