

ORDINANCE NO. _____

PROPOSED ORDINANCE NO. 24-036

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE LAND, FLORIDA RELATING TO ZONING; PROVIDING FOR TEXT AMENDMENT LDC24-004 TO ARTICLE 4 (GENERAL SITE DEVELOPMENT STANDARDS), SECTION 4.4 (FENCES AND WALLS) AND ARTICLE 12 (ADMINISTRATION AND ENFORCEMENT) OF THE LAND DEVELOPMENT CODE TO ESTABLISH PERMITTING REQUIREMENTS FOR FENCES, SPECIFY THE THRESHOLD FOR WHEN REPAIR OR REPLACEMENT OF AN EXISTING FENCE WILL REQUIRE A PERMIT, SPECIFY HOW MUCH OF A NONCONFORMING FENCE OR WALL MAY BE REPAIRED OR REPLACED BEFORE THE FENCE OR WALL MUST BE BROUGHT INTO COMPLIANCE, REQUIRE FENCING MATERIALS WHICH HAVE BOTH A FINISHED AND UNFINISHED SIDE TO ORIENT THE FINISHED SIDE OUTWARDS WHEN ADJACENT OR DIRECTLY VISIBLE FROM STREETS OR ALLEYS, ADDRESS THE PLACEMENT OF CERTAIN MATERIALS ON FENCING, REVISE AN ILLUSTRATION WHICH ADDRESSES THE HEIGHTS OF FENCES AND WALLS WITHIN THE VISIBILITY TRIANGLE AT UNSIGNALIZED INTERSECTIONS, AND ALLOW FOR THE ADMINISTRATIVE APPROVAL OF PRIVACY FENCES UP TO EIGHT FEET IN HEIGHT SUBJECT TO THE WRITTEN CONSENT OF ADJACENT PROPERTY OWNERS WHEN LOCATED IN REAR YARDS AND NOT VISIBLE FROM ADJACENT STREETS OR ALLEYS; MAKING FINDINGS; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, by Ordinance 5425, adopted on December 16, 2013, the City Commission of the City of Lakeland, Florida adopted the Land Development Code for the City of Lakeland; and

WHEREAS, the Planning and Zoning Board held a public hearing on July 16, 2024, to consider Text Amendment LDC24-004 to Article 4 (General Site

Development Standards), Section 4.4 (Fences and Walls) and Article 12 (Administration and Enforcement) of the Land Development Code to establish permitting requirements for fences, specify the threshold for when repair or replacement of an existing fence will require a permit, specify how much of a nonconforming fence or wall may be repaired or replaced before the fence or wall must be brought into compliance, require fencing materials which have both a finished and unfinished side to orient the finished side outwards when adjacent or directly visible from streets or alleys, address the placement of certain materials on fencing, revise an illustration which addresses the height of fences and walls within the visibility triangle at unsignalized intersections, and allow for the administrative approval of privacy fences up to eight feet in height subject to the written consent of adjacent property owners when located in rear yards and not visible from adjacent streets or alleys. ; and

WHEREAS, the Planning and Zoning Board, at the conclusion of its regular meeting on August 20, 2024, approved and recommended to the City Commission that Text Amendment LDC24-004 to the Land Development Code be adopted; and

WHEREAS, the City Commission, after conducting a duly-advertised public hearing at which all interested persons were afforded the opportunity to be heard, finds that it is in furtherance of the public health, safety and welfare of the citizens of the City of Lakeland to adopt Text Amendment LDC24-004 as described above;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF LAKE LAND, FLORIDA:**

SECTION 1. The foregoing findings are true and correct and are incorporated herein by reference and made a part hereof.

SECTION 2. Text Amendment LDC24-004 to the Land Development Code, as set forth in Attachments "A," "B," and "C," attached hereto and made a part hereof, is hereby adopted and made a part of the City's Land Development Code.

SECTION 3. The City Commission does hereby expressly find that the provisions of this Ordinance are in conformity with the Comprehensive Plan of the City of Lakeland adopted by Ordinance 5885, and that all procedures for the enactment of this Ordinance have been complied with.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. If any word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

SECTION 6. This Ordinance shall take effect immediately upon its passage.

PASSED AND CERTIFIED AS TO PASSAGE this 16th day of
September, A.D. 2024.

H. WILLIAM MUTZ, MAYOR

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
PALMER C. DAVIS
CITY ATTORNEY

ATTACHMENT "A"

ARTICLE 4: GENERAL SITE DEVELOPMENT STANDARDS

4.4 – FENCES AND WALLS

4.4.1 PERMIT REQUIRED

No fence or wall, or any portion of a fence or wall, shall be erected on any lot or parcel within the City without first obtaining a fence permit or building permit, unless otherwise stated herein.

- a. Applications for a fence permit shall include a site plan which depicts the dimensions of the proposed fence or wall, the location of the fence or wall in relation to property lines, and any other information deemed necessary by the Community and Economic Development Department.
- b. Building permit applications for a wall shall include both a site plan and construction drawings signed and sealed by a Professional Architect or Engineer licensed to practice in the State of Florida.
- c. A permit shall not be required for general maintenance and repair of existing fences, provided that no more than 25 percent of the total linear footage of a fence is replaced within a 12-month period and any replacement fencing is of the same height, style and materials as the existing fencing.
- d. At the discretion of the Director of Community and Economic Development, the requirement for a permit to repair or replace fencing in excess of 25 percent may be waived when damage is sustained due to a natural disaster which results in widespread damage throughout the City for a time period not to exceed six months from the date of the disaster.

4.4.12 GENERAL

- a. For purposes of this section, fences and walls shall mean freestanding fences and walls that are not structural elements of a building.
- b. Fences and walls, whether required or optional, shall be constructed of the following types of materials.
 1. Chain link or ornamental wire manufactured for fences with uniformly spaced metal or wood posts; or
 2. Ornamental wrought iron, aluminum, or plastics manufactured for fences; or
 3. Treated or finished wood or wood units of uniform size; or
 4. Brick, stone, split block, stucco on concrete block or other finished precast masonry units of uniform size; or
 5. Finished poured concrete.
- c. The Director of Community and Economic Development may approve other fence or wall materials on a particular site if he finds that the proposed materials would provide equal or greater protection, would result in equivalent impacts on the general appearance of near or adjacent property, and do not violate the intent of this code.
- d. Barbed Wire, Razor Wire and Electric Fencing
 1. Residential Zoning Districts: The use of barbed wire, razor wire and electrified fencing shall be prohibited in residential zoning districts or the portion of PUDs zoned for residential uses.

