



COMMUNITY DEVELOPMENT DEPARTMENT

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Planning • Zoning • Building Safety • Construction Inspection Services • Public Health • Housing Inspections • Code Enforcement

MEMORANDUM

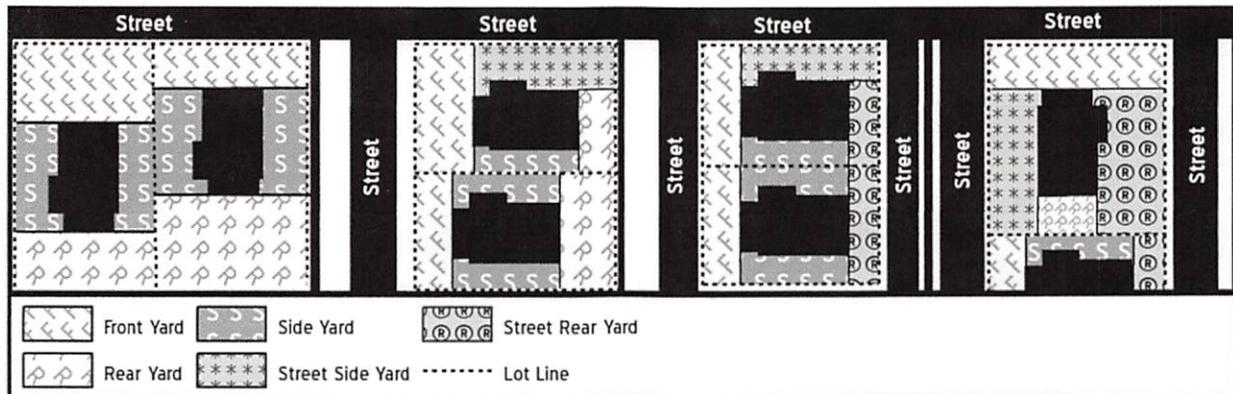
To: Mayor and City Council Members
Cc: Greg Jenkins, Interim City Administrator
From: Andrew Fangman, Assistant Community Development
Date: May 21, 2020
Re: Resolution Setting a Public Hearing on an Ordinance Correcting a Drafting Error in Section 10-22-1(B)(5)(b) of City Code, Maximum Fence Height in the Portion of the Street Side Yard that is Less than Six Feet from the Public Right of Way

On April 6, 2017 a major revision of the Zoning Ordinance was adopted. Included in this revision were major changes to regulations regarding fencing. The intent of fencing regulations is to balance the safety and aesthetic needs of the community as whole, with the need for property owners to create a more private outdoor space through the use of visual screening. For many lots that front more than one street, like corner lots, the previous regulations made it nearly impossible for some property owners to create a usable outdoor space that is not visible from the street. This is because under the previous rules any fence that was within 25 feet of any street could not exceed 3 feet in height, unless was an open type of fence (at least 75% open), such as chain link, this resulted in numerous properties in which there was no a very little portions on which a solid fence over three feet in height could be constructed.

These regulations were revised with the intent of striking a better balance between the competing needs of safety and aesthetic needs of the community as whole, with the need to give residents the ability to create a more private outdoor space. This was accomplished by creating for parcels adjoining more than one street, a new definition of a front yard; and definitions for "street side yards" and "street rear yards". The intent of the 2017 revision to was to establish the maximum height for solid fences (those fences more than 25% opaque) in street side yards as follows:

Distance from property line

- Within 6 feet of the property line: 3'
- Between 6 feet and 25 feet of the property (or the distance to the building line, whichever is less): 4.5'
- Beyond 25 from the property or the distance to the building line (whichever is less): 6'



It has recently come to light that there was a drafting error in the 2017 revision to the Zoning Ordinance, as such City Code does not correctly implement the intended changes to fencing regulations. Currently Section 10-22-1(B)(5)(b), which regulates maximum fence height for areas of a street side yard that are less than 6 feet from the property line, reads as follows:

5. Street Side Yards:

- a. All portions of a street side yard that are more than 25 feet from the street side lot line: 6 feet
- b. Portion of street side yards that are less than 6 feet from the street side lot line:
 - i. Fences that are more than 25% opaque: 6 feet.
 - ii. Fences that are less than 25% opaque: 3 feet.

