

MEMORANDUM

October 14, 2012

TO: Board of Mayor and Alderman

FROM: Eric S. Stuckey, City Administrator
Vernon J. Gerth, ACA-Community and Economic Development
Chris Bridgewater, Director Building and Neighborhood Services

SUBJECT: Proposed Ordinance 2012-05, Fencing Amendment
Consideration of Fence Permit Alternatives

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider and provide direction related to proposed amendments related to fencing and permitting for fences.

Background

During the previous BOMA meeting additional questions were raised about the proposed fence permit requirement and its applicability to agricultural uses. In consideration of these and other concerns expressed about requiring permits for fences, staff is requesting additional guidance to finalize this ordinance amendment.

As discussed previously, this Zoning Ordinance text amendment includes the following three changes to the City's existing fence regulations.

1. Section 2.4.11 requires a fence permit for the installation of new fences and modifications to existing fences.
2. Section 5.6.4 clarifies that an opaque fence or natural landscaping be provided for fencing serving nonresidential uses and, adds sight distance measures for fences located in front yards near intersections and driveway entrances.
3. Table 5-8 has been amended to allow decorative metal fences (i.e. wrought iron type) in front yards, subject to existing height standards. Chain link fences are already permitted.

Dating back to the April 26, 2012 Planning Commission meeting, discussion ensued among Commission members related to the need for fence permits and the process associated with obtaining a fence permit. Staff has stated that the requirement for a fence permit is a valuable quality of service tool. Permits allow staff, in this instance, Building and Neighborhood Services Department employees to provide guidance to citizens to assure fences will be properly installed in accordance with adopted criteria. Hopefully, this process will assist citizens from making expensive improvements that may need to be removed and/or reinstalled. The fence permit will cost thirty-five dollars (\$35.00), which will be used to offset the expense of processing the application and performing an inspection upon installation. The cities of Spring Hill, Bellevue, and Murfreesboro require fence permits as part of their building



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requirements. This text amendment was eventually recommended unanimously (6-0) by the Planning Commission at the August 23, 2012 FMPC meeting.

Financial Impact

While the revenue generated through this new permit fee will be minimal, City staff will be able to provide guidance to citizens to assure proposed fences comply with the City's adopted standards.

Staff Recommendation

Staff recommends adopting Ordinance 2012-05 as drafted. Development standards, which include fencing, are essential to maintaining the integrity and character of our community. These standards help protect the value of property individually and collectively. Planned and systematic processes, such as requiring permits for improvements, insure that adopted development standards and life-safety, minimum building codes are fulfilled and in the process help eliminate costly repairs for improper installations.

Other Alternatives Discussed

- Institute the requirement for fence permits but exclude agriculturally zoned property since agricultural fencing and repairs occur frequently, particularly when livestock is involved.
- Institute the requirement for fence permits for fences to be located within the front yard, only.
- Eliminate the requirement for fence permits altogether and emphasize a public information program to inform citizens of various property improvement requirements and processes.

ORDINANCE 2012-05

TO BE ENTITLED: “AN ORDINANCE TO ESTABLISH SECTION 2.4.11 AND AMEND SECTION 5.6.4 OF THE FRANKLIN ZONING ORDINANCE, WHICH ESTABLISHES REQUIREMENTS FOR FENCES AND WALLS.”

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMAN OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. That Chapter 2, Section 2.2.8 of the City of Franklin zoning Ordinance is hereby established to add the following text noted in **bold**, and is approved to read as follows:

2.2.8 Department of Building and Neighborhood Services

(...)

(2) Powers and Duties

In addition to the jurisdiction, authority, and duties that may be conferred upon the Department of Building and Neighborhood Services by other provisions of this ordinance and general or special law, it shall have the following jurisdiction, powers, and duties under this ordinance:

(a) Interpretations

- (i) To render interpretation so fall provision of this ordinance, including, but not limited to, interpretations of the text of this ordinance; interpretation of the zoning map, and determination of whether an unspecified use falls within a use classification or use group allowed in a zoning district.
- (ii) The Department of Building and Neighborhood Services may confer with the Department of Planning and Sustainability regarding all provisions of this ordinance or the land use plan.

(b) Enforcement

To enforce the provisions of this ordinance.

(c) Administer Ordinance

To review and decide on Building Permit applications and other related permit applications as identified in this ordinance.

(d) Tree Removal Permits

To review and make decisions on applications for Tree Removal Permits pursuant to Subsection 2.4.8, Tree Removal Permits.

(e) Sign Permits

To review and make decisions on applications for Sign Permits pursuant to Subsection 2.4.10, Sign Permits.