2. Office (O-1, O-2, O-3), Commercial (C-1, C-2, C-3, C-4, C-5, C-6, C-7), and Light Industrial (I-1) Zoning Districts: Electrified fencing may be used for security purposes within all office, commercial and light industrial zoning districts or the portions of any PUDs zoned for office, commercial and/or I-1 uses. Use of such fencing shall be limited to interior side and rear yards. The use of barbed wire fencing in such zoning districts may be considered through the variance process, subject to the same locational standards as electrified fencing, when the applicant can demonstrate a significant security need such that denial of use of the fencing material would result in an unnecessary hardship. In applying the variance criteria, the Zoning Board of Adjustments and Appeals shall consider the visual impact of such fencing when viewed from any adjacent streets or rights-of-way and may require landscaping or other mitigation measures as conditions of approval. The use of razor wire fencing in all office, commercial and light industrial zoning districts, or the portion of any PUDs zoned for office, commercial and/or I-1 uses, shall be prohibited.
 3. Medium (I-2) and Heavy (I-3) Industrial Zoning Districts: Barbed wire, razor wire or electrified fence may be used for security purposes within I-2 and I-3 zoning districts or the portion of any PUDs zoned for medium and/or heavy industrial uses. The use of razor wire fencing, however, shall be limited to interior side and rear yards.
 4. Utility and Essential Service Facilities: Notwithstanding the above provisions, the use of barbed wire or electrified fencing may be used for security purposes for Utility and Essential Service Facilities (All Levels) within any zoning district.
- e. Fences and walls, whether required or optional, may be erected adjacent to or on property lines, subject to the standards herein and subject to regulations relating to visibility triangles.
 - f. Where a lot or parcel abuts a use or district that allows a higher fence or wall, the fence or wall may be erected at the greater height along the common property boundary without requiring a variance. For example, a residential use having a maximum fence height of six feet that abuts a commercial use having a maximum fence height of eight feet may erect an eight-foot fence along the common property boundary.
 - g. In the case of through-lots, the Director of Community and Economic Development shall have the discretion to apply rear yard standards to one of the two frontages upon a determination that a particular yard functions as a rear yard.
 - h. The measurement of maximum fence or wall height shall not include decorative caps on wall columns or fence posts, or decorative arches above gates.
 - i. Fences and walls, whether required or optional, shall be maintained in sound condition.
 - j. No fence or wall shall be erected in such a manner as to interfere with drainage.
 - k. Where adjacent to any street or improved alley, fences with a finished or unfinished side (i.e., wood stockade, board-on-board) shall be installed such that the finished side of the fence faces outward toward the adjacent street or alley.
 - l. The attachment of fabric, shade cloth, slats or other material to any chain link or similar open fence shall be prohibited on all perimeter and view blockage fencing. This standard shall not apply to athletic fields and courts, fencing interior to a project site, or construction sites with an active permit.

4.4.23 REQUIRED BUFFER FENCES AND WALLS

- a. Fences or walls required as part of a required buffer shall have at least 90 percent opacity and are referred to herein as view blockage fences or walls.

- b. Openings shall be permitted in required buffer fences or walls in side and rear yards for the purpose of secondary vehicular access to an alley or secondary street. Each such opening shall not exceed 20 feet in width and there shall be no more than one such opening for each 100 linear feet of side or rear yard dimension. All other fence or wall openings in side and rear yards shall contain a gate constructed of materials permitted herein and shall have at least 90 percent opacity.

4.4.34 OPTIONAL FENCES AND WALLS

- a. Single-Family, Two-Family and Multi-Family Residential Zoning Districts

Standards for the location and height of optional fences and walls in single-family, two-family and multi-family residential zoning districts shall be as set forth in Figure 4.4-1.

- b. Mobile Home and Recreational Vehicle Parks and Non-Residential Zoning Districts

1. Optional fences or walls erected in areas zoned for mobile home and recreational vehicle parks, office/commercial uses or in the I-1 zoning district shall not exceed eight feet in height, except that in required front yards, the portion of such fences or walls that extends above four feet in height shall be made of pickets, wrought iron, chain link or similar open construction having no greater than 50 percent view blockage when viewed from an angle perpendicular to the face of the fence or wall.
2. Optional fences or walls erected in I-2 or I-3 zoning districts shall not exceed eight feet in height.

