

§155.073 FENCES.

(A) *Building permit; site development approval.* No person, except on a farm and is related to farming, shall hereafter construct or cause to be constructed or erected within the City, in any residential district, any fence without first making an application for and securing a building permit. Site development approval and building permits shall be obtained for all fences in C-1, C-2, C-3, C-4 and I-1 districts.

(B) *Location.* All fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.

(C) *Construction and maintenance; restricted materials; nonconformities; height.*

(1) *Construction and maintenance.* All fences shall be constructed in a substantial, workmanlike manner of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage or unsightliness, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect, is a public nuisance, and the Planning Services Director shall commence proper proceedings for the abatement thereof.

(2) *Restricted materials.* Site development approval is required by the Commission for all installations of barbed wire and/or razor wire. Use shall be restricted to properties where necessity has been shown that security is required to protect hazardous processing, products, equipment, storage or attractive nuisances or in situations of exceptional need. Barbed wire and razor wire are prohibited fencing materials except under one of the following conditions:

(a) Public and private utilities may install barbed wire or razor wire at the top of fencing.

(b) Commercial and industrial development may install barbed or razor wire at the top of fencing.

(c) Buildings and properties which involve attractive nuisances may install barbed wire at the top of fencing.

Site development approval is also required by the Commission for all installations of electrified fencing.

(3) *Effective date; nonconforming fences.* Any fencing existing on the effective date of the ordinance from which this section is derived, which does not comply with the regulations of the district in which is located, shall be deemed a lawful nonconforming fencing installation. All new or replacement fencing shall fully conform to regulations established in this section.

(4) *Measurement of height.* The height of any fence shall be calculated to the uppermost points as follows:

(a) In required yards abutting a street, the height of the fence shall be the total effective height measure from the finished grade on the side nearest the street.

(b) In other required yards, the height of the fence shall be the total effective height above the finished grade measured on the side nearest the abutting property.

(c) On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement, with such agreement submitted in writing.

(D) *Residential districts.* In all parts of the City zoned residential, no fence shall be erected or maintained more than eight feet in height, and also:

(1) Solid fences, walls or hedges which are parallel or approximately parallel to the front property line shall be set back from the front line a minimum of five feet.

(2) On corner lots in all districts, no fence or planting in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot.

(3) In those instances where a fence is erected as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be installed, shall remain unobstructed and shall measure a minimum of three feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure.

(E) *Business and industrial fences.* Fences in all commercial and industrial districts shall not exceed 12 feet in height, except that boundary line fences abutting residential districts shall not be greater than eight feet in height.

(F) *Finished side to face adjoining property.* In all districts, any fence so constructed as to have only one elevation "finished," which shall be defined as not having its supporting members significantly visible, shall be erected such that the finished elevation of the fence is exposed to the adjacent property.
(1988 Code, §9-10-109)

§155.074 RETAINING WALLS.

(A) *Site development approval.* No person shall construct or cause to be constructed or erected along any property lines within the setback areas within the City, any retaining wall above four feet in height without first obtaining site development approval from the Commission, except that all retaining walls within the floodplain area shall be approved in accordance with Chapter 154 of this Code. The site development plan must be accompanied by a design that is stamped by a professional engineer licensed in New Mexico. Site development plans for individual retaining walls on previously developed lots may be approved by the Planning Services Director subject to concurrence by the City Council. Following site development plan approval, a building permit shall be obtained from the building official.

(B) *Location.* All retaining walls shall be located entirely upon the private property of the person constructing or causing the construction of such retaining wall, unless the owner of the adjoining

property agrees, in writing, that such retaining wall may be erected on the division line of the respective properties. The Planning Services Director may require an applicant for a retaining wall permit to establish the boundary lines of his or her property by a survey thereof, to be made by a registered land surveyor.

(C) *Construction and maintenance.* All retaining walls shall be constructed in conformance with applicable building codes in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the retaining wall is proposed to be used. All retaining walls shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such retaining wall which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the Planning Services Director shall commence proceedings for the abatement thereof.

(D) *Maintenance easement.* In any instance where a retaining wall is constructed within four feet of a rear or interior side lot line, the property owner shall be required to obtain an easement from the adjoining landowner allowing access for construction and maintenance of the retaining wall. Such easement shall be presented to the Planning Services Director for inspection prior to issuance of the necessary building permit.
(1988 Code, §9-10-110)

§155.075 SETBACK AND HEIGHT ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS.

The following shall be considered as permitted encroachments on setback and height requirements, except as otherwise provided in this chapter:

(A) *Permitted encroachments in any yards.* The following are permitted in any yards: posts, off-street open parking spaces, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, flagpoles, ornamental features, open fire escapes, sidewalks and fences, except as otherwise provided in this chapter; also, yard lights and name-plate signs in residential districts, trees, shrubs, plants, floodlights or other sources of light illumination, and authorized lights or areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

(B) *Permitted encroachments within side and rear yards.* Balconies eight feet above grade may extend into the yards to within five feet of a lot line, provided the balconies do not extend over nonresidential driveways. Detached outdoor picnic shelters, open arbors and trellises may extend to within five feet of a side or rear lot line, except that no such structures shall exceed 500 square feet. Recreational equipment, picnic tables and apparatus needed for the operations of active and passive solar energy systems are permitted encroachments. Storage buildings less than 120 square feet in size may extend to within five feet of the side or rear lot line in any district and do not require site development approval unless more than one such building is placed on a lot.