

FILE NUMBER: DCA 156-001

DATE INITIATED: January 11, 2016

TOPIC: Non-Required Fence Regulations

CITY COUNCIL DISTRICTS: All

CENSUS TRACTS: All

PROPOSAL: Consideration of amendments to section 51A-4.602 the fence, screening and visual obstruction regulations in Chapter 51A of the Dallas Development Code to address materials and open surface area for fences that are not required by Code.

SUMMARY: The proposal amends the development code to prohibit certain materials that are not traditionally meant for use in fence panels; and to stipulate that fence panels in single-family districts having less than 50 percent open surface area may not be located less than five feet from the front lot line.

ZOC RECOMMENDATION: Approval

STAFF RECOMMENDATION: Approval

BACKGROUND

On May 26, 2015, and August 10, 2015, staff briefed the City Council Quality of Life & Environment Committee on proposed code amendments to the provisions regulating outside storage. During these briefings staff was directed to provide information on Dallas' existing standards for non-required fencing and to research non-required fence standards and materials in other cities.

On December 15, 2015, staff held a public meeting on Accessory Dwelling Units and Non-Required Fences to receive initial thoughts and concerns from residents. Invitations were e-mailed to: the Strategic Customer Service email list; the Sustainable Development & Construction Department's Early Notification List; the Zoning Ordinance Committee's Notification List; contacts at the Dallas Homeowner's League; contacts at the Dallas Builder's Association; and City Council offices. Twenty-four people attended the meeting, however, most comments were addressing Accessory Dwelling Units. Regarding non-required fences, the only concerns expressed were about the use of corrugated metal as a material for residential fences.

On January 11, 2016, the City Council Quality of Life & Environment Committee discussed the existing standards for non-required fencing and directed staff to proceed to the Zoning Ordinance Committee (ZOC) with a code amendment to regulate certain types of non-required fence materials.

On April 7, 2016, the Zoning Ordinance Committee was briefed on this item. The Committee asked staff to look at possible standards for the use of corrugated metal in residential fencing (including, the gauge of the metal) and to ensure that construction fencing was excluded from proposed regulations.

On April, 21, 2016, the Zoning Ordinance Committee was briefed on the item and presented with staff's recommendation as well as some optional language. After discussion and questions, the Committee voted to send staff's recommendation to the City Plan Commission.

GENERAL INFO/STAFF ANALYSIS:

A non-required fence is a fence that is installed as an option, and is not required by the Dallas Development Code (Code). The City does not regulate materials for fences that are not required by the Code (Chapter 51A) however, Dallas City Code (Chapter 27) establishes minimum maintenance standards for all fences. When a fence is required by the Code, it is specified in the use provisions of the Code and the materials are specified. Some land uses that have required fencing/screening include: metal salvage facilities; outside storage; vehicle storage lots; and sand, gravel or earth sales and storage. No changes are proposed to any of the regulations governing materials for fencing and screening required by the Code.

In residential districts, a fence permit is only required for fences exceeding four feet in height when they are located in a required front yard and six feet in height on the

remainder of the lot. Building permits are only required for fences when they exceed nine feet in height (at that height fences are considered structures). An application for a fence permit requires: a permit application, two copies of a site plan showing the location of fences and gates, and a fee (which is a minimum \$100 if the valuation is \$10,000 or less).

In FY 2013-14, 1,022 (stand-alone) fence permits were issued and an additional 10 were issued as part of a master permit. In FY 2014-15, 1,120 (stand-alone) fence permits were issued and an additional 32 were issued as part of a master permit.

PROPOSED AMENDMENTS

Amend Dallas Development Code, Section 51A-4.602 Fence, Screening and Visual Obstruction Regulations by adding language under Subsection (a) "Fence standards" to:

- prohibit razor ribbon (concertina wire), sheet metal, corrugated metal, fiberglass panels, plywood, and plastic materials (not commercially preformed into fence panels and that are less than 7/8-inch in thickness) from use in fence panels;
- prohibit barbed wire in residential districts other than in the A(A) Agricultural District;
- specify that in single family districts (as in multifamily districts), no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.