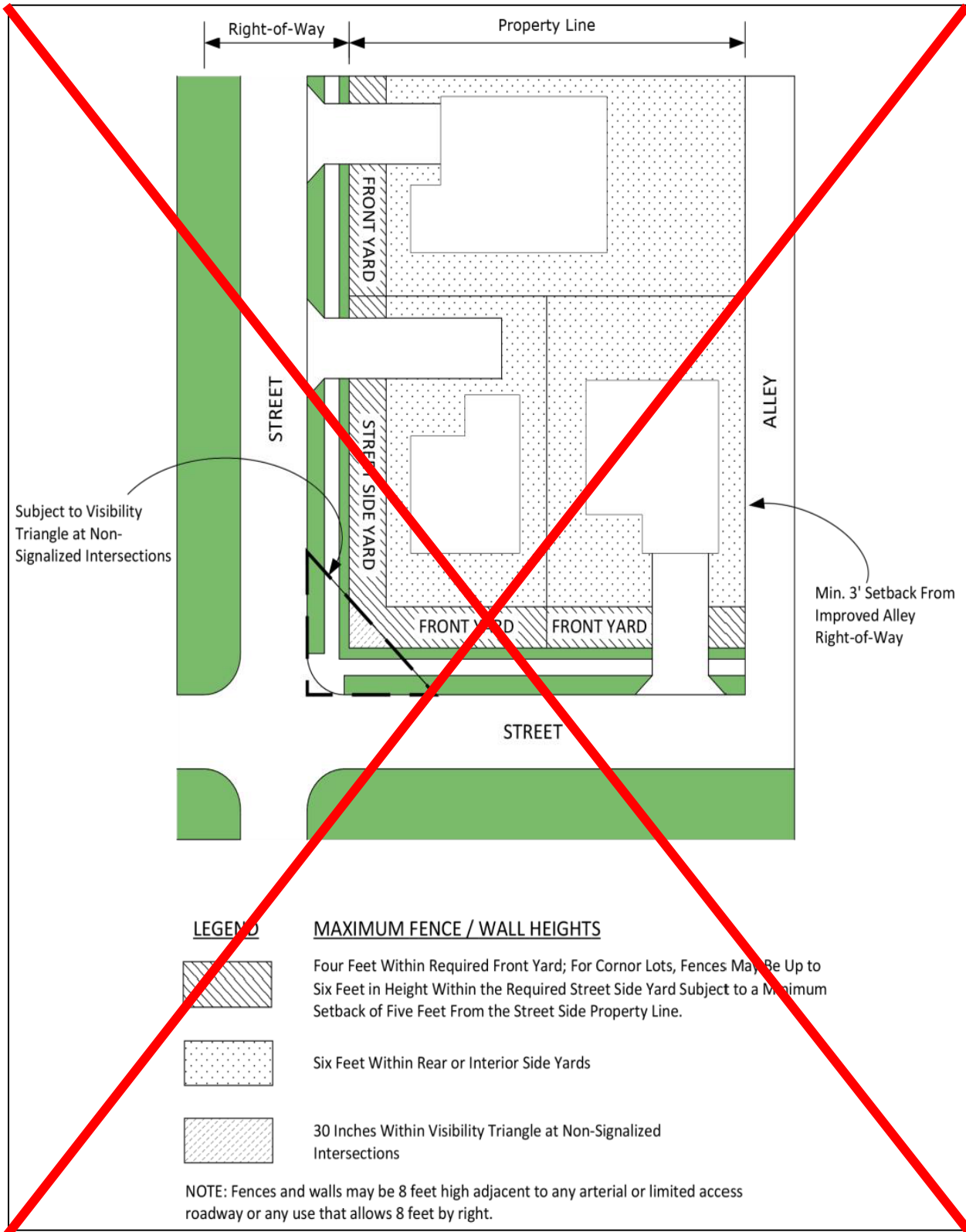
4.4.5 EXISTING FENCES AND WALLS

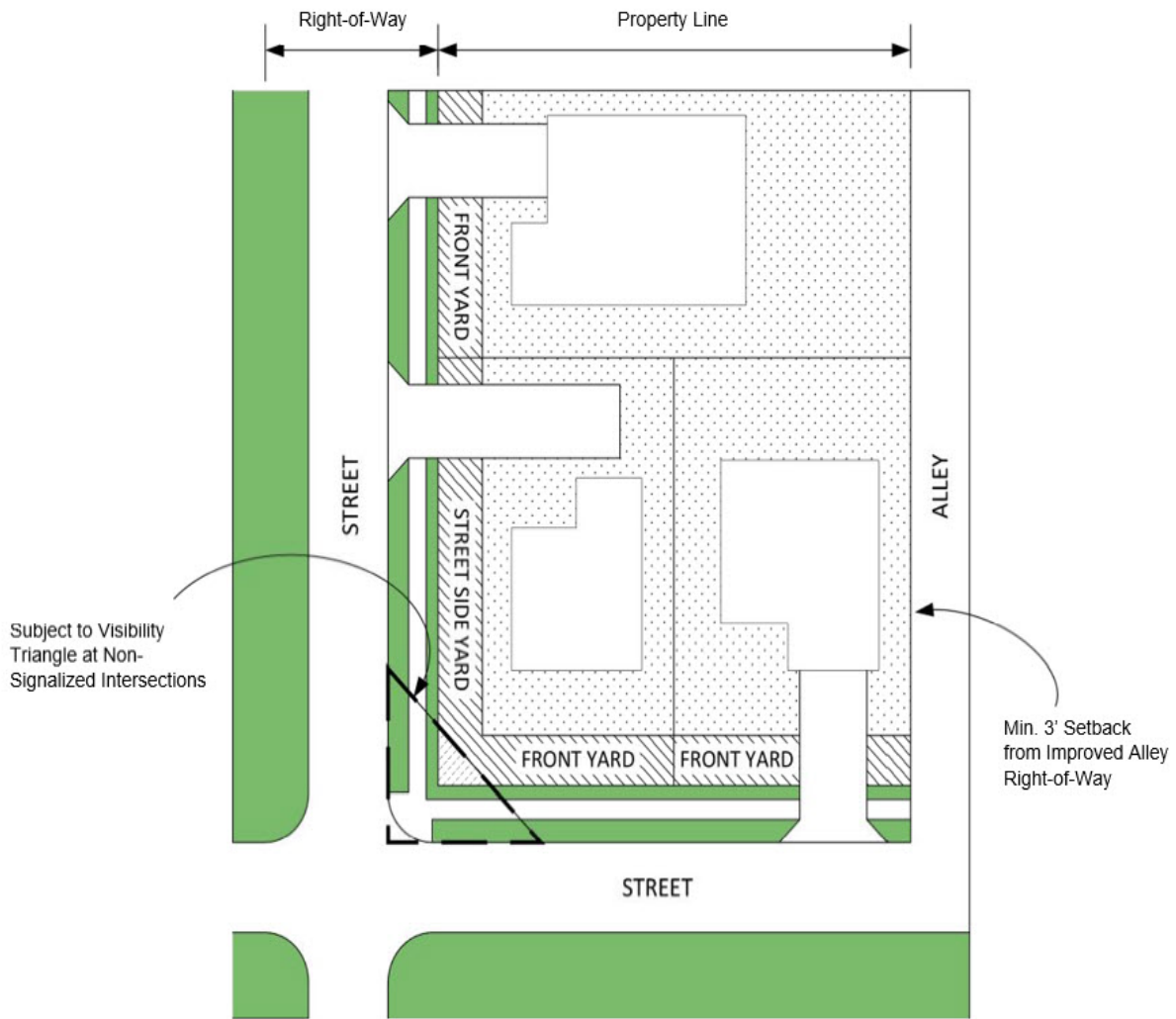
Existing fences and walls erected prior to the effective date of these standards (whether lawfully or otherwise) and which do not conform to the standards of this section shall be subject to the following:

- a. Existing non-conforming fences and walls may be maintained and repaired, provided that maintenance and repair does not increase or intensify the extent or size of the nonconformity or exceed the limits specified in 4.4.5.a and 4.4.5.c. below.
- b. Where 50 percent or more of the linear footage of a non-conforming fence or wall within a single yard (front, street side, interior side, or rear) is to be replaced, the entire linear footage of the fence or wall within that yard shall be required to conform with the requirements of this section.
- c. Where 50 percent or more of the total linear footage of a non-conforming fence or wall is to be replaced within a 12-month period, the entire fence or wall shall be required to conform with the requirements of this section.

