

Ordinance #2022- 20

Chapter 17.55 FENCING AND WALLS REGULATIONS

AN ORDINANCE AMENDING ORDINANCE 2015-14, CHAPTERS 17.54.060-17.54.070 – FENCING AND WALLS, TO CHAPTER 17.55 FENCING AND WALLS REGULATIONS FOR THE PURPOSE OF ESTABLISHING A UNIFORMITY OF APPEARANCE AND CONSTRUCTION MATERIALS.

17.55.010 INTENT OF REGULATIONS REGARDING FENCING AND WALLS.

The intent of this ordinance is to establish a uniformity of fencing appearance and construction materials, and to create a general front yard harmony of one (1) building to another in relation to the street. Pre-existing fencing and walls shall be grandfathered in and not be subject to change under this chapter unless fifty percent (50%) of any one side of existing fencing is replaced, then it shall meet current standards. All new fence and wall construction shall require Development Services approval prior to construction.

17.55.020 APPLICABILITY

These regulations shall apply to the following:

- A. All new commercial, industrial, or residential development as defined and permitted in this title.
- B. All new fencing and walls proposed for construction.
- C. Any substantial modifications of fencing and walls to existing commercial, industrial, or residential properties.

17.55.030 FENCING PLAN.

All applicants for a fencing permit shall submit a detailed design plan which shall include:

- A. The proposed method of construction and anchoring of the fence, posts, gate and foundation detail if applicable.
- B. Clearly show the proposed distance between the fence and abutting property lines and the sight line of a street right-of-way to the sight line of a street right-of-way intersection.
- C. The location, type, and size of any underground utility lines on the site.

17.55.040 EXCEPTIONS

The provisions of this chapter may not apply to:

- A. Temporary construction fences installed to protect the public from injury during construction or to maintain security for development (a permit must be obtained for these, and they must be removed at completion of construction), including silt fences, and similar temporary fences.
- B. Fences utilized to surround or enclose public utility installations, public schools, or other public buildings used for city or city sponsored utility purposes.

- C. Existing nonconforming fences that are damaged or in need of repair/replacement. A fence or wall may be in the exact location with the same material and height as the previous fence or wall so long as no more than fifty (50%) percent of any one contiguous segment of fence or wall is replaced.

17.55.050 GENERAL STANDARDS

All fences and walls shall be designed and constructed consistent with the local community within the surrounding neighborhood and be constructed of quality materials.

- A. Fencing and screening shall be provided in this section:
 - 1. Fencing material shall be consistent with abutting fences.
 - 2. Front yard fencing shall not exceed thirty-six (36) inches in height for a solid fence or forty-eight (48) inches in height with a combination solid and open fencing.
 - 3. Height may be increased to seventy-two (72) inches maximum for courtyards if fencing extending above forty-eight (48) inches is a viewing material. Courtyard is defined here as an open area, unobstructed from the ground to the sky that is bounded on at least three (3) sides by the exterior walls of one (1) or more buildings or extension thereof. For residential development, courtyards shall be defined as an outdoor space located in the front or side yard which is bordered by walls on three (3) sides or decorative fencing or extension thereof.
 - 4. All retaining walls that are four (4) feet in height or higher shall obtain a building permit and shall be designed and engineered by an architect or engineer registered with the State of New Mexico.
 - 5. Any fence or wall above six (6) feet in height shall be designed and engineered by an architect or engineer registered with the State of New Mexico.
 - 6. Except in Manufacturing and Industrial zoned districts, no fence or wall, whether for retaining or screen purposes, shall exceed seven (7) feet in height. The height of fences and walls shall be determined by measurement from the top of the fence or wall's foundation.
 - 7. Tires, razor or concertina wire, barbed wire, pallets, electric fencing, wire mesh, for example: chicken wire, lathing wire or similar, shall not be used in any residential zoning district.
 - 8. Adequate sight distance shall be maintained as per **Section 18.31.6.18 – NMAC STATE HIGHWAY ACCESS LOCATION AND DESIGN STANDARDS section F**: "Sight distance at all access locations shall be adequate to provide safe operating conditions for the motoring public. Any potentially obstructing objects such as but not limited to advertising signs, structures, trees, and bushes, shall be designed, placed, and maintained at a height not to interfere with the sight distances needed by any vehicle using the access."
 - 9. Fencing shall be erected in such a way that eliminates or minimizes long, unarticulated segments; offsets, varied textures, openings, recesses, design accents on fences and walls shall be installed at a minimum of every one hundred (100) feet to minimize long stretches of similar material.
 - 10. Any lighting attached to fencing or walls shall adhere to New Mexico dark-skies regulations be low profile, no more than eighteen (18) inches above the fence or wall line, and not

interfere with abutting owners' privacy. Pursuant to *2006 New Mexico Statutes - Article 12 — Night Sky Protection, 74-12-1 -- 74-12-11.*

11. All fencing and walls shall be maintained in like new condition with proper, timely repairs to replace any damage. Any repairs shall not be completed with wire, zip ties, duct tape or other like material.

B. The following is a list of approved fencing materials:

1. Masonry materials, such as brick, textured or split faced block, stucco, tile (as a veneer), or similar materials (manufactured stone, slate, stamped concrete, etc.).
2. Stone or rock.
3. Wrought-iron and associated pillars (so long as they meet the required materials as listed).
4. Wood or wood alternatives specifically manufactured as a fencing material,
5. Railroad ties in good, like-new condition.
6. Vinyl specifically manufactured as fencing material.
7. Glass, including glass block or tempered glass panels manufactured as a fencing material.
8. Chain-link fencing, not to exceed four (4) feet on street facing sides of property. Maximum mesh size for chain link fences shall be a two (2) inch square.
9. Welded-metal fencing material with a mesh no larger than four (4) inches.
10. Metal panel, installed on residential use properties, shall only be installed on the side and rear of the property and is not to exceed the face of the building. In other zoned districts the use of metal paneling on front facing areas shall be reviewed by Development Services for approval or disapproval.

17.55.060 ZONING CRITERIA

The following are the fence and wall criteria for the zoned districts within the City:

A. AGRICULTURAL ZONED DISTRICTS (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 either be full view fencing or partial view fencing (four-foot solid – two-foot view). The top of any view fence, if constructed of ornamental iron or similar shall have a rail or horizontal member such that no portion protrudes more than two (2) inches above the top rail or member.
3. All solid view fences within the building envelope shall be decoratively treated every one hundred (100) feet on the public facing side to match the style and design of the of the local community as reviewed and approved by Development Services.

B. RESIDENTIAL ZONED DISTRICTS AND NEW SUBDIVISIONS

1. Fences next to streets may be solid and no taller than six (6) feet in height.
2. Fences adjacent to community open-spaces or trail systems shall be partial view fencing (four foot solid – two-foot view). The top of any view fence, if constructed of ornamental iron or similar shall have a rail or horizontal member such that no portion protrudes more than two (2) inches above the top rail or member.
3. All fences shall be decoratively treated every one hundred (100) feet on any public facing side to match the style and design of the neighborhood as approved by the Planning and Zoning Commission.
4. Any fence of more than six (6) feet in height shall use berms, landscaping, fence offset(s) or like mask height differences, and when adjacent to single- or multifamily residential, the height shall not exceed seven (7) feet.
5. Construction of fences and walls no taller than six (6) feet shall be limited to the lots within the subdivision.
6. All uses shall follow setback regulations for the specified residential zone as provided in chapters 17.16 – 17-27 of the City of Belen Municipal Code.

C. COMMERCIAL ZONED DISTRICTS

1. Provided that all perimeter fences adjacent to an arterial or major collector street shall be decorative with a decorative variation provided every one hundred (100) feet. Front facing fencing shall be allowed in commercial use zones.
2. All residential uses located in a commercial zone shall use the residential zoning fence regulations.
3. A fence constructed on a side or rear property line shall not exceed a height of seven (7) feet with one (1) foot of all perimeter fencing finished on all sides to match the use case scenario of the property as reviewed by the Development Services for Residential uses.
4. For the image, character, safety, and privacy of the community, design upgrades such as material choices, and additional buffering to reduce the impact of solid fencing is required.
5. All other commercial uses shall follow setback regulations for the specified commercial zone as provided in chapters 17.32 & 17.33 of this Code.

D. MANUFACTURING AND INDUSTRIAL ZONED DISTRICTS

1. All residential uses located in a commercial zone shall use the residential zoning fence regulations.
2. A fence or wall constructed on a side or rear property line shall not exceed a maximum height of twelve (12) feet and shall be designed and engineered by an architect or engineer registered with the State of New Mexico.
3. Solid fencing use along arterial and collector streets on the perimeter of residential projects shall address individual property concerns regarding noise, light, privacy, and safety. 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 pattered integrally colored block or similar enhancement, and may include changes in color and texture.

Fencing within the Manufacturing and Industrial Zoned Districts may be required based on use case scenarios and for the public's interest and as such shall require a Plan Review by the City's Development Services Department.

E. SPECIAL USE ZONES

1. The underlying use within the special use zone shall determine what fence and wall regulations apply.
2. Fencing and walls within the special use zone shall require a plan review by the Planning and Zoning Commission.

17.55.070 Fencing and Walls Ordinance Interpretation

A. Nonconforming Clause.

Nonconforming fencing and walls installed prior to this ordinance being adopted may be maintained but cannot be replaced.

B. Severability Clause.

If any section, paragraph, clause, or provision of the Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or unenforceable, the invalidity, illegality, or unenforceability, of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of the Ordinance or the regulation so challenged.

C. Compiling Clause.

This Ordinance shall be incorporated in and compiled as part of the Revised Ordinances of the City of Belen.

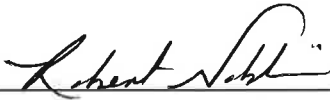
D. Penalties and non-compliance.

Community Preservation shall have the authority to enforce compliance with ordinance.

E. Effective Date.

This Ordinance shall become effective ten (10) days after adoption.

PASSED, APPROVED, AND ADOPTED BY THE MAYOR AND GOVERNING BODY OF the City of Belen, NM on this 5th day of December 2022.



Robert Noblin, Mayor

ATTEST:



Dorothy Flores, City Clerk

