



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

PLANNING DEPARTMENT

300 Sixth Street

Bill Lass, Senior Planner
Urban Division
city web: www.ci.rapid-city.sd.us

Phone: 605-394-4120
Fax: 605-394-6636
e-mail: bill.lass@ci.rapid-city.sd.us

MEMORANDUM

TO: Rapid City Planning Commission

FROM: Bill Lass, Senior Planner

DATE: April 24, 2001

RE: Proposed Ordinance Amendments Regarding Fences and Retaining Walls

As you may recall the City Council earlier this winter asked Staff to research the issue of allowing the construction of fences on top of retaining walls. Currently, the City Code does not allow the construction of a fence on top of a retaining wall if the retaining wall already meets or exceeds that set forth for a fence. In February, Staff recommended to the Planning Commission that fences with a 70% open surface be allowed on top of retaining walls and that fences less than 70% open be setback from the retaining wall. The Legal and Finance Committee reviewed this recommendation and expressed an interest in another option whereby fences would be allowed on top of retaining walls provided the retaining wall actually functioned in that capacity. The Planning Commission on March 8 directed Staff to prepare two different options regarding this issue.

Staff has enclosed two different draft Ordinance options. The bolded text indicates proposed new language to the existing Chapter regarding fences. The highlights of each option are as follows:

Option #1:

- Allows fences to be constructed on top of retaining walls only if the fence has a surface that is at least 70% open.
- Sets forth a definition for retaining wall.
- Fences that are not 70% open or which cannot be constructed on top of the retaining wall because the retaining wall already meets the maximum height, may be constructed next to the retaining wall provided they are setback 1.5 feet for every one foot in fence height.



EQUAL OPPORTUNITY EMPLOYER

Option #2:

- Allows fences to be constructed on top of a retaining wall irregardless of the retaining wall height. The only restriction for such fencing is that it meet the existing maximum height requirements of City Code.
- Sets forth a definition for “retaining wall.”
- Requires that guard rails be installed on retaining walls as required by the Uniform Building Code. The Legal and Finance Committee inquired as to this requirement as tall retaining walls without guard rails were noticed in the community. Staff has discussed this matter with the Building Inspections Division and has learned that the Building Code already requires the construction of guard rails on retaining walls if the wall is near a pedestrian way or parking lot.

One important point to note when reviewing this issue, is that the City Code currently does not set forth a maximum height requirement for retaining walls. This may or may not be an issue which the Planning Commission wishes to address. Staff is not aware of any problems or complaints associated with the current Ordinance and the ability to construct tall retaining walls.

I hope this information is helpful. Please contact me should you have any questions.

Thank you.

Proposed Ordinance Revision regarding Fences and Retaining Walls
Option #1. – Setbacks Required Between Solid Fences and Retaining Walls

15.40.05 Retaining Wall Defined.

“Retaining wall” shall mean that portion of a structure necessary for sustaining earth, water, and other lateral pressure. For purposes of this Section, retaining walls are not the same as a “wall” which is a free-standing structure similar to a fence and which does not support lateral pressure.

15.40.010 Height Defined.

- a. Height for fences and walls shall be defined as the vertical distance from the top rail, masonry unit, board or wire to the ground directly below.**

When a fence is located on top of a retaining wall as defined in 15.40.15, the height for fences shall be defined as the vertical distance from the top rail, board or wire to the ground elevation on the uphill side of the retaining wall. When the ground elevation on the uphill side does not meet or exceed the top of the retaining wall, the height of the fence or wall may be increased up to six inches to account for standard fence material heights.

15.40.020 Residential, General Agriculture, Park Forest and Public Zoning Districts.

- a. Fences and walls may be erected or maintained; provided, that no fence or wall over four feet in height shall be erected or maintained in any front yard. The exception to this is sound barrier walls and screening fences less than six feet in height located along major streets, the design and materials of such fences shall require council approval, and the petitioner shall send by certified mail to the adjacent property owners written notice of the date of such council meeting. On corner lots, fences shall be permitted in one of the front yards provided the fence does not extend any closer to the public right-of-way than the building line of a principal building which has been permitted within the standard front yard setback. Fences and walls located along side or rear yards shall not exceed a height of six feet. (Prior code § 17-11 (a) (2))**
- b. Fences on top of Retaining Walls: Fences with surfaces less than 70% open may be constructed on top of a retaining wall provided the total height of the fence and wall does not exceed that set forth in paragraph “a” above. A fence which is less than 70% open or which cannot be constructed directly on top of a retaining wall due to the height limitations set forth in paragraph “a” may be constructed next to the retaining wall provided that it is setback from the retaining wall for a distance of 1.5 feet for every one foot in fence height. Any fence that is at least 70% open may be constructed directly on top of a retaining wall irregardless of the height of the retaining wall.**

15.40.030 Commercial Zoning Districts.

- a. Fences and walls may be erected or maintained; provided, that no fence or wall over four feet shall be erected or maintained in any front yard. Fences and walls located along side or rear yards shall not exceed a height of eight feet. (Prior code § 17-11 (a) (3))
- b. **Fences on top of Retaining Walls: Unless adjacent to a residential zoning district fences may be constructed on top of retaining walls. In the case of adjacency to a residential district, fences with surfaces less than 70% open may be constructed on top of a retaining wall provided the fence and retaining wall together does not exceed the height requirements set forth in paragraph “a” above. In the case of adjacency to a residential district, a fence which is less than 70% open or which cannot be constructed directly on top of a retaining wall due to the height limitations set forth in paragraph “a” may be constructed next to the retaining wall provided that it is setback from the retaining wall for a distance of 1.5 feet for every one foot in fence height.**

15.40.040 Industrial and Mining and Earth Resources Extraction Zoning Districts.

Fences and walls may be erected in front, side and rear yards. Fences shall not exceed a height of eight feet. (Prior code § 17-11 (a) (4)) **Fences may be constructed on top of retaining walls.**

15.40.050 Exceptions to Height Requirements.

The city council may approve exceptions to the height requirements if it is determined that the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. The design and materials of such fences shall be subject to prior approval by the city council. Adjacent property owners shall be notified by written notice, sent by certified mail, of the city council meeting at which the exception shall be considered. (Prior code § 17-11 (a) (5))

15.40.060 Fences over Six Feet -- Permit Required.

A building permit is required for all fences over six feet in height. (Prior code § 17-11 (b))

15.40.070 Location.

No fence or wall shall be placed in designated easements unless approved in writing by the city engineer. No fence or wall shall be erected in public right-of-way, except as approved by the common council. (Prior code § 17-11 (c))

15.40.80 Visibility at Street Intersections and Alley and Driveway Entrances.

A. Visibility at any Corner Lot Where a Front and Side Yard is Required. A twenty-five-foot sight triangle is required at a corner formed by the intersection of two or more public rights-of-way. No fence, wall, plant material or earthen berm shall be placed or

maintained within the above defined clearvision zone which exceeds two and one-half feet in height above the crown of the adjacent roadway.

B. Visibility at Alley and Private Drive Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, a ten-foot sight triangle is required on both sides of an accessway formed by the intersection of the accessway and the public right-of-way. No fence, wall, plant material or earthen berm shall be placed or maintained within the above defined clear-vision zone which exceeds two and one-half feet in height above the crown of the adjacent roadway.

C. Regardless of other provisions of this chapter, no fence, wall, plant material or earthen berm shall be erected or maintained in any yard which impedes the vision of vehicles entering an abutting street. (Prior code § 17-11 (d))

15.40.90 Prohibited Fences.

A. No electrified fences nor fences designed to function as an electrified fence shall be permitted in any zoning district.

B. No barbed wire fencing shall be permitted in any park forest, residential, mobile home, neighborhood commercial, center, public or floodway zoning district except in association with hazardous utility substations. When used in association with a utility substation, the barbed wire fencing shall be not less than six feet above the ground.

C. Barbed wire fencing may be permitted in a general agricultural zoning district to contain livestock.

D. Barbed wire fencing materials may be used as a fence in a central business, general commercial, light industrial, heavy industrial or mining and extraction zoning district when such material is located not less than six feet above the ground.

E. Exceptions. The city council may permit the use of prohibited fencing materials if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Area property owners shall be notified by published notice of the common council hearing at which the exception will be considered. (Ord. 2787, 1989: prior code § 17-11 (e))

Proposed Ordinance Revision regarding Fences and Retaining Walls
Option #2 – Fences Allowed on top of Retaining Walls

15.40.05 Retaining Wall Defined.

“Retaining wall” shall mean that portion of a structure necessary for sustaining earth, water, and other lateral pressure. For purposes of this Section, retaining walls are not the same as a “wall” which is a free-standing structure similar to a fence and which does not support lateral pressure.

15.40.010 Height Defined.

- a. **Height for fences and walls shall be defined as the vertical distance from the top rail, masonry unit, board or wire to the ground directly below.**

When a fence or wall is located on top of a retaining wall as defined in 15.40.15, the height for fences or walls shall be defined as the vertical distance from the top rail, board or wire to the ground elevation on the uphill side of the retaining wall. When the ground elevation on the uphill side does not meet or exceed the top of the retaining wall, the height of the fence or wall may be increased up to six inches to account for standard fence material heights.

