

## ORDINANCE NO. 2021- 08

### AN ORDINANCE REPEALING AND REPLACING Chapter 17.54.060 LANDSCAPE REGULATIONS TO LANDSCAPING, FENCING & WALLS. AND ADD NEW CHAPTER 17.54.070 ADMINISTRATIVE REVIEW AND FEE

#### Purpose

The intent of fencing standards is to establish a uniformity of fencing appearance and materials of construction and create a general front yard harmony of one building with another in relation to the street. Pre-existing fencing shall be grand fathered in and not subject to change under this Ordinance unless existing fencing is replaced, then it shall meet current standards. All new fence construction shall require Development Services Department approval prior to construction.

#### A. General standards

1. Fencing and screening shall be permitted as provided in this Section
2. Fencing materials shall be durable and consistent with abutting fences.
3. The height and location requirements of this section may be modified as part of a subdivision, planned area development, special use, or conditional use approval. However, due to the sensitive nature of fencing, special and conditional use approvals shall require both Planning Commission and Council approval. For fences on retaining walls, see definition of a retaining wall.
4. For parcels in residential use with a lot size of 10,000 square feet or smaller incorporation of courtyards in lieu of standard front yard fencing is encouraged to create a greater feeling of openness along the street. However, fencing in of the front yard remains allowable and all front yard fencing heights are restricted as set forth in paragraph 5.
5. Front yard fencing shall not exceed 36 inches in height for a solid fence or 48 inches in height with a combination solid and open fencing. Height may be increased to 72 inches maximum for courtyards if fencing extending above 48 inches is a viewing material.
6. A fence constructed on a side or rear property line shall not exceed a height of six feet (6') from highest finished grade adjacent to the fence, nor more than eight feet (8') from the lowest grade adjacent to the fence. Any fence of more than six feet (6') in height on the low side shall use berming, landscaping, fence offset(s) or similar enhancements to mask height differences, and in no case shall the fence height exceed eight feet (8'). Where the fence height exceeds six (6') on the lower side, a view fence shall be required for the portion above (6') in height.
7. Any fence above six feet (6') in height shall be designed by a New Mexico registered structural engineer and approved by the City.
8. On that part of the lot other than the required front yard setback area, fences may be erected up to six (6') feet in height.
9. For fencing purposes on a double front lot: the front shall be defined by the address assigned and the remaining street side(s) shall be considered the side or rear of the property. Fencing along the side or rear of a corner lot shall be set back from the street side property line as needed to maintain a proper sight triangle.
10. The fencing details shall show the proposed method of construction and anchoring of the fence, posts, gate and foundation details if applicable.
11. The fencing details shall clearly show the proposed distance between the fence and the abutting property lines and the sight line of a street right-of-way to the sight line of a street right-of-

way intersection. Any fence above six feet (6') in height shall be designed by a New Mexico registered structural engineer and approved by the City.

12. On that part of the lot other than the required front yard setback area, fences may be erected up to six (6') feet in height.
13. For fencing purposes on a double front lot: the front shall be defined by the address assigned and the remaining street side(s) shall be considered the side or rear of the property. Fencing along the side or rear of a corner lot shall be set back from the street side property line as needed to maintain a proper sight triangle.
14. The fencing details shall show the proposed method of construction and anchoring of the fence, posts, gate and foundation details if applicable.
15. The fencing details shall clearly show the proposed distance between the fence and the abutting property lines and the sight line of a street right-of-way to the sight line of a street right-of-way intersection.
16. Adequate sight distance shall be maintained as per
17. 18.31.6 NMAC State Highway Access Management Requirements Table 18.F- 2.
18. The height of fences shall be determined by measurement from the ground level at all points upon which the fence is located. An increase in height shall be allowed when spacing for drainage under the fence is needed.
19. The use of barbed wire, wire mesh, electric fencing, or chain link shall not be used within Residential Zoning Districts of R-1, R-1A, R-2, R-2A, R-3, R- 4.
20. Railroad ties, tires, temporary fencing (other than for construction or short term site security) and pallets shall not be used in any zoning districts. For temporary fencing a permit renewal shall be required every ninety (90) days. Permits are issued through Development Services Department.
21. Razor Wire, barbed wire, metal panel or electric fencing shall not be used in any Railroad ties, tires, temporary fencing (other than for construction or short term site security) and pallets shall not be used in any zoning districts. For temporary fencing a permit renewal shall be required every ninety (90) days. Permits are issued through Development Services Department.
22. Razor Wire, barbed wire, metal panel or electric fencing shall not be used in any Residential Zoning districts.
23. Storage areas, solid waste dumpsters, and large items for solid waste pick-up, where their use is necessary or required, shall be confined in an enclosed area and shall be of solid construction, six feet (6') high with locking gates providing access.
24. Fence lighting shall adhere to the night sky regulations, be low profile, no more than eighteen inches (18") above the fence line and not be in a position to interfere with abutting owners privacy.
25. All fencing shall be maintained in like new conditions with proper repairs to replace any damaged fencing or posts. Any repairs shall not be with wire, zip ties, duct tape or other like material.

