

AMENDING CHAPTER 23 "UNIFIED DEVELOPMENT ORDINANCE", ARTICLE 7.06 "FENCES", OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and 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 adopted a Unified Development Ordinance (the "UDO"), which sets forth the City's zoning and subdivision standards and procedures; and

WHEREAS, the City seeks to amend Article 7.06 "Fences" of the UDO as set forth in the attached and incorporated Exhibit A (the "Text Amendment"); and

WHEREAS, on February 5, 2024, the City's Planning and Zoning Commission held a public hearing on the Text Amendment and recommended approving the Text Amendment; and

WHEREAS, the City's corporate authorities find that approving the Text Amendment is in the City's best interests for the protection of the public health, safety, and welfare; and

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

SECTION 1: The recitals to this Ordinance are true, material, adopted and incorporated as Section 1 to this Ordinance.

SECTION 2: The City's corporate authorities adopt and approve the Text Amendment to Chapter 23 "Unified Development Ordinance" of the City's Municipal Code, Article 7.06 "Fences" as set forth in the attached and incorporated Exhibit A.

SECTION 3: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 12th day of February 2024 and approved by me as Mayor on the same day. Passed on First Reading by a 7-0-1 roll call vote. Aye: Zasada, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Walker. Second Reading waived Reading by a 7-0-1 roll call vote. Aye: Zasada, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Walker.




COHEN BARNES, Mayor

ATTEST:


Ruth A. Scott, Executive Assistant

EXHIBIT A

ARTICLE 7

SUPPLEMENTAL DISTRICT REGULATIONS

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 up to six (6) feet in height, unless allowed elsewhere in this Ordinance, 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 principal structure required building setback line, when providing screening required elsewhere in this Ordinance.
4. Through lots ~~and~~ corner lots with frontage on two streets and lots with frontage on three streets 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 about 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 ~~two or more~~ streets*: 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."
 - b-c. *Lots with frontage on three streets*: On residential lots that have frontage on three streets no privacy fences greater than thirty-six (36) inches in height or open fences greater than forty-eight (48) inches in height shall be permitted in front of the principal structure in the yard that serves as the primary access for the lot. A privacy or open fence up to six (6) feet in height is allowed in the side yard facing the street.
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, unless allowed elsewhere in this Article.

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), Government Sanitary or any Industrial zoning district when approved as part of a landscaping plan, ~~or as part of a buffering or screening requirement~~, or a use requiring a secured entrance 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.
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, "GS" Government Sanitary, "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", "GS", "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.
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)
12. Temporary Fencing: Temporary fencing is permitted for construction sites, special events, temporary uses pursuant to Article 14.07, and for public safety requirements as determined by the Chief Building Official. (2019-025)
13. Decorative Features: In the side and rear yards decorative post caps and fencing features with no covering, as determined by the Chief Building Official, can extend up to one (1) foot over the maximum fence height allowed.
14. Alley Setbacks and Access for Fences: All fences must be setback at least three (3) feet from alleys. Residential properties adjacent to an alley must have a gate on the alley side of the property for emergency access. Commercial properties adjacent to an alley must have a gate every 150 feet for emergency access.