15.40.020 Residential, General Agriculture, Park Forest and Public Zoning Districts.

- a. Fences and walls may be erected or maintained; provided, that no fence or wall over four feet in height shall be erected or maintained in any front yard. The exception to this is sound barrier walls and screening fences less than six feet in height located along major streets, the design and materials of such fences shall require council approval, and the petitioner shall send by certified mail to the adjacent property owners written notice of the date of such council meeting. On corner lots, fences shall be permitted in one of the front yards provided the fence does not extend any closer to the public right-of-way than the building line of a principal building which has been permitted within the standard front yard setback. Fences and walls located along side or rear yards shall not exceed a height of six feet. (Prior code § 17-11 (a) (2))
- b. **Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in paragraph “a” above are met.**
- c. **Guardrails Required on Retaining Walls: Unless a fence is already present, guard rails shall be constructed on top of retaining walls in accordance with, and if required by; the Uniform Building Code.**

15.40.030 Commercial Zoning Districts.

- a. Fences and walls may be erected or maintained; provided, that no fence or wall over four feet shall be erected or maintained in any front yard. Fences and walls located along side or rear yards shall not exceed a height of eight feet. (Prior code § 17-11 (a) (3))

- b. Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in paragraph “a” above are met.**
- c. Guardrails Required on Retaining Walls: Unless a fence is already present, guard rails shall be constructed on top of retaining walls in accordance with, and if required by; the Uniform Building Code.**

15.40.040 Industrial and Mining and Earth Resources Extraction Zoning Districts.

- a. Fences and walls may be erected in front, side and rear yards. Fences shall not exceed a height of eight feet. (Prior code § 17-11 (a) (4))
- b. Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in paragraph “a” above are met.**
- c. Guardrails Required on Retaining Walls: Unless a fence is already present, guard rails shall be constructed on top of retaining walls in accordance with, and if required by; the Uniform Building Code.**

15.40.050 Exceptions to Height Requirements.

The city council may approve exceptions to the height requirements if it is determined that the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. The design and materials of such fences shall be subject to prior approval by the city council. Adjacent property owners shall be notified by written notice, sent by certified mail, of the city council meeting at which the exception shall be considered. (Prior code § 17-11 (a) (5))

15.40.060 Fences over Six Feet -- Permit Required.

A building permit is required for all fences over six feet in height. (Prior code § 17-11 (b))

15.40.070 Location.

No fence or wall shall be placed in designated easements unless approved in writing by the city engineer. No fence or wall shall be erected in public right-of-way, except as approved by the common council. (Prior code § 17-11 (c))

15.40.80 Visibility at Street Intersections and Alley and Driveway Entrances.

A. Visibility at any Corner Lot Where a Front and Side Yard is Required. A twenty-five-foot sight triangle is required at a corner formed by the intersection of two or more public rights-of-way. No fence, wall, plant material or earthen berm shall be placed or

maintained within the above defined clearvision zone which exceeds two and one-half feet in height above the crown of the adjacent roadway.

B. Visibility at Alley and Private Drive Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, a ten-foot sight triangle is required on both sides of an accessway formed by the intersection of the accessway and the public right-of-way. No fence, wall, plant material or earthen berm shall be placed or maintained within the above defined clear-vision zone which exceeds two and one-half feet in height above the crown of the adjacent roadway.

C. Regardless of other provisions of this chapter, no fence, wall, plant material or earthen berm shall be erected or maintained in any yard which impedes the vision of vehicles entering an abutting street. (Prior code § 17-11 (d))

15.40.90 Prohibited Fences.

A. No electrified fences nor fences designed to function as an electrified fence shall be permitted in any zoning district.

B. No barbed wire fencing shall be permitted in any park forest, residential, mobile home, neighborhood commercial, center, public or floodway zoning district except in association with hazardous utility substations. When used in association with a utility substation, the barbed wire fencing shall be not less than six feet above the ground.

C. Barbed wire fencing may be permitted in a general agricultural zoning district to contain livestock.

D. Barbed wire fencing materials may be used as a fence in a central business, general commercial, light industrial, heavy industrial or mining and extraction zoning district when such material is located not less than six feet above the ground.

E. Exceptions. The city council may permit the use of prohibited fencing materials if it is determined that such allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood. Area property owners shall be notified by published notice of the common council hearing at which the exception will be considered. (Ord. 2787, 1989: prior code § 17-11 (e))