This will prohibit materials that are not traditionally meant to be used for fences from being used. By adding the proposed language under Subsection (a) "Fence standards" it allows property owners who desire to use a prohibited material for "specialty" decorative fencing, to go to the Board of Adjustment for a special exception.

No changes are proposed to the regulations governing materials for fencing and screening required by the Dallas Development Code.

In addition, no changes are proposed to Chapter 51, Section 4.602 Fence, Screening, and Visual Obstruction Regulations of the Dallas Development Code as this section incorporates by reference, the language of Section 51A-4.602 as it exists today and as it may be amended in the future.

Zoning Ordinance Committee (ZOC) Meeting Minutes
April 21, 2016

Motion to approve DCA 156-001 as presented.

Motion: Garry Brown
2nd: Matt Houston

Result: Passed: 6 to 0
For: Shidid, Murphy, Houston, Hartmann, Gomez, Brown, and Benedict
Against: None
Absent: Gomez

ORDINANCE NO. _____

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Section 51-4.602; providing certain materials are prohibited; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (a), “Fence Standards,” of Section 51A-4.602, “Fence, Screening and Visual Obstruction Regulations,” of Division 51A-4600, “Regulations of Special Applicability” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Fence standards. Unless otherwise specifically provided for in this chapter, fences must be constructed and maintained in accordance with the following regulations.

(1) A person shall not erect or maintain a fence in a required yard more than nine feet above grade. In all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.

(2) In single family districts, no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.

(3) In multifamily districts, a fence located in the required front yard may be built to a maximum height of six feet above grade if all conditions in the following subparagraphs are met:

(A) No lot in the blockface may be zoned as a single family or duplex district.

(B) No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.

(C) No fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line. For purposes of this subsection, fence panels are the portions of the fence located between the posts or columns.

~~(4[3])~~ If a fence panel setback is required under Paragraph (2)(C), the entire setback area, except for driveways and sidewalks, must be located within 100 feet of a verifiable water supply and landscaped with living evergreen shrubs or vines recommended for local use by the park and recreation director. Initial plantings must be calculated to cover a minimum of 30 percent of the fence panel(s) within three years after planting. Shrubs or vines must be planted 24 inches on center over the entire length of the setback area unless a landscape architect recommends otherwise.

~~(5[4])~~ Unless all of the conditions in Paragraphs (2) and (3) are met, a fence in a multifamily district may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.

~~(6[5])~~ Fence heights shall be measured from:

(A) In single family and duplex districts:

(i) the top of the fence to the level of the ground on the inside and outside of any fence within the required front yard. The fence height shall be the greater of these two measurements. If the fence is constructed on fill material that alters grade, as determined by the building official, the height of the artificially altered grade shall be included in the height of the fence. For purposes of this provision, artificially altered grade means the placement of fill material on property that exceeds a slope of one foot of height for three feet of distance; and

(ii) the top of the fence to the level of the ground on the inside of the fence in the required side or rear yard.

(B) In all other zoning districts, fence heights shall be measured from the top of the fence to the level of the ground on the inside of the fence.

~~[(6) The board may grant a special exception to the fence standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property.]~~

(7) A fence may not be located within an easement without the prior written approval by the agencies having interest in the easement.

(8) Except as provided in this subsection, the following fence materials are prohibited: ~~[A person shall not use barbed wire for fencing unless:]~~

- (A) Razor ribbon (concertina wire);
- (B) Sheet metal;
- (C) Corrugated metal;
- (D) Fiberglass panels;
- (E) Plywood;
- (F) Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;
- (G) Barbed wire in residential districts other than a A(A) Agricultural District; and
- (H) Barbed wire in nonresidential districts unless the barbed wire is six feet or more above grade~~;~~ and
~~(B) the barbed wire] and~~ does not project beyond the property line.

~~(9[44])~~ All fences must provide firefighting access to the side and rearyard.

(10) The board may grant a special exception to the fence standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property.”

SECTION 3. That adjustments will be made to the section references in this ordinance for codification purposes only. A Dallas Development Code section reference containing the symbol “[A],” for example, “Section 51A-602,” means that the letter “A” will appear in the Chapter 51A version only, and will not appear in the Chapter 51 version.

SECTION 4. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By DRAFT Assistant City Attorney

Passed _____