

ORDINANCE NO. 2023-27

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 410 ZONING AND SUBDIVISION, ARTICLE 32 SUPPLEMENTAL DEVELOPMENT REGULATIONS TO AMEND FENCE REGULATIONS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

That Chapter 410 of the Municipal Code of the City of Seward is hereby amended as follows:

Section 1. That §410-32.8 be amended as follows:

§410-32.8 Fence Regulations.

A. Location restriction.

- (1) Unless otherwise provided by this chapter or other sections of the Seward Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
- (2) No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of 24 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.

D. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage.

E. Effect on adjacent properties and drainage. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

F. Fence construction on utility easements. Any fence erected on a tract of land subject to an easement for the construction, maintenance, operation, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

G. Residential fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

- (1) Height. The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet. The maximum height for any fence in the required front yard shall be four feet.
- (2) Setbacks. All residential fences shall be a minimum of two feet behind adjacent sidewalks and one foot behind adjacent alleys.
- (3) Materials. Fences shall be constructed of wood, chain-link, PVC/rosin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

EXCEPTION: Fences surrounding public utilities may have barbed wire provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of the ground measured from the outer face of such fence.

H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:

- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
- (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
- (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
- (4) Barbed wire fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any barbed wire fence or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning

District, or fences surrounding public utilities, city, county and state maintenance facilities, or airports may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence .

(5) Electrified fences are not permitted within the jurisdiction of the City of Seward.

I. Agricultural Fences. Fences constructed in agricultural and rural residential districts are subject to the following special conditions:

- (1) Height. The maximum height of a fence for any permitted use in agricultural and rural residential districts shall be six feet.
- (2) Setbacks. All fences shall be located outside the dedicated right-of-way.
- (3) Barbed wire may be used to control ranging livestock, when surrounding public utilities, or when surrounding city, county, and state maintenance facilities.
- (4) Electrified fences may be used to control ranging livestock.

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PUBLICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this 19th day of December, 2023

CITY OF SEWARD, NEBRASKA

Joshua Eickmeier
Joshua Eickmeier, Mayor

ATTEST:

Derek Bargmann
Derek Bargmann
City Clerk