The maximum fence heights in subsections (i) and (ii) of Section 10-22-1(B)(5)(b) were inadvertently reversed. As currently adopted in City Code, within the portion of street side yards that are located less than six feet from the public right of way, solid fences (fences that are more than 25% opaque) are permitted to be up to six feet height, but open fences (those fences less than 25% opaque), such a chain link fences, are permitted only be up to 3 feet height. This is the opposite of what the intended height limits were to be. The proposed ordinance would correct this draft error by making the following change to Section 10-22-1(B)(5)(b), of City Code.

- b. Portion of street side yards that are less than 6 feet from the street side lot line:
 - i. Fences that are more than 25% opaque: **3 feet.**
 - ii. Fences that are less than 25% opaque: **6 feet.**

Staff recommends approval of this ordinance as corrects a drafting error and allows of the for the intent of the 2017 revisions to the fencing regulations be fully implemented.

At it's May 12the meeting the Planning and Zoning Commission voted to recommend approval of this proposed ordinance.

Prior to City Council action on the proposed ordinance, a public hearing is required. It is recommended that the attached resolution setting a public hearing, for June 4th , on the proposed ordinance revising the Zoning Ordinance.

PUBLIC NOTICE

NOTICE OF TIME AND PLACE FOR A PUBLIC HEARING ON AN ORDINANCE AMENDING TITLE 10 OF CITY CODE TO ADD A CHAPTER REGULATING HOME OCCUPATIONS

Public Notice is hereby given that the City Council of the City of Muscatine, Iowa will hold a public hearing on an ordinance amending Section 10-22-1(B)(5)(b) of City Code. On April 6, 2017 a major revision of the Zoning Ordinance was adopted. Included in this revision were major changes to regulations regarding fencing. One of the intents of this revision was better balancing of the safety and aesthetic needs of the community as whole, with the need, for the owners of lots fronting more than one street, to create a more private outdoor space through the use of visual screening, the 2017 revision to fencing regulations made changes to maximum height of fences more than 25% opaque on lots that front more than one street. Section 10-22-1(B)(5)(b) established the maximum height for fences that are located both in street side yards and are less than six feet from the public right of way. However, there was a drafting area error in 2017 revision to the fencing regulations, the maximum fence heights in subsections (i) and (ii) of Section 10-22-1(B)(5)(b) were inadvertently reversed. As currently adopted in City Code, within the portion of street side yards that are located less than six feet from the public right of way, solid fences (fences that are more than 25% opaque) are permitted to be up to six feet height, but open fences (those fences less than 25% opaque), such a chain link fences, are permitted only be up to 3 feet height. This is the opposite of what the intended height limits were to be. It is necessary to correct this error and as establish that the maximum heights of fences located in the portion of street side yards that are less than 6 feet from the street side lot line to be three feet for fences that are more than 25% opaque, and six feet for fences that are less than 25% opaque. Notice is further given that the City council of the City of Muscatine, Iowa, will conduct a public hearing on said proposed change to City Code on Thursday, June 4, 2020, at 7:00 p.m. in the City Hall Council Chambers, at which time all interested parties are invited to comment.

Greg Jenkins, Interim City Clerk

City Administrator Hiring Process

Outline

1. Application Deadline – May 15, 2020
2. Week of May 18
 - a. Initial Screening – Recruiting firm to review applications and begin selection for interviews
3. Week of May 25
 - a. Initial interviews with recruiter
4. Week of June 8
 - a. Candidates presented to Council
 - b. Special meeting held to review candidates and narrow the number to be interviewed
 - c. Conducted in closed session
5. Week of June 15
 - a. Council to conduct Zoom interviews with 5-7 candidates
 - b. Conducted in closed session
 - c. Council to narrow to finalists
 - d. Final Candidates invited to prepare video presentation
 - i. Public will be invited to submit questions which will reviewed and selected by recruiting firm
 - ii. Candidates will record answers and a short presentation (topic to be determined)
 - iii. Public will be invited to watch candidates and provide feedback on their impressions to the City Council (method for interaction to be determined)
6. Week of June 22
 - a. Finalist Interviews conducted
 - i. Formal interview with City Council – conducted in closed session
 - ii. Opportunity to interact with staff members
 - iii. Tour of community
 - iv. Council to make selection
7. Week of June 29
 - a. Offer made/contract negotiated
 - b. Council to approve the contract