(f) Fence Permits

To review and make decisions on applications for Fence Permits pursuant to Subsection 2.4.11, Fence Permits.

(fg) Recommendations on Development Review Procedures

To review and provide comments or make recommendations to the appropriate decision-making and review body on the development

review procedures established in Section 2.4, Specific Development Review Procedures.

SECTION II. That Chapter 2, Section 2.4.11 of the City of Franklin Zoning Ordinance is hereby established to add the following text noted in **bold**, and is approved to read as follows:

2.4.11 Fence Permit

(1) Purpose and Scope

The purpose of this subsection is to provide for the review construction, alteration, or relocation of fences and walls in the city pursuant to this subsection and Section 5.6, Fences and Walls.

(2) Permits and Inspections

- (a) Any owner or authorized agent who intends to construct, enlarge, alter, move, demolish a fence, or to cause any such work to be done, shall first make application to the Zoning Administrator, or their designee, and obtain the required permit. Additionally, fences over six (6) feet in height may require sealed structural drawings**

(i) Work exempt from permit

A.) A permit shall not be required for fences under three and a half (3.5) feet tall and less than twenty (20) feet in length

B.) A permit shall not be required for demolition of a fence that is not in the Historic Preservation Overlay.

- (b) The Zoning Administrator, upon notification from the permit holder, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder of his or her agent wherein the same fails to comply with this subsection, the Certificate of Appropriateness, section 5.6.4 of this ordinance, or adopted construction codes.**

(3) Certificate of Appropriateness Required for Fences within the Historic Preservation Overlay (HPO)

- (a) In instances where a fence is proposed for construction, alteration, relocation, or demolition within the HPO, no Fence Permit shall be issued by the Department of Building and Neighborhood Services until the project has been submitted to, and received a written Certificate of Appropriateness from the Historic Preservation Planner, or their designee.**

(4) Initiation

An application for a Fence Permit shall be initiated by the property owner or other person having authority to file an application pursuant to Subsection 2.3.1, Authority to File Applications.

SECTION III. That Chapter 5, Section 5.6.4 of the City of Franklin Zoning Ordinance is hereby amended to add the following text noted in **bold**, to delete the following text noted in ~~strikethrough~~, and is approved to read as follows:

5.6.4 Basic Standards Applicable to All Fences and Walls

(1) Appearance

All fences and walls shall:

- (a) Be constructed of any combination of brick, stone, masonry materials, treated wood posts and planks, rot-resistant wood (such as cypress or redwood), or metal, except that chain link fencing shall be coated with dark green or black vinyl when used for any use except detached residential;
- (b) Be of a uniform architectural style and color palette compatible with the associated building;
- (c) Be oriented such that the “finished” side of the fence or wall faces adjoining lots or the public right-of-way;
- (d) For a ~~completely opaque~~ fence serving a nonresidential use, include ~~either~~ masonry columns every 50 feet on-center or less **or and either install a completely opaque fence or provide** a single row of evergreen shrubs with a maximum on-center spacing of five feet located on both sides of the fence;
- (e) Be limited to a maximum opacity of 75 percent (that is, obscure no more than 75 percent of the view into the site) when located within a front yard or within 20 feet of a public street right-of-way (retaining walls, fences, and solid masonry walls shall be exempt from this standard); and
- (f) Be maintained in good repair and in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements.

(2) Other Requirements

- (a) **Be required to meet the standards for sight distance, as contained in the City of Franklin Transportation and Technical Street Standards:**
 - (i) **On corner lots, no fence, wall, hedge, planting, or structure between a height of two and one-half (2.5) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the right-of-way lines and a straight line joining the right-of-way lines twenty (20) feet from the right-of-way intersection;**
 - (ii) **For public street/private driveway intersections, the distance “D” shall measure twenty (20) feet and fifteen (15) feet from the edge of the right-of-way and private driveway, respectively; and**
 - (iii) **Fences may not obstruct stormwater flow.**

(2) Maximum Height by Function and Location

(a) Height

Fences or walls shall not exceed the height as depicted in Table 5-8, Fence and Wall Height. For purposes of this subsection, height shall be measured from finished grade. The use of a berm to increase fence or wall height is prohibited.