ATTACHMENT "B"

Figure 4.4-1 Residential Fences and Walls





LEGEND

MAXIMUM FENCE / WALL HEIGHTS



4 feet within the Required Front Yard; For corner lots, fences may be up to 6 feet in height within the Required Street Side Yard subject to a minimum setback of 5 feet from the Street Side Property Line.



Six feet within Rear or Interior Side Yards.



24 inches within Visibility Triangle at Non-Signalized Intersections.

NOTE: Fences and walls may be 8 feet high adjacent to any arterial or limited access roadway or any use that allows 8 feet by right.

ATTACHMENT "C"

ARTICLE 4: - ADMINISTRATION AND ENFORCEMENT

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12.4 ADMINISTRATIVE STAFF

12.4.1 DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

The Director of Community and Economic Development is the administrative head of the city's Community and Economic Development Department.

12.4.2 POWERS AND DUTIES

The Director of Community and Economic Development shall assist the Planning and Zoning Board in carrying out its duties as the local land planning agency and land development regulation commission for the city, as provided in this Code and the duly adopted by-laws of the Board. The Director is the city's Zoning Administrator and has primary responsibility for administering and enforcing this Code.

12.4.3 ADMINISTRATIVE ADJUSTMENTS

12.4.3.1 Intent

- a. It is the intent of this Code to allow the Director of Community and Economic Development, or other administrative staff as specified herein, to make administrative adjustments to the strict application of the standards and requirements of this Code where extenuating circumstances exist to relieve unnecessary hardship; to promote the beneficial development, redevelopment, infill and reuse of property; and to avoid the need for variances where substantial compliance can be achieved. No property owner shall be entitled to such adjustments which are at the discretion of the Director of Community and Economic Development or other administrative staff as specified herein.
- b. It is further the intent of this Code that administrative adjustments:
 - Be granted only as needed to relieve hardship suffered by the applicant due to physical limitations of the site or other circumstances beyond the applicant's control and which hardship shall not be solely an economic hardship, or as necessary to allow the safe and functional operation of the site or to accommodate other code requirements;
 - Be consistent with the intent of this Code and of the applicable zoning district, including any applicable conditional use, PUD or SPI district;
 - Be not adverse to the health, safety or welfare of the abutting property owners or of the community, unless any such impacts have been substantially mitigated; and
 - Be the minimum deviations that will alleviate the unnecessary hardship.

12.4.3.2 Applicability

This section shall apply to the dimensional, quantitative and location standards or requirements of this Code and the dimensional, quantitative and location conditions of any conditional use, Planned Unit Development or SPI district.

(Ord. No. 5455, 07-21-14)

12.4.3.3 Dimensional and Quantitative Standards

The Director of Community and Economic Development may make minor adjustments to dimensional and quantitative standards including but not limited to area standards, linear standards, separation standards and quantity standards except for the maximum number of living units or dwellings. With the exception of the maximum height of privacy fences located in rear yards, The administrative adjustments shall generally not exceed ten percent of the standard or requirement and shall not be additive such that, for example, a ten percent adjustment on opposite sides yields an effective twenty percent deviation. For residential privacy fences located in rear yards which are not visible from adjacent streets or alleys, an administrative adjustment to allow a maximum fence height of up to eight feet may be approved subject to the written consent of any adjacent property owner(s) which the fencing will abut.

12.4.3.4 Location Standards

The Director of Community and Economic Development may make minor adjustments to location standards including but not limited to the placement of buildings, driveways, parking areas, bike racks, fences and walls and landscaping.

12.4.3.5 Procedures

- a. When, in the opinion of the Director of Community and Economic Development, a proposed administrative adjustment materially affects abutting property owners, written notification shall be mailed to the affected property owner(s) of record at least 30 days prior to the granting of administrative adjustment and shall take any comments or concerns into account. For administrative adjustments pertaining to the height of residential privacy fences located in rear yards, written consent from any adjacent property owner(s) which the fencing will abut shall be sufficient for compliance with this requirement.
- b. The Director of Community and Economic Development shall consult with other city departments affected by the proposed administrative adjustment and may consult other agencies or affected parties to determine whether the administrative adjustment should be granted.
- c. The Director of Community and Economic Development may attach conditions that he deems necessary to protect the health, safety and welfare of the community or the abutting property owner(s), to meet the intent of the modified standard and to minimize adverse impacts on adjacent properties.
- d. The administrative adjustment shall be documented by means of a form or a note on the applicable permit or site plan and shall include the reason for the adjustment, the specific amount of the adjustment and any conditions pertaining thereto.
- e. The Director of Community and Economic Development periodically shall report to the Planning and Zoning Board concerning administrative adjustments that have been granted.



Planning & Zoning Board Recommendation

Date:	September 3, 2024	Reviewer:	Audrey McGuire
Project No:	LDC24-004	Applicant:	City of Lakeland
P&Z Hearing:	July 16, 2024	P&Z Final Decision:	August 20, 2024
Request:	Changes to Article 4 (General Site Development Standards), Section 4.4 (Fences and Walls) and Article 12 (Administration and Enforcement) of the Land Development Code, to establish permitting requirements for fences, specify the threshold for when repair or replacement of an existing fence will require a permit, specify how much of a nonconforming fence or wall may be repaired or replaced before the fence or wall must be brought into compliance, require fencing materials which have both a finished and unfinished side to orient the finished side outwards when adjacent or directly visible from streets or alleys, address the placement of certain materials on fencing, revise an illustration which addresses the height of fences and walls within the visibility triangle at unsignalized intersections, and allow for the administrative approval of privacy fences up to eight feet in height subject to the written consent of adjacent property owners when located in rear yards and not visible from adjacent streets or alleys.		

1.0 Background

1.1 Summary

Periodically, various changes to the Land Development Code (LDC) are proposed in response to changing conditions and to address unintended consequences of existing standards. The proposed changes to Article 4, Section 4.4 (Fences and Walls) will establish permitting requirements for new and existing fences and walls; require fences with a finished and unfinished to be oriented with the finished side outwards where adjacent to any street or improved alley; establish standards for when non-conforming fences and walls must be brought into compliance; and replacing Figure 4.4-1, Residential Fences and walls to correct a discrepancy in the sight visibility triangle requirements.

Proposed changes to Article 12, Sub-Section 12.4.3 (Administrative Adjustments) allow for the administrative approval of residential privacy fences up to eight feet in height, subject to written consent of adjacent property owners, when located in rear yards and not visible from adjacent streets or improved alleys.

1.2 Attachments

Attachment A: Proposed changes to Article 4, Section 4.4 (Fences and Walls)

Attachment B: Proposed Figure 4.4-1 (Residential Fences and Walls)

Attachment C: Proposed Changes to Article 12, Sub-Section 12.4.3 (Administrative Adjustments)

2.0 Discussion

2.1 Summary

Sub-Section 4.4.1 Permits Required

As an informal policy, for many years the City required a Fence Permit for the erection of fences on both residential and non-residential properties inside the city which were reviewed and approved by the Planning Division. Permits for walls are mandated by the Florida Building Code and require the review and approval of the Planning Division and the Building Inspection Division.

While the Land Development Code specifies setbacks, height and location requirements for fences and walls it does not expressly state that a Fence Permit is required for fences. Because the Florida Building Code does not address fencing, a determination was made by the City Attorney's office that a fence permit could not be required if the need for a permit was not specified in the Land Development Code. Codifying the requirement for a fence permit prior to the erection of any fencing will ensure that the design and placement of any new fencing meets the standards for fences specified in the Land Development Code rather than relying on enforcement retroactively.

Under the proposed changes, a fence permit will be required for all new residential and non-residential fences in the city. For existing fences, up to 25 percent may be repaired or replaced within one calendar year without a fence permit provided that any replacement fencing materials used are of the same height, style and materials as the existing fencing.

Following a natural disaster with widespread impacts throughout the city, such as a hurricane or tropical storm, the Director of Community and Economic Development will have the discretion to waive fence permits pertaining to repair and replacement of fencing damaged or destroyed during the storm event for a period of up to six months.

Sub-Section 4.4.2 General

Staff is proposing to update the general standards for fences and walls, incorporating new guidelines for the orientation of fences with a "finished" and "unfinished" side, such as wood stockade and board-on-board styles. Within yards adjacent to any street or improved alley, fences will be required to be oriented in such a way that the finished side of the fence faces out toward the street or alley.

The city currently prohibits the use of slats in chain link fences for required view blockage fencing. Staff is proposing to update the design standards for fences by expanding this prohibition to include the attachment of fabric, shade cloth, slats or other materials to chain link or similar open fence types on all perimeter and view blockage fencing. This standard would not apply to fencing interior to a project site or for fencing on athletic fields and courts.

Figures 4.4-1, Residential Fences and Walls

Fences and walls are subject to the visibility triangle requirements of Section 4.12 (Visibility at Intersections) in the Land Development Code. Figure 4.4-1 currently allows residential fences up to 30 inches in height within visibility triangles at non-signalized intersections. This figure is in conflict with the standards contained in Section 4.12 which prohibits the placement, erection or construction of structures and objects (including fences and walls) between the heights of 24 inches and 8 ½ feet above grade within visibility requirements. The visibility triangle requirements have been updated on

the new figure to limit residential fences to 24 inches in height within visibility triangles at non-signalized intersections.

Sub-Section 4.4.5 Existing Fences and Walls

The Land Development Code does not address the replacement of existing non-conforming fences and walls. Staff is proposing standards to require non-conforming fences and walls to be brought into conformance with current standards. Where 50 percent of the linear footage of a fence or wall within one yard is replaced, the entire linear footage of the fence or wall within that one yard will be required to be brought into conformance. Where 50 percent or more of the total linear footage of a fence or wall is replaced within one 12-month period, the entire fence or wall must be brought into conformance with current standards.

Article 12, Section 12.4 (Administrative Staff)

Residential fences and walls are limited to a maximum height of six feet on interior side and rear property lines, with the exception that where a residential lot or parcel abuts a use or district that allows a higher fence height (such as a commercial district) an eight-foot-high fence may be erected on the common property boundary without requiring a variance. The City has received interest from residential property owners seeking to install eight-foot-high fences along rear property lines due to privacy concerns. The proposed changes to Article 12 would allow for the issuance of administrative variances to allow fences, but not walls, up to eight feet in height along rear property lines where not visible from a street or improved alleyway, subject to written consent of abutting property owners.

3.0 Recommendation

3.1 Community & Economic Development Staff

The Community & Economic Development Department reviewed this request for compliance with Lakeland Comprehensive Plan: Our Community 2030 and it is our opinion that the request is consistent with the Comprehensive Plan.

3.2 Planning & Zoning Board

The recommendation was approved by a 5—0 vote of the Board.

The Community & Development Department reviewed this request and recommends the proposed changes to the Land Development Code.

Recommendation

It is recommended that the proposed changes to Article 4 and Article 12 of the Land Development Code, as described in Attachments “A,” “B” and “C” be approved.

ATTACHMENT "A"

ARTICLE 4: GENERAL SITE DEVELOPMENT STANDARDS

4.4 – FENCES AND WALLS

4.4.1 PERMIT REQUIRED

No fence or wall, or any portion of a fence or wall, shall be erected on any lot or parcel within the City without first obtaining a fence permit or building permit, unless otherwise stated herein.

- a. Applications for a fence permit shall include a site plan which depicts the dimensions of the proposed fence or wall, the location of the fence or wall in relation to property lines, and any other information deemed necessary by the Community and Economic Development Department.
- b. Building permit applications for a wall shall include both a site plan and construction drawings signed and sealed by a Professional Architect or Engineer licensed to practice in the State of Florida.
- c. A permit shall not be required for general maintenance and repair of existing fences, provided that no more than 25 percent of the total linear footage of a fence is replaced within a 12-month period and any replacement fencing is of the same height, style and materials as the existing fencing.
- d. At the discretion of the Director of Community and Economic Development, the requirement for a permit to repair or replace fencing in excess of 25 percent may be waived when damage is sustained due to a natural disaster which results in widespread damage throughout the City for a time period not to exceed six months from the date of the disaster.

4.4.12 GENERAL

- a. For purposes of this section, fences and walls shall mean freestanding fences and walls that are not structural elements of a building.
- b. Fences and walls, whether required or optional, shall be constructed of the following types of materials.
 1. Chain link or ornamental wire manufactured for fences with uniformly spaced metal or wood posts; or
 2. Ornamental wrought iron, aluminum, or plastics manufactured for fences; or
 3. Treated or finished wood or wood units of uniform size; or
 4. Brick, stone, split block, stucco on concrete block or other finished precast masonry units of uniform size; or
 5. Finished poured concrete.
- c. The Director of Community and Economic Development may approve other fence or wall materials on a particular site if he finds that the proposed materials would provide equal or greater protection, would result in equivalent impacts on the general appearance of near or adjacent property, and do not violate the intent of this code.
- d. Barbed Wire, Razor Wire and Electric Fencing
 1. Residential Zoning Districts: The use of barbed wire, razor wire and electrified fencing shall be prohibited in residential zoning districts or the portion of PUDs zoned for residential uses.

2. Office (O-1, O-2, O-3), Commercial (C-1, C-2, C-3, C-4, C-5, C-6, C-7), and Light Industrial (I-1) Zoning Districts: Electrified fencing may be used for security purposes within all office, commercial and light industrial zoning districts or the portions of any PUDs zoned for office, commercial and/or I-1 uses. Use of such fencing shall be limited to interior side and rear yards. The use of barbed wire fencing in such zoning districts may be considered through the variance process, subject to the same locational standards as electrified fencing, when the applicant can demonstrate a significant security need such that denial of use of the fencing material would result in an unnecessary hardship. In applying the variance criteria, the Zoning Board of Adjustments and Appeals shall consider the visual impact of such fencing when viewed from any adjacent streets or rights-of-way and may require landscaping or other mitigation measures as conditions of approval. The use of razor wire fencing in all office, commercial and light industrial zoning districts, or the portion of any PUDs zoned for office, commercial and/or I-1 uses, shall be prohibited.
 3. Medium (I-2) and Heavy (I-3) Industrial Zoning Districts: Barbed wire, razor wire or electrified fence may be used for security purposes within I-2 and I-3 zoning districts or the portion of any PUDs zoned for medium and/or heavy industrial uses. The use of razor wire fencing, however, shall be limited to interior side and rear yards.
 4. Utility and Essential Service Facilities: Notwithstanding the above provisions, the use of barbed wire or electrified fencing may be used for security purposes for Utility and Essential Service Facilities (All Levels) within any zoning district.
- e. Fences and walls, whether required or optional, may be erected adjacent to or on property lines, subject to the standards herein and subject to regulations relating to visibility triangles.
 - f. Where a lot or parcel abuts a use or district that allows a higher fence or wall, the fence or wall may be erected at the greater height along the common property boundary without requiring a variance. For example, a residential use having a maximum fence height of six feet that abuts a commercial use having a maximum fence height of eight feet may erect an eight-foot fence along the common property boundary.
 - g. In the case of through-lots, the Director of Community and Economic Development shall have the discretion to apply rear yard standards to one of the two frontages upon a determination that a particular yard functions as a rear yard.
 - h. The measurement of maximum fence or wall height shall not include decorative caps on wall columns or fence posts, or decorative arches above gates.
 - i. Fences and walls, whether required or optional, shall be maintained in sound condition.
 - j. No fence or wall shall be erected in such a manner as to interfere with drainage.
 - k. Where adjacent to any street or improved alley, fences with a finished or unfinished side (i.e., wood stockade, board-on-board) shall be installed such that the finished side of the fence faces outward toward the adjacent street or alley.
 - l. The attachment of fabric, shade cloth, slats or other material to any chain link or similar open fence shall be prohibited on all perimeter and view blockage fencing. This standard shall not apply to athletic fields and courts, fencing interior to a project site, or construction sites with an active permit.

4.4.23 REQUIRED BUFFER FENCES AND WALLS

- a. Fences or walls required as part of a required buffer shall have at least 90 percent opacity and are referred to herein as view blockage fences or walls.

- b. Openings shall be permitted in required buffer fences or walls in side and rear yards for the purpose of secondary vehicular access to an alley or secondary street. Each such opening shall not exceed 20 feet in width and there shall be no more than one such opening for each 100 linear feet of side or rear yard dimension. All other fence or wall openings in side and rear yards shall contain a gate constructed of materials permitted herein and shall have at least 90 percent opacity.

4.4.34 OPTIONAL FENCES AND WALLS

- a. Single-Family, Two-Family and Multi-Family Residential Zoning Districts

Standards for the location and height of optional fences and walls in single-family, two-family and multi-family residential zoning districts shall be as set forth in Figure 4.4-1.

- b. Mobile Home and Recreational Vehicle Parks and Non-Residential Zoning Districts

1. Optional fences or walls erected in areas zoned for mobile home and recreational vehicle parks, office/commercial uses or in the I-1 zoning district shall not exceed eight feet in height, except that in required front yards, the portion of such fences or walls that extends above four feet in height shall be made of pickets, wrought iron, chain link or similar open construction having no greater than 50 percent view blockage when viewed from an angle perpendicular to the face of the fence or wall.
2. Optional fences or walls erected in I-2 or I-3 zoning districts shall not exceed eight feet in height.

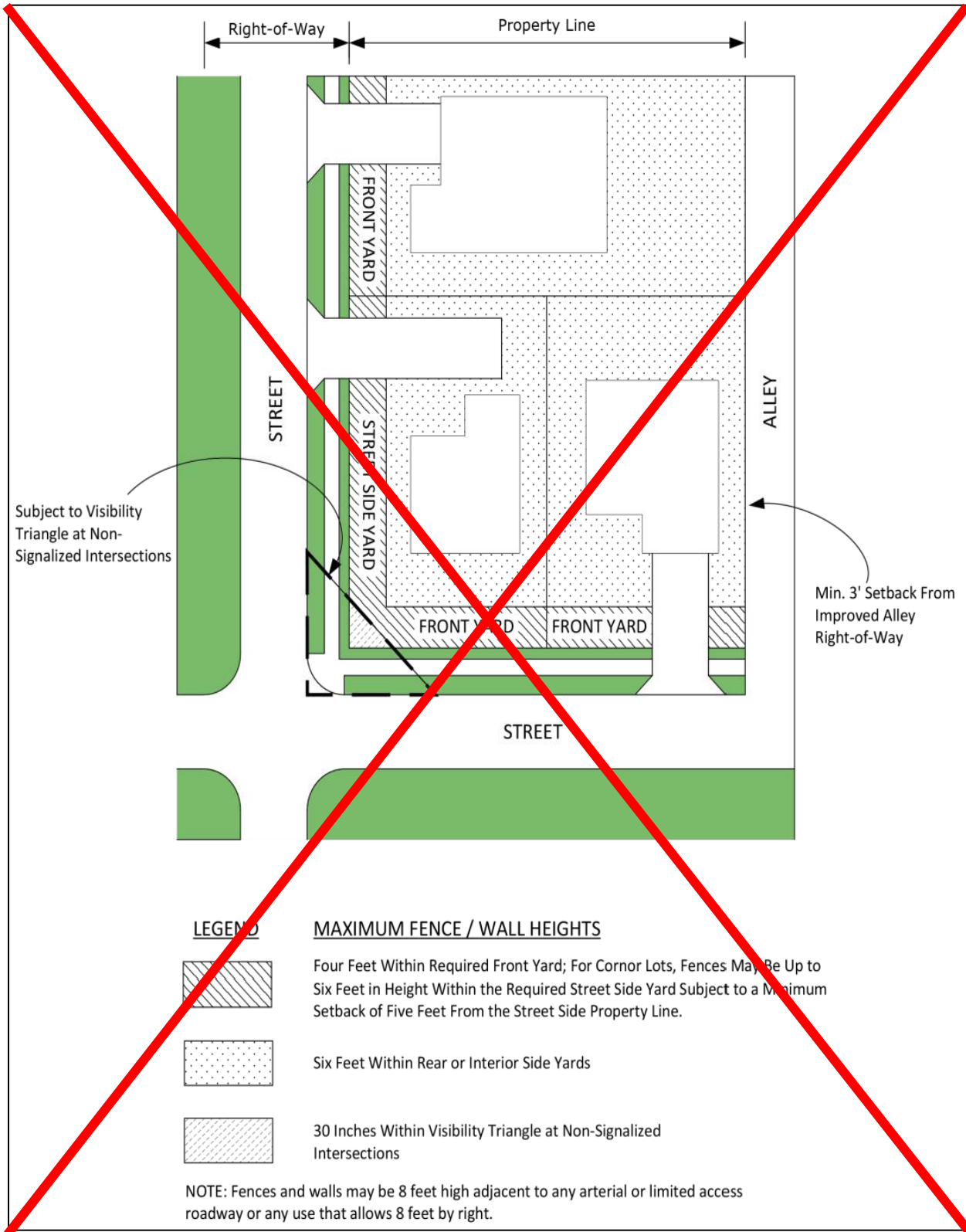
4.4.5 EXISTING FENCES AND WALLS

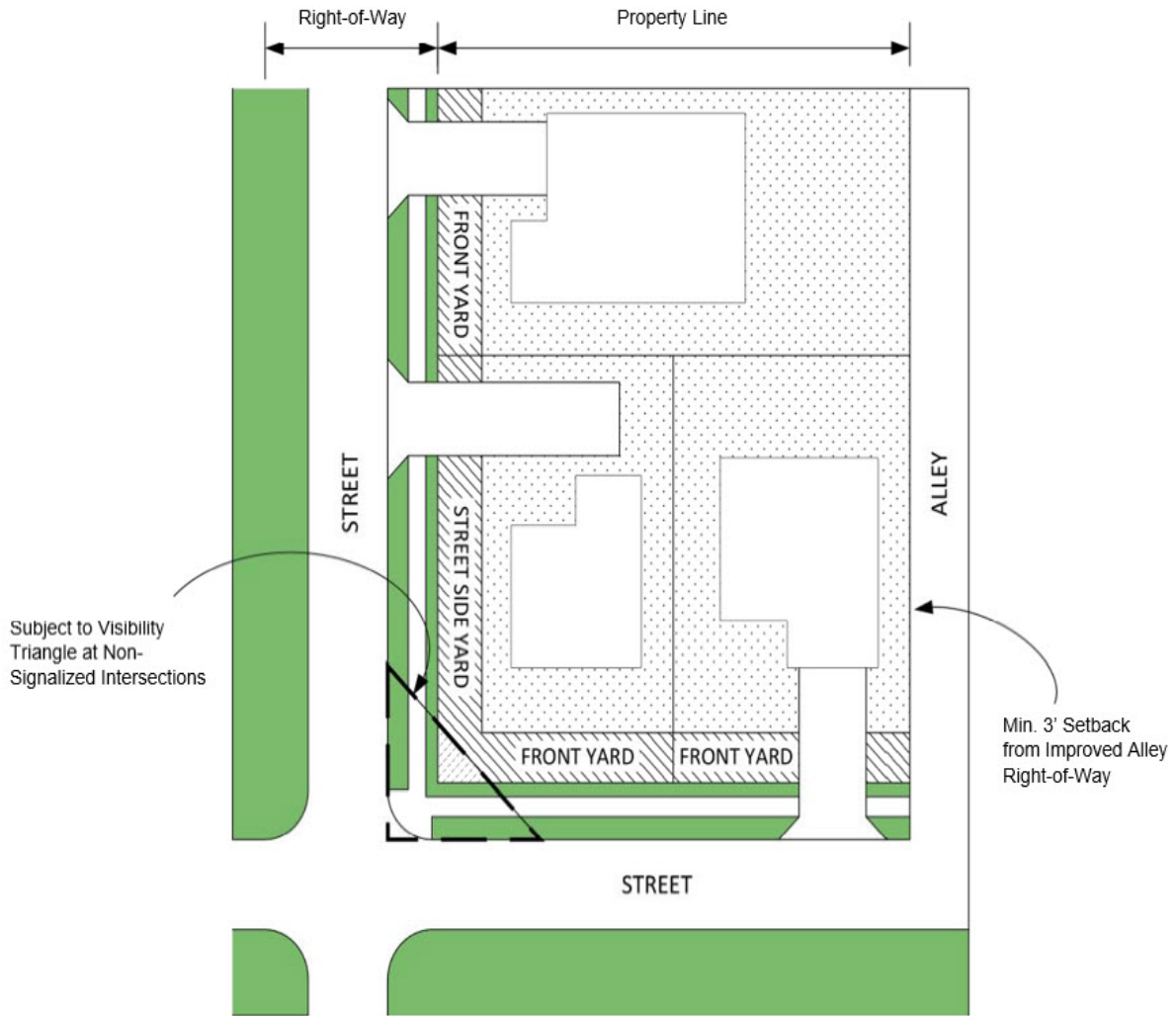
Existing fences and walls erected prior to the effective date of these standards (whether lawfully or otherwise) and which do not conform to the standards of this section shall be subject to the following:

- a. Existing non-conforming fences and walls may be maintained and repaired, provided that maintenance and repair does not increase or intensify the extent or size of the nonconformity or exceed the limits specified in 4.4.5.a and 4.4.5.c. below.
- b. Where 50 percent or more of the linear footage of a non-conforming fence or wall within a single yard (front, street side, interior side, or rear) is to be replaced, the entire linear footage of the fence or wall within that yard shall be required to conform with the requirements of this section.
- c. Where 50 percent or more of the total linear footage of a non-conforming fence or wall is to be replaced within a 12-month period, the entire fence or wall shall be required to conform with the requirements of this section.

ATTACHMENT "B"

Figure 4.4-1 Residential Fences and Walls





LEGEND

MAXIMUM FENCE / WALL HEIGHTS



4 feet within the Required Front Yard; For corner lots, fences may be up to 6 feet in height within the Required Street Side Yard subject to a minimum setback of 5 feet from the Street Side Property Line.



Six feet within Rear or Interior Side Yards.



24 inches within Visibility Triangle at Non-Signalized Intersections.

NOTE: Fences and walls may be 8 feet high adjacent to any arterial or limited access roadway or any use that allows 8 feet by right.

ATTACHMENT "C"

ARTICLE 4: - ADMINISTRATION AND ENFORCEMENT

...

12.4 ADMINISTRATIVE STAFF

12.4.1 DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

The Director of Community and Economic Development is the administrative head of the city's Community and Economic Development Department.

12.4.2 POWERS AND DUTIES

The Director of Community and Economic Development shall assist the Planning and Zoning Board in carrying out its duties as the local land planning agency and land development regulation commission for the city, as provided in this Code and the duly adopted by-laws of the Board. The Director is the city's Zoning Administrator and has primary responsibility for administering and enforcing this Code.

12.4.3 ADMINISTRATIVE ADJUSTMENTS

12.4.3.1 Intent

- a. It is the intent of this Code to allow the Director of Community and Economic Development, or other administrative staff as specified herein, to make administrative adjustments to the strict application of the standards and requirements of this Code where extenuating circumstances exist to relieve unnecessary hardship; to promote the beneficial development, redevelopment, infill and reuse of property; and to avoid the need for variances where substantial compliance can be achieved. No property owner shall be entitled to such adjustments which are at the discretion of the Director of Community and Economic Development or other administrative staff as specified herein.
- b. It is further the intent of this Code that administrative adjustments:
 - Be granted only as needed to relieve hardship suffered by the applicant due to physical limitations of the site or other circumstances beyond the applicant's control and which hardship shall not be solely an economic hardship, or as necessary to allow the safe and functional operation of the site or to accommodate other code requirements;
 - Be consistent with the intent of this Code and of the applicable zoning district, including any applicable conditional use, PUD or SPI district;
 - Be not adverse to the health, safety or welfare of the abutting property owners or of the community, unless any such impacts have been substantially mitigated; and
 - Be the minimum deviations that will alleviate the unnecessary hardship.

12.4.3.2 Applicability

This section shall apply to the dimensional, quantitative and location standards or requirements of this Code and the dimensional, quantitative and location conditions of any conditional use, Planned Unit Development or SPI district.

(Ord. No. 5455, 07-21-14)

12.4.3.3 Dimensional and Quantitative Standards

The Director of Community and Economic Development may make minor adjustments to dimensional and quantitative standards including but not limited to area standards, linear standards, separation standards and quantity standards except for the maximum number of living units or dwellings. With the exception of the maximum height of privacy fences located in rear yards, The administrative adjustments shall generally not exceed ten percent of the standard or requirement and shall not be additive such that, for example, a ten percent adjustment on opposite sides yields an effective twenty percent deviation. For residential privacy fences located in rear yards which are not visible from adjacent streets or alleys, an administrative adjustment to allow a maximum fence height of up to eight feet may be approved subject to the written consent of any adjacent property owner(s) which the fencing will abut.

12.4.3.4 Location Standards

The Director of Community and Economic Development may make minor adjustments to location standards including but not limited to the placement of buildings, driveways, parking areas, bike racks, fences and walls and landscaping.

12.4.3.5 Procedures

- a. When, in the opinion of the Director of Community and Economic Development, a proposed administrative adjustment materially affects abutting property owners, written notification shall be mailed to the affected property owner(s) of record at least 30 days prior to the granting of administrative adjustment and shall take any comments or concerns into account. For administrative adjustments pertaining to the height of residential privacy fences located in rear yards, written consent from any adjacent property owner(s) which the fencing will abut shall be sufficient for compliance with this requirement.
- b. The Director of Community and Economic Development shall consult with other city departments affected by the proposed administrative adjustment and may consult other agencies or affected parties to determine whether the administrative adjustment should be granted.
- c. The Director of Community and Economic Development may attach conditions that he deems necessary to protect the health, safety and welfare of the community or the abutting property owner(s), to meet the intent of the modified standard and to minimize adverse impacts on adjacent properties.
- d. The administrative adjustment shall be documented by means of a form or a note on the applicable permit or site plan and shall include the reason for the adjustment, the specific amount of the adjustment and any conditions pertaining thereto.
- e. The Director of Community and Economic Development periodically shall report to the Planning and Zoning Board concerning administrative adjustments that have been granted.