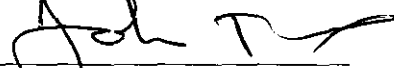


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUL 17 PM 12:30
APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. 12533 C.M.S.

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO PROHIBIT THE USE OF BARBED WIRE AND RAZOR WIRE IN THE COMMERCIAL AND S-1, S-2, S-3, AND S-15 ZONING DISTRICTS; ESTABLISH FENCE HEIGHT LIMITS IN THESE DISTRICTS; AND RELOCATE FENCE REGULATIONS WITHIN THE CODE

WHEREAS, the Land Use and Transportation Element of the Oakland General Plan, adopted by the Oakland City Council in March, 1998, contains objectives and policies to promote healthy, vital, and accessible neighborhood commercial areas (Objective N1), and to maintain a positive and safe public image for Oakland (Policy 9.3); and

WHEREAS, many of Oakland's commercial areas are in a process of revitalization fueled by private investment and assisted by the City's economic development and blight abatement programs; and

WHEREAS, the continued presence of certain exterior security devices, particularly barbed and razor wire, creates a negative identity for Oakland's commercial areas by contributing to an appearance of danger and blight; hinders business attraction and retention; and contravenes the above policies and programs; and

WHEREAS, on March 25, 2003, staff presented an informational report to the Community and Economic Development Committee of the Oakland City Council and subsequently to the full City Council outlining a proposed program to encourage effective and appropriate security devices for commercial businesses, and the City Council directed staff to return with an ordinance prohibiting barbed and razor wire fencing in commercial districts in Oakland; and

WHEREAS, the Oakland Planning Code, which regulates land use and development in the city, currently includes no standards prescribing the type of fencing materials which may be installed in commercial districts; and

WHEREAS, organizational modifications are needed to the Oakland Planning Code to clarify the fence regulations and contribute to ease of use and implementation; and

WHEREAS, the City Planning Commission held a duly noticed public hearing on text amendments to the Oakland Planning Code on June 4, 2003, and voted to recommend approval of said amendments to the City Council; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements have been satisfied because in accordance with the "General Rule" of Section 15061(b)(3) of the California Code of Regulations, this ordinance is exempt from the provisions of CEQA because it presents no potential significant effect on the environment; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by this ordinance,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The City Council finds and determines that the adoption of the ordinance complies with the California Environmental Quality Act.

SECTION 3. The Oakland Planning Code is hereby amended to add, delete, or modify sections as set forth below. Section numbers and titles are indicated in **bold type**, additions are indicated by underlining, and deletions are indicated by ~~strike-out type~~. Portions of the code not cited, or not shown in underlining or strike-out type, are not changed:

Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

17.102.400 Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.

The provisions of this section apply to lots containing Residential Facilities and no Nonresidential Facilities.

~~B. Materials used in walls and fences. The following materials are restricted in constructing or rebuilding walls and fences.~~

- ~~1. Barbed wire and razor wire is not allowed to be use in fences;~~
- ~~2. Chain link fencing in other than the following locations is subject to the requirements of Section 17.108.130 is permitted in the following locations only if it does not exceed forty two (42) inches in height;~~
 - ~~a. Street fronting yards; or~~
 - ~~b. Interior side yards if closer to the front lot line than the front wall of the principal Residential Facility.~~

~~3. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.~~

~~B.C.~~ Screening of Utility Meters. All utility meters shall either be located within a box set within a building, located on a non-street facing elevation, or screened with vegetation.

~~C.D.~~ Screening of Trash Containers. All trash containers shall be located in a storage area that is screened from the street and adjacent properties by a wall, fence or dense landscaping with a minimum height of four feet.

~~D.E.~~ Restrictions on exterior security bars and related devices. Exterior security bars and grills are not permitted on windows, doors or porch enclosures that are located on a street-facing elevation of principal Residential Facilities unless the Director of City Planning determines that the proposed bars or grills are consistent with the architectural style of the building. Removal of such bars or grills shall be a condition of the granting all conditional use permits, variances