TABLE 5-8: FENCE AND WALL HEIGHT

Fence or Wall Function		Maximum Height	
		Front Yard (feet) [-1]	Side Yard, Rear Yard, Side Street (feet) [1]
Dumpster, refuse area, loading area, or recycling container screen walls		The greater of: 8 feet or 2 feet taller than the container being screened	
Chain Link Fences [2]		6	8
Retaining walls & grade transition walls [23]	Residential uses	2	6
	Nonresidential and mixed-uses	10 [34],[45]	
Parking lot screen fence or wall		At least 3; Max. of 6	
All other fences & walls	Residential uses	3	7
	Nonresidential and mixed-uses	6	8
<p>NOTES:</p> <p>[1] For the purposes of determining the maximum height of a fence or wall along a street, the height permitted along the side or secondary street shall not begin until the rear of the main body of structure.</p> <p>[2] <u>Decorative metal fences (such as wrought iron, or wrought iron style/look) with a maximum opacity of 25 percent shall be allowed for a fence in a front yard, up to a maximum height of 6 feet, and shall be subject to the height standard for fences in a side or rear yard.</u></p> <p>[23] Retaining walls within the rights-of-way of collector, arterial, Mack Hatcher Parkway, or Interstate 65 are exempt from height limits.</p> <p>[34] Changes in grade may be permitted to reach a maximum of 16 feet if two or more retaining walls are used, provided each wall is no greater than 8 feet tall and there is a minimum horizontal separation of six linear feet between the walls to allow for the planting of vegetation.</p> <p>[45] A single row of evergreen shrubs with a maximum on-center spacing of five feet shall be located at the base of a retaining wall to soften its appearance. Shrubs shall be a minimum of 30 inches in height above ground level at the time of planting and shall typically grow to a minimum height of five to six feet within four years. Evergreen trees or groundcover may be permitted as an alternative to shrubs subject to approval of the Department of Planning and Sustainability.</p>			

(b) Location

(ii) Front Yards

- A.) Fences or walls located between the primary street right-of-way and the front facade of the structure shall be subject to the height standards for fences or walls in front yards.
- B.) Fences and walls located between a side street right-of-way and the side of a structure shall be subject to the height standards for fences and walls in front yards. For the purposes of this subsection, the “side of a structure” shall include the portion of a structure located between the front and rear façades.

(iii) Side and Rear Yards

Except on lots with a side street frontage, fences and walls located behind the front façade of the structure shall be subject to the height standards for fences and walls located in side or rear yards.

SECTION III. BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on third and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
City Administrator/Recorder

By: _____
DR. KEN MOORE
Mayor

PLANNING COMMISSION DEFERRED: 4/26/12

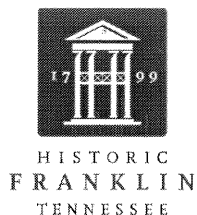
PLANNING COMMISSION RECOMMENDED: 8/23/12

PASSED FIRST READING: 9/11/12

PUBLIC HEARING HELD: _____

PASSED SECOND READING: _____


PASSED THIRD READING: _____



MEMORANDUM

September 4, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Vernon Gerth, Assistant City Administrator for Community and Economic Development
Catherine Powers, Planning and Sustainability Director

SUBJECT: Ordinance 2012-05, Zoning Text Amendment to add Section 2.4.11 and amend Sections 5.6.4 and 5-8 within the *City of Franklin Zoning Ordinance*

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding an amendment to add Section 2.4.11 and to amend Sections 5.6.4 and 5-8 of the *City of Franklin Zoning Ordinance* to revise requirements relating to fences and walls.

Background

This Zoning Ordinance Text Amendment is proposed by the Planning and Sustainability Department and Building and Neighborhood Services Department in order to add a Section 2.4.11 requiring permits for the installation of fences and setting forth requirements and exceptions for these newly established regulations

Additionally, Section 5.6.4, Basic Standards Applicable to All Fences and Walls is being amended to clarify that an opaque fence or landscaping be provided for fencing serving nonresidential uses and adding sight distance measures for front yard fences.

Finally, Table 5-8 and Notes, Fence and Wall Height; have been amended to allow decorative metal fences in front yards, subject to height standards. Chain link fences are already permitted.

At the April 26, 2012, Planning Commission meeting, discussion ensued among Commission members related to the need for fence permits and the cost associated with obtaining the permit. Staff believes the requirement for a fence permit is a service the City of Franklin should provide to prevent mistakes, which can be expensive if the fence is inadequately installed and needs to be removed and replaced. The fence permit will allow Building and Neighborhood Services to guide the applicant through the regulations to assure the fence is properly placed, is the right height and meets all other criteria of the code. The cost of the Fence Permit will be thirty five dollars (\$35.00), which will be used to offset the expense of processing the application and performing an inspection upon installation. The cities of Spring Hill, Bellevue, and Murfreesboro require fence permits as part of their building requirements.

This text amendment was recommended unanimously (6-0) by the Planning Commission at the August 23, 2012 FMPC meeting.

Financial Impact

The revenue generated through this permit fee would be minimal.



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Options

BOMA may approve, reject, or amend the proposed text amendment.

Recommendation

Approval of the text amendment is recommended.