

ORDINANCE NO. 2343

AN ORDINANCE TO AMEND SECTIONS 107-82 THROUGH 107-115 OF THE LEXINGTON CITY CODE; TO REPEAL ORIGINAL SECTIONS 107-82 THROUGH 107-115 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA AS FOLLOWS:

Section 1. That Sections 107-82 through 107-115 of the Lexington City Code are hereby amended to read as follows:

Section 107-82 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Fence - means any vertical structure, other than a building, which is for the purpose of obstructing visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

Open Fence - means a fence having more than 60 percent of its area perforated, so as to not to obstruct visual observation.

Solid Fence - means a fence having less than 60 percent of its area perforated, so as to obstruct visual observation.

Section 107-83 Appeals

Appeals from any requirement of this chapter may be made by any person to the board of adjustment of the city and the board shall have the authority to waive any such requirement in the case of unnecessary or undue hardship.

Section 107-84 Building Permits

No fence shall be constructed or altered within the zoning jurisdiction of the City of Lexington until a building permit shall have been procured from the building inspector, and in conformance with these regulations. Application for a fence building permit shall include a sketch of the lot, the location of any buildings on the lot, the proposed fence and sufficient dimensions to locate these features accurately. Property owners are responsible to locate property pins prior to any permit being issued. A fee shall be paid by the applicant in an amount set by resolution of the city council.

Section 107-85 Requirements

1. All fences shall comply with the vision requirements of Section 24-2.
2. Design Standards.
 - a. All fences shall be constructed of materials which are structurally sound, including

concrete, galvanized chain-link, masonry, vinyl, wrought iron or wood fencing material not exceeding six inches in width.

- b. 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.
- c. All supporting posts for fence construction shall be set in concrete except for agricultural fencing.
- d. In areas where the primary use is residential, fences shall comply as follows:
 - i. In any yard which faces a public street, and from the public street right-of-way to the front line of the main structure, only open fences shall be allowed, not exceeding forty-two (42) inches in height.
 - ii. In any other yard, a solid or open fence shall be allowed, not exceeding six feet in height.
- e. In areas where the primary use is commercial, fences shall comply as follows:
 - i. In any yard which faces a public street, and from the public street right-of-way to the front line of the main structure, only open fences shall be allowed, not exceeding six feet in height.
 - ii. In any other yard, a solid or open fence shall be allowed, not exceeding six feet in height.
- f. In areas where the primary use is industrial, fences shall comply as follows:
 - i. In any yard which faces a public street, and from the public street right-of-way to the front line of the main structure, only open fences shall be allowed, not exceeding six feet in height.
 - ii. In any other yard, a solid or open fence shall be allowed, not exceeding eight feet in height.
- g. The use of barbed wire in the construction of any fence is prohibited except:
 - i. Perimeter security fencing of facilities in an Industrial District, outdoor storage areas in a Commercial District, and public owned and operated facilities.
 - ii. Fencing constructed for agricultural purposes on parcels of land in an Agricultural District.
- h. No electric fence shall be constructed or maintained within the City of Lexington or within its extraterritorial zoning jurisdiction except in Agricultural Districts.

Section 107-86 Encroachment into right-of-way.

No person shall construct, place, or maintain a fence, wall or vegetation used as a barrier or screen which encroaches into the public street right-of-way without first obtaining a permit in the form of an easement issued by the City Manager. An application for such easement shall be filed with the city building official, on a building permit application, providing a site plan for the location of any proposed encroachment into the public street right-of-way as follows:

1. The building official shall collect in advance a permit fee plus the anticipated cost of recording of the easement to be issued.
2. An easement shall be granted if the city manager shall determine as follows:
 - a. The encroachment shall not be hazardous to or interfere with vehicle or pedestrian traffic on the street, alley, or sidewalk.
 - b. The encroachment shall comply with the vision requirements of section 24-2.
 - c. The encroachment will not interfere with the operation and maintenance of the public utilities located within the public street right-of-way.
 - d. The encroachment will be subject to the express condition that said encroachment shall be removed upon 30 days' written notice that the area of the encroachment is necessary for public improvements or maintenance or repairs of such improvements, and that the property owner will indemnify, protect and hold the city harmless from and against any claims and demands for damages arising from the construction or maintenance of the encroachment.

Section 107-87 Maintenance

All fences shall be maintained in a safe and sanitary condition in conformance with these regulations and, when necessary, repaired or replaced with materials that provide equivalent size, shape, and appearance.

Sections 107-88—107-115. Reserved

Section 2. That original Sections 107-82 through 107-115, together with all ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 3. That this Ordinance shall be published in pamphlet form and take effect provided by law.

Passed and approved March __, 2014.

Mayor

Attest:

City Clerk