

ORDINANCE NO. 5716

AN ORDINANCE ALLOWING FENCE HEIGHT EXCEPTIONS IN SECOND FRONT YARDS BY AMENDING CERTAIN SECTIONS OF CHAPTER 15.40 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the State of South Dakota has granted to municipalities the general police power to promote the health, safety, morals, and general welfare of the community; and

WHEREAS, the State of South Dakota has granted municipalities the power to regulate buildings and construction; and

WHEREAS, the City currently prohibits fences and walls greater than four feet high in any front yard in residential, general agriculture, park forest and public zoning districts; and

WHEREAS, there are situations in which a lot may have a second front yard, such as corner lots and double frontage lots; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to define "front yard" and "second front yard" by amending Section 15.40.010 of the Rapid City Municipal Code; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to allow fences and walls up to six feet in height in second front yards located in residential, general agriculture, park forest and public zoning districts by amending Section 15.40.020 of the Rapid City Municipal Code; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to allow fences and walls up to eight feet in height in second front yards located in commercial zoning districts by amending Section 15.40.030 of the Rapid City Municipal Code; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interests to amend Section 15.40.040 of the Rapid City Municipal Code regarding fences in industrial and mining and earth resources extraction zoning districts to be consistent with the aforementioned changes.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 15.40.010 of the Rapid City Municipal Code be amended to read as follows:

15.40.010 Definitions.

As used in this chapter:

A. **FENCE.** A barrier constructed of materials other than living shrubbery erected for purpose of protection, confinement, enclosure or privacy. For purposes of this chapter, there shall be not distinction between fences and walls.

B. FRONT YARD. An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. The depth of the front yard shall be measured between the front line of the building and the street line.

B- C. HEIGHT.

1. 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.

2. When a fence or wall is located on top of a retaining wall, 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 6 inches to account for standard fence material heights.

C- D. RETAINING WALL. A wall designed to resist the lateral displacement of soil or other materials.

E. SECOND FRONT YARD. In the case of a corner or double-frontage lot, a yard abutting a street that is not designated as the street address of the property.

D- F. WALL. A barrier constructed of materials other than living shrubbery erected for purpose of protection, confinement, enclosure or privacy. For the purposes of this chapter, there shall be not distinction between fences and walls.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 15.40.020 of the Rapid City Municipal Code be amended to read as follows:

15.40.020 Residential, general agriculture, park forest and public zoning districts.

A. *Fences and walls.* Fences and walls may be erected or maintained; provided that no fence or wall over 4 feet in height shall be erected or maintained in any required front yard. ~~The exception to this is sound barrier walls and screening fences less than 6 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 and double frontage lots, fences shall be no more than 4 feet in height in the required front yard; however, fences no more than 6 feet in height may be allowed in the second front yard when setback a minimum of 10 feet from the property line. permitted in 1 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 set back. In no case shall Fences and walls located along side or rear yards shall not exceed a height of 6 feet unless an exception is granted pursuant to Section 15.40.050.

B. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of this section are met.

C. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 15.40.030 of the Rapid City Municipal Code be amended to read as follows:

15.40.030 Commercial zoning districts.

A. *Fences and walls in front yards.* Fences and walls may be erected or maintained; provided that no fence or wall over 4 feet shall be erected or maintained in any required front yard. On corner lots and double frontage lots, fences shall be no more than 4 feet in height in the required front yard; however, fences no more than 8 feet in height may be allowed in a second front yard when setback a minimum of 10 feet from the property line. In no case shall fences and walls located along side or rear yards shall not exceed a height of 8 feet unless an exception is granted pursuant to Section 15.40.050.

B. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of this section are met.

C. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 15.40.040 of the Rapid City Municipal Code be amended to read as follows:

15.40.040 Industrial and mining and earth resources extraction zoning districts.

A. *Erected in front, side, and rear yards.* Fences and walls may be erected in front, side and rear yards. In no case shall fences and walls shall not exceed a height of 8 feet unless an exception is granted pursuant to Section 15.40.050.

B. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of the section are met.

C. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: