

City of Shady Cove

Ordinance No. 307

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHADY COVE AMENDING THE SHADY COVE CODE OF ORDINANCES, INCLUDING ORDINANCES 225, 259, and 286, FENCING REGULATIONS IN RESIDENTIAL AND GENERAL COMMERCIAL DISTRICTS.

Whereas, The City Council of the City of Shady Cove desires to update the conditions set forth for fencing; and

Whereas, The City Council of the City of Shady Cove desires to remove obsolete, redundant, and generally update the Planning Code;

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS THE FOLLOWING AMENDMENTS:

Exhibit A details the changes to Ordinances 259, 286 and 225 to incorporate standardized fencing heights plus barbed wire and electric fencing regulations within the City of Shady Cove Flood Hazard Reduction and Zoning municipal code.

EXHIBIT A

The following modifications are to be made to Ordinances 259 and 286:

- I. PROVISIONS FOR FLOOD HAZARD REDUCTION; FENCES AND WALLS; . . .
evaluation criteria list: [Ref. 151.054, Add as (A)-(4)]

ADD:

- (4) Electronically-charged fences are prohibited.

The following modifications are to be made to Ordinance 225:

- II. Ord 225, Exhibit A, Section 7.4-D (LOW DENSITY RESIDENTIAL DISTRICT, R-1; PROPERTY DEVELOPMENT REQUIREMENTS; *Fences, Walls, and Hedges*):

[Ref. 154.038, (D)]

CHANGE:

- D. Fences, Walls, and Hedges: Any fence, wall, hedge, or other screen planting shall not exceed a height of neither three feet above grade within any front yard setback area, nor six feet above grade within any side or rear yard areas. Open mesh deer fencing may exceed the height restrictions noted above.

TO:

D. Fences, Walls, and Hedges:

1. Fences and walls are a type of development and require a permit.
2. Any fence, wall, hedge, or other screen planting shall not exceed a height of neither three feet above grade within any front yard setback area, nor six feet above grade within any other yard area. Open mesh deer fencing may not exceed 8 feet above grade.
3. *Barbed wire*. It is unlawful for any person to erect or maintain within the city any fence constructed in whole or in part of barbed wire, razor wire, concertina wire or other similar wire (hereafter referred to as barbed wire) except as indicated below.
 - a. Barbed wire is not allowed, except for security fence around construction building materials, and then only by approval of a conditional use permit by the Planning Commission.
4. *Electric fences*. Electronically-charged fences are prohibited.

III. Ord 225, Exhibit A, Section 8.4-C (MEDIUM DENSITY RESIDENTIAL DISTRICT, R-2; PROPERTY DEVELOPMENT REQUIREMENTS; *Fences, Walls, Hedges*):

NO CHANGES: This section references Zone R-1.

IV. Ord 225, Exhibit A, the second Section 9.3 (HIGH DENSITY RESIDENTIAL DISTRICT, R-3; PROPERTY DEVELOPMENT REQUIREMENTS):

[Ref. 154.068, Add as (E)]

ADD:

E. Fences, Walls, and Hedges:

1. Fences and walls are a type of development and require a permit.
2. Any fence, wall, hedge, or other screen planting shall not exceed a height of neither three feet above grade within any front yard setback area, nor six feet above grade within any other yard area. The Planning Commission may approve a variance to the height requirement for reasons of security or visual screening, to a maximum height of ten feet.
3. *Barbed wire*. It is unlawful for any person to erect or maintain within the city any fence constructed in whole or in part of barbed wire, razor wire, concertina wire or other similar wire (hereafter referred to as barbed wire) except as indicated below.

- b. Barbed wire is not allowed, except for security fence around construction building materials, and then only by approval of a conditional use permit by the Planning Commission.

4. *Electric fences.* Electronically-charged fences are prohibited.

V. Ord 225, Exhibit A, Section 12.6 (GENERAL COMMERCIAL DISTRICT, G-C; Fences, Walls, Hedges): [Ref. 154.085, Change (A)(B)(C), Add (D), (E) & (F)]

CHANGE:

- A. All fences, walls, or hedges placed within ten feet of any property *line* shall be limited in height to six feet, with the exception of trees. The Planning Commission may approve a variance to the height requirement for reasons of security or visual screening, to a maximum height of ten feet.

TO:

- A. All fences, walls, or hedges shall be limited in height to six feet, with the exception of trees. The Planning Commission may approve a variance to the height requirement for reasons of security or visual screening, to a maximum height of ten feet.

CHANGE:

- B. Any new or expanding development within this district shall be physically and visually separated from any abutting residential properties by a solid fence or wall six feet in height. The Planning Commission may reduce or eliminate this requirement during site plan review for development that does not include outdoor storage and that is found to be compatible in design and landscaping with abutting and nearby residences.

TO:

- B. Any new or expanding development within this district shall be physically and visually separated from any abutting residential properties by a solid fence or wall six feet in height. **The Planning Commission may require that a fence, wall or hedge be erected along and immediately adjacent to the abutting property line as well as the zone boundary and may include privacy slats in cyclone fencing.** The Planning Commission may reduce or eliminate this requirement during site plan review for development that does not include outdoor storage and that is found to be compatible in design and landscaping with abutting and nearby residences.

CHANGE:

- C. All trash containers or areas provided for that purpose shall be screened from public view by landscaping or fencing, or a combination of both.

TO:

- C. All trash containers or areas provided for that purpose shall be screened from public view by landscaping or fencing, or a combination of both. **All fences, walls and hedges shall be properly constructed, maintained, trimmed and kept in good condition and repair.**

ADD:

- D. Fences and walls are a type of development and require a permit.
- E. *Barbed wire.* It is unlawful for any person to erect or maintain within the city any fence constructed in whole or in part of barbed wire, razor wire, concertina wire or other similar wire (hereafter referred to as barbed wire) except as indicated below.
 - 1. Barbed wire is not allowed, except for security purposes, and then only by approval of a conditional use permit by the Planning Commission. Conditional use permits will not be issued for barbed wire in areas accessible to the public during normal business hours.
- F. *Electric fences.* Electronically-charged fences are prohibited, except as allowed by Oregon law noting that any required accompanying non-electric wall or fence is still subject to the provisions of this chapter.

VI. Ord 225, Exhibit A, Section 13.6 (PUBLIC USES DISTRICT, P; Fences, Walls, Hedges, Buffering): [Ref. 154.105, Change (A), Add (E), (F) & (G)]

CHANGE:

- A. All fences, walls, or hedges placed within ten feet of any property *line* shall be limited in height to six feet, with the exception of trees. The Planning Commission may require conditions or approve a variance to the height requirement for reasons of security or visual screening.

TO:

- A. All fences, walls, or hedges shall be limited in height to six feet, with the exception of trees. The Planning Commission may approve a variance to the height requirement for reasons of security or visual screening, to a maximum height of ten feet.

ADD:

- A. Fences and walls are a type of development and require a permit.
- B. *Barbed wire*. It is unlawful for any person to erect or maintain within the city any fence constructed in whole or in part of barbed wire, razor wire, concertina wire or other similar wire (hereafter referred to as barbed wire) except as indicated below.
 - Barbed wire is allowed for the following facilities for perimeter fencing, materials, and facility security or protection. (Perimeter fencing is allowed with barbed wire only if the barbed wire is a minimum of six feet above the ground. If barb arms are used on the fence top, the fence must be completely on property, including the area below the barbed arms if they extend outside the fence line).
 - i. Federal, state or local government facilities; and
 - ii. School facilities
- C. *Electric fences*. Electronically-charged fences are prohibited except as allowed by Oregon law noting that any required accompanying non-electric wall or fence is still subject to the provisions of this chapter.

VII. Ord 225, Exhibit A, Section 16.8 (GENERAL LIMITED INDUSTRIAL DISTRICT, L-1; Fences, Walls, Hedges): [Ref. 154.142, Change (B), Add (F) & (G)]

CHANGE:

In the L-1 District, solid fences and walls shall not exceed 3 feet in height above the sidewalk grade, within the front yard setback area or street side yard setback area, vision clearance shall be required on all corner lots. On an ulterior lot a wall, fence, or hedge not more than eight feet in height may be located anywhere on the lot to the rear of the required front yard or street side yard setback line. When an L-1 District adjoins a residential district, the Planning Commission may require that a fence, wall, or hedge be erected along and immediately adjacent to the abutting property line that is the zone boundary. The Planning Commission may make this requirement in the approval of the Site Plan as required by Section 24. All fences, walls, and hedges shall be properly constructed, maintained, trimmed and kept in good condition and repair

TO:

- A. Fences and walls are a type of development and require a permit.
- B. In the L-1 District, a fence, wall, or hedge shall not exceed three feet in height above the sidewalk grade, within the front yard setback area or street side yard setback area. Vision clearance shall be required on all corner lots.

- C. A fence, wall, or hedge not more than six feet may be located anywhere on the lot to the rear of the required front yard setback or street side yard setback line. The Planning Commission may approve a variance to the height requirement for reasons of security or visual screening, to a maximum height of ten feet.
- D. When an L-I District adjoins a residential district, the Planning Commission may require that a fence, wall or hedge be erected along and immediately adjacent to the abutting property line that is the zone boundary.
- E. The Planning Commission may make this requirement in the approval of the site plan, as required by Section 24.
- F. All fences, walls and hedges shall be properly constructed, maintained, trimmed and kept in good condition and repair.
- G. *Barbed wire.* It is unlawful for any person to erect or maintain within the city any fence constructed in whole or in part of barbed wire, razor wire, concertina wire or other similar wire (hereafter referred to as barbed wire) except as indicated below.
 - 1. Barbed wire is allowed to the rear of the front yard and side street setback areas for perimeter fencing, materials, and facility security or protection. (Perimeter fencing is allowed with barbed wire only if the barbed wire is a minimum of six feet above the ground. If barb arms are used on the fence top, the fence must be completely on private property, including the area below the barbed arms if they extend outside the fence line).
- H. *Electric fences.* Electronically-charged fences are prohibited except as allowed by Oregon law noting that any required accompanying non-electric wall or fence is still subject to the provisions of this chapter.

Appeal

A. The owner, or person in charge protesting any citation of any sections of this Ordinance, shall file with the City, a written statement which will specify the basis for the protest. The statement will be referred to the City Council or Municipal Court Judge, as appropriate, as part of the next scheduled meeting or court date. At the time set for consideration of the abatement, the owner or other person may appear and be heard and the Council or Municipal Court Judge, as appropriate will thereupon determine whether or not a nuisance or offense, in fact, exists. If it is determined that it does exist, the owner, or other person shall, within 10 days of that determination complete the abatement.

B. If the owner, or person in charge of the property, objects to the assessment for abatement, a written objection may be heard by the City Council in the manner described in "A" above.

Penalties and Damages

A. In addition to the cost and assessments provided in this Ordinance, a violation may be prosecuted in the Municipal Court of the City of Shady Cove, and be punished by a fine or not more than \$500.

B. Each day's violation constitutes a separate violation. The abatement shall not constitute a penalty for violating the Ordinance.

C. The remedies specified herein will not be deemed exclusive and the City may, at its option, seek to enforce the provisions of this Ordinance by exercising its legal or equitable remedies in any court of competent jurisdiction.

D. When an offense has been committed that results in ascertainable damages to any person, based upon conviction thereof, in addition to any other sentence, the Court may order that the defendant make restitution to the victim.

Infraction

A. Neither party shall have the right to a jury trial at the trial of any infraction.

Severability

A. Invalidity of a section or part of a section of this Ordinance will not affect the validity of remaining sections or parts of Sections.

Savings Clause

A. The amendment of any Ordinance noted in these sections will not preclude any action against any person violating this Ordinance prior to the effective date of this Ordinance.

Adopted by the City Council of the City of Shady Cove this ____ day of _____, 2024.

Approved:

Attest:

Jon Ball
Mayor

Michele Parry
City Administrator

Council Vote:

Mayor Ball _____
Councilor Nuckles _____
Councilor Winfrey _____

City of Shady Cove
Ordinance No. 307
Fencing Amendments

Councilor Mitchell
