

Memorandum



CITY OF DALLAS

DATE August 5, 2016

TO Members of the Quality of Life Committee and Environment Committee:
Sandy Greyson (Chair), Tiffinni A. Young (Vice Chair), Mark Clayton, Philip T. Kingston, B. Adam McGough, and Rickey D. Callahan

SUBJECT **Standards for Non-required Fences**

This item was previously briefed to the Quality of Life and Environment Committee on August 10, 2015 and October 12, 2015, at which time the committee directed staff to take the item to the Zoning Ordinance Committee (ZOC). ZOC considered this item at two meetings and on April 21, 2016 voted to send staff's recommendation to the City Plan Commission. The City Plan Commission heard this item on May 19, 2016 and recommended approval. An overview of the proposal and the draft ordinance is attached for your review.

General Information

A non-required fence is a fence that is installed as an option, and is not required by the Dallas Development Code (Code). The City does not regulate materials for fences that are not required by the Code (Chapter 51A) however, Dallas City Code (Chapter 27) establishes minimum maintenance standards for all fences. When a fence is required by the Code, it is specified in the use provisions of the Code and the materials are specified.

Fences in Residential Districts

In residential districts, a fence permit is only required for fences exceeding four feet in height when they are located in a required front yard and when six feet in height or greater on the remainder of the lot. Building permits are only required for fences when they exceed nine feet in height (at that height fences are considered structures).

City Plan Commission Recommendation

Amend Dallas Development Code, Section 51A-4.602 Fence, Screening and Visual Obstruction Regulations by adding language under Subsection (a) "Fence standards" to:

- prohibit sheet metal, corrugated metal, fiberglass panels, plywood, and plastic materials (not commercially preformed into fence panels and that are less than 7/8-inch in thickness) from use in fence panels;

- specify that in single family districts (as in multifamily districts), no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. This provision would not apply to retaining walls.
- prohibit barbed wire and razor ribbon (concertina wire) in residential districts other than in the A(A) Agricultural District (in nonresidential districts must be six feet or more above grade);

The proposed amendments prohibit barbed wire from being used in residential districts other than A(A) Agricultural districts. This would, inadvertently, not allow it to be used by utility and public service uses that are located in residential districts. Therefore, staff proposes revised language that would prohibit barbed wire and razor ribbon (concertina wire) in residential districts other than in the A(A) Agricultural District, but allow it to be used for utility and public service uses (if the barbed wire and razor ribbon (concertina wire) is located six or more feet above grade).

These amendments are intended to prohibit materials that are not traditionally meant to be used for fences from being used. By adding the proposed language under Subsection (a) "Fence standards" it allows property owners who desire to use a prohibited material for "specialty" decorative fencing, to go to the Board of Adjustment for a special exception.

No changes are proposed to the regulations governing materials for screening required by the Dallas Development Code. The proposed code amendment is currently scheduled for a public hearing and consideration by City Council on September 14, 2016.



Ryan S. Evans
First Assistant City Manager

- c: Honorable Mayor and Members of the City Council
A.C. Gonzalez, City Manager
Chris Bowers, Interim City Attorney
Rosa Fios, City Secretary
Craig D. Kinton, City Auditor
Daniel Solis, Administrative Judge
Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer

ORDINANCE NO. _____

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Section 51-4.602; providing certain materials are prohibited; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (a), “Fence Standards,” of Section 51A-4.602, “Fence, Screening and Visual Obstruction Regulations,” of Division 51A-4600, “Regulations of Special Applicability” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Fence standards. Unless otherwise specifically provided for in this chapter, fences must be constructed and maintained in accordance with the following regulations.

(1) A person shall not erect or maintain a fence in a required yard more than nine feet above grade. In all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.

(2) In single family districts, no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.

(3) In multifamily districts, a fence located in the required front yard may be built to a maximum height of six feet above grade if all conditions in the following subparagraphs are met:

(A) No lot in the blockface may be zoned as a single family or duplex district.

(B) No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.

(C) No fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. For purposes of this subsection, fence panels are the portions of the fence located between the posts or columns.

(4[3]) If a fence panel setback is required under Paragraph (2)(C), the entire setback area, except for driveways and sidewalks, must be located within 100 feet of a verifiable water supply and landscaped with living evergreen shrubs or vines recommended for local use by the park and recreation director. Initial plantings must be calculated to cover a minimum of 30 percent of the fence panel(s) within three years after planting. Shrubs or vines must be planted 24 inches on center over the entire length of the setback area unless a landscape architect recommends otherwise.

(5[4]) Unless all of the conditions in Paragraphs (2) and (3) are met, a fence in a multifamily district may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.

(6[5]) Fence heights shall be measured from:

(A) In single family and duplex districts:

(i) the top of the fence to the level of the ground on the inside and outside of any fence within the required front yard. The fence height shall be the greater of these two measurements. If the fence is constructed on fill material that alters grade, as determined by the building official, the height of the artificially altered grade shall be included in the height of the fence. For purposes of this provision, artificially altered grade means the placement of fill material on property that exceeds a slope of one foot of height for three feet of distance; and

(ii) the top of the fence to the level of the ground on the inside of the fence in the required side or rear yard.

(B) In all other zoning districts, fence heights shall be measured from the top of the fence to the level of the ground on the inside of the fence.

~~[(6) The board may grant a special exception to the fence standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property.]~~

(7) A fence may not be located within an easement without the prior written approval by the agencies having interest in the easement.

(8) Except as provided in this subsection, the following fence materials are prohibited: ~~[A person shall not use barbed wire for fencing unless:]~~

- (A) Razor ribbon (concertina wire);
- (B) Sheet metal;
- (C) Corrugated metal;
- (D) Fiberglass panels;
- (E) Plywood;
- (F) Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;
- (G) Barbed wire in residential districts other than a A(A) Agricultural District; and
- (H) Barbed wire in nonresidential districts unless the barbed wire is six feet or more above grade~~[-; and~~
~~(B) the barbed wire]~~ and does not project beyond the property line.

~~(9[4])~~ All fences must provide firefighting access to the side and rear yard.

(10) The board may grant a special exception to the fence standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property.”

SECTION 3. That adjustments will be made to the section references in this ordinance for codification purposes only. A Dallas Development Code section reference containing the symbol “[A],” for example, “Section 51A-602,” means that the letter “A” will appear in the Chapter 51A version only, and will not appear in the Chapter 51 version.

SECTION 4. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By DRAFT
Assistant City Attorney

Passed _____