

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
JULY 20, 2010 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
ZONING TEXT AMENDMENT — SECTION 7.12 FENCES	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

**SYNOPSIS**

A public hearing has been scheduled and an ordinance prepared to amend Section 7.12 of the Zoning Ordinance regarding fences.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

The Community Development staff is proposing to increase the height limit of fencing in the industrial districts from six feet to eight feet, to allow for increased security. The current regulations require the property owner to request a Conditional Use Permit to allow for the additional two feet of fence height. The Chief Building Official has stated that there is increased interest in the additional fence height in order to improve security. Staff is recommending the change and believes the additional height is appropriate for industrial areas.

A red-lined copy of the proposed amendment is attached.

The Planning Commission held a public hearing on June 17, 2010 and voted unanimously to recommend approval.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTION 7.12 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 7.12 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Section 7.12. Section 7.12 of Ordinance No. 848 is hereby amended to read as follows:

**Section 7.12 Fences**

No fence shall be constructed within the zoning jurisdiction of the City of La Vista unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements:

- 7.12.01 The height limitation for fences shall be six feet (6') above ground level except as provided herein.
- 7.12.01.01 A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-two (42) inches in height.
- 7.12.01.02 A fence constructed within the portion of a side yard of a residential lot that lies in front of a line extending perpendicularly from the side lot line to the front corner of the structure that is closest to such side lot line, shall not exceed four feet (4') in height, except that if the lot is located on a corner, as defined in Article 2 of this Ordinance, a fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed six feet (6') in height.
- 7.12.01.03 The height limitation for fences in an Industrial District shall be eight feet (8') above ground level. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than ~~six-eight~~ six-eight feet (6'-8') in height may be approved through a Conditional Use Permit.
- 7.12.01.04 Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
- 7.12.01.05 Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet (8') in height.
- 7.12.02 Fences located within a front or side yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street.
- 7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
  - 7.12.04.01 Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
  - 7.12.04.02 Farm fencing constructed for agricultural purposes on parcels of land twenty (20) acres or more in the Transitional Agricultural District.
- 7.12.05 All supporting posts for fence construction shall be set in concrete except for agricultural fencing.
- 7.12.06 All fences shall be maintained in good repair.
- 7.12.07 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the City agree to build one (1) fence on the common lot line of adjacent side yards or back yards.

- 7.12.08 Electric Fences. No electric fence shall be constructed or maintained within the City of La Vista or within its extraterritorial zoning jurisdiction except in TA-Transitional Agriculture District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, he shall determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 7.12.09 Facing. The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.12.10 Perimeter Fencing. *All fencing along an arterial or other perimeter road or street in a subdivision shall be consistent in style, type, material, height and color. Such fence shall be approved by the City based upon existing subdivision and adjacent subdivisions. If not prescribed within the subdivision agreement to be installed all at once, each fence shall require a fence permit and be consistent with the first fence on the perimeter, or in the case of an established subdivision, replacement fences shall be consistent with the dominant fence style, type, material, height, and color. Such requirements shall also pertain to street side yard fencing of lots on the corner of the subdivision entrance(s). (Ordinance No. 1007, 9-19-06)*
- 7.12.11 Any existing fence constructed pursuant to a permit issued and approved by the City of La Vista which was in conformity with the prior to the provisions of this Ordinance may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

SECTION 2. Repeal of Section 7.12 as Previously Enacted. Section 7.12 of Ordinance No. 848 as previously enacted is hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 5. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 20th DAY OF JULY, 2010

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

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