**B. New Subdivisions & Agricultural Zoning District (A-R).**

1. All fencing along the perimeter of an Agricultural Zoning District (A-R) and new subdivision not adjacent to an arterial or collector street shall be full view fencing of an open style material.
2. Fencing along collector streets shall be either full view fencing or partial view fencing (4' solid-2' view). The top of any view fence, if constructed of ornamental iron or a similar material shall have a rail or horizontal member such that no portion of the view fence protrudes not more than two inches (2") above the top rail or horizontal member.
3. Construction of solid fences no taller than six feet (6') shall be limited to the lots within the subdivision.
4. All solid and view fences within the building envelope shall be decoratively treated on the public side to match the architectural style and design of the neighborhood.

**C. Residential Zoning Districts R-1, R-1A, R-2, R-2A, R-3, R-4.**

1. Fences adjacent to streets may be solid and no taller than six feet (6') in height.
2. Fences adjacent to a community open space system or trail shall be partial view fencing (4' Solid - 2' view). The top of any view fence, if constructed of ornamental iron or a similar material, shall have a rail or horizontal member such that no portion of the view fence protrudes not more than two inches (2") above the top rail or horizontal member.
3. All fences shall be decoratively treated on the public side to match the architectural style and design of the neighborhood out rigging for a total of eight feet (8') from the highest finished grade adjacent to the fence, nor more than ten feet (10') from the lowest grade adjacent to the fence. Any fence of more than six feet (6') in height on the low side shall use berming, landscaping, fence offset (s) or similar enhancements to mask height differences, and when adjacent to single or multi-family residential the fence height shall not exceed eight feet (8').

Front fencing and perimeter fencing shall be allowed in the following Commercial uses;

- a. Storage units, Warehouses, Equipment buildings, automotive related activities, utility buildings, open **storage** and impound areas.

All perimeter fences adjacent to an arterial or major collector shall be decorative. A decorative variation shall be provided every fifty feet. Commercial Zone Districts C-R, C-1, C-2

4. All residential uses located in a Commercial Zone shall use the Residential Zoning District fence regulations.
5. A fence constructed on a side or rear property line shall not exceed a height of seven feet (7') with one foot (1') of
6. All perimeter fences shall be finished on all sides to match the commercial and or industrial product architectural style and design.
7. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three feet (3') in order to adequately screen the undercarriages of the parked vehicles. affects the image, character, safety, and privacy of the community, design upgrades such as material choices and additional buffering to offset the reduction in project openness and reduce the impact of solid fencing is required.
8. All other Commercial uses shall follow setback regulations for the specified Commercial zone provided in Title 17 of the City of Belen Municipal Codes.

**D. Manufacturing and Industrial Zone Districts M-C, M-1.**

1. Residential uses located within a Manufacturing and Industrial Zone District shall use the Residential Zoning District regulations.
2. A fence constructed on a side or rear property line shall not exceed a maximum height of Twelve feet (12'). Any fence of more than ten feet (10') in height side shall use berming, landscaping, fence offset(s) or similar enhancements to mask height.
3. Solid fencing use along arterial and Collector Street on the perimeter of residential projects addresses individual property concerns regarding noise, light, privacy and safety. Because solid fence use Solid fence designs shall require use of a minimum of three (3) materials including stone, brick, block or textured block including treated, split-face, single-score or patterned integrally colored block or similar enhancement and may include changes in color or texture.

**E. Fencing within the Manufacturing and Industrial Zone districts shall require a plan review by the Planning and Zoning Commission. Special Use Zone District SU 1.**

1. The underlying use within the Special Use Zone shall determine what fence regulations apply.

2. Fencing within the Special Use Zone shall require a plan review by the Planning and Zoning Commission.

**17.54.070 - Administrative review and fee.**

These landscape regulations shall be enforced by the city planning and zoning officer who is authorized to review and approve landscape plans. Applicants for building permits to be granted by the city for commercial or industrial development shall confer with the city planning and zoning officer regarding the landscape requirements contained herein. An administrative fee of fifteen dollars (\$15.00) shall be paid to the city to cover the landscape plan review costs. For complex and extensive landscape plans, the city planning and zoning officer may request an independent review of such plan by the city engineer or other qualified individual. Specific costs associated with an independent review of a landscape plan shall be paid to the city by the building permit applicant. All reviews of landscape plans shall be completed within thirty (30) days of receipt and documented with reasons given for approval or disapproval. Requests for variances or waivers to the requirements of these regulations shall be submitted to the city planning and zoning officer in writing. A variance or waiver may be granted or denied at the discretion of the city planning and zoning officer with reasons given in writing and returned within thirty (30) days of receipt of the request for variance or waiver. Any decision made by the city planning and zoning officer in carrying out the provisions of these regulations may be appealed to the Belen city council.

Be it ordained by the Governing Body of the City of Belen that this ordinance has been passed, approved and adopted on this 19th day of April, 2021.



Jerah Cordova, Mayor

ATTEST:



Dorothy Flores, City Clerk/Treasurer