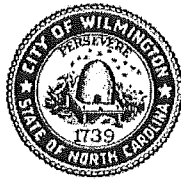


Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 2/15/2011

Ordinance Amending the Land Development Code Chapter 18, Article 11, Section 18-554

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to provide guidelines for the height, construction, and maintenance of fences, walls, and screens.

THEREFORE, BE IT ORDAINED:

SECTION 1: Chapter 18, Article 11, Section 18-554 of the Wilmington City Code is hereby amended to read as follows:

Sec. 18-554. Fences, walls, and screens.

- (a) A fence, wall, or screen for the purposes of privacy and/or security may be located in any required yard provided:
 - (1) Section 18-556 of this article is observed;
 - (2) In nonresidential districts:
 - a. No such visual obstruction exceeds three (3) feet in height in any yard adjacent to a street; and
 - b. The activities of the principal use may not extend into a front yard that is screened by a solid fence, wall, or shrubbery screen (e.g., a restaurant shall not enclose the front yard with a solid fence for the purpose of providing customers a lounge, a bar or an eating area).
- (b) No open wire fence of a type that could inflict injury from casual contact (such as barbed wire fence) is permitted below a height of six (6) feet in any district. Other types of open wire fencing (such as

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 [Signature]
 CITY CLERK

hurricane and chain link fencing) may be erected in any yard.

(c) The height of a fence, wall, or screen shall be measured from the average undisturbed grade of the adjacent property.

(d) Within residential zoning districts, except locally designated historic districts and historic overlay districts, the following fence, wall, and screen height limits shall apply:

(1) Within front yards, the height for fences, walls, or screens shall be limited to four (4) feet except that the board of adjustment shall hear and decide requests for variances to allow height up to six (6) feet within front yards adjacent to thoroughfares, as defined in the city's *Technical Standards and Specifications Manual*. The variance request application shall include information on the factors set forth below, other requirements of this section and chapter, and any other information pertinent to granting the variance.

In hearing the request for the height variance, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in this section and chapter, and the *Technical Standards and Specifications Manual*, and compliance with the following requirements:

- a. The fence, wall or screen shall be setback a minimum of one half (1/2) the distance of the required front yard setback for the district or fifteen (15) feet, whichever is greater;
- b. At least fifty (50) percent of the area of the fence, wall, or screen above four (4) feet shall be open along the entire length such that clear vision is possible from one side to the other; and
- c. Additional conditions may be specified to maintain safe access, ingress, and egress to and from the subject and surrounding properties.

(2) Within any side or rear yard, the maximum height for any fence shall be eight (8) feet;

(3) Fence height limits shall not apply to electric/gas substations, water/sewer treatment plants or facilities, municipal water storage facilities, waste treatment facilities, or government facilities; and

(4) Fence height limits shall not apply to chain link fences surrounding tennis courts or ball field backstops. Fences for private tennis courts shall be within the required setbacks for accessory uses in that zoning district;

(e) In all zoning districts, chain link, woven wire, and electric and barbed wire fences shall be prohibited in front yards, except on bona fide farms, electric and gas substations, and government facilities. Fences and walls of exposed concrete block, tires, junk or other discarded materials shall be prohibited.

- (f) A fence, wall, or screen shall not impede access by emergency services to the subject and surrounding properties.
- (g) A fence, wall, or screen shall be installed with the finished side facing adjoining properties and rights-of-way.
- (h) A fence, wall, or screen shall be maintained in a sturdy upright position free from any broken or missing parts, slats or boards. Finishes shall be maintained in good condition.

SECTION 2. That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 3: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

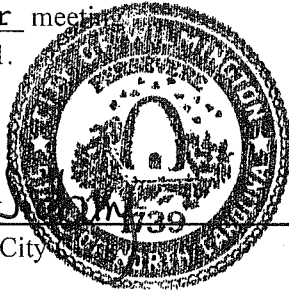
SECTION 4: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

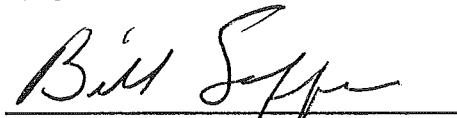
SECTION 5: That this ordinance shall be effective immediately upon its adoption.

Adopted at a regular meeting
on February 15, 2011.

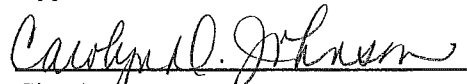
Attest:


Penelope Spicer-Sidbury, City




Bill Saffo, Mayor

Approved As To Form:


Carolyn D. Johnson
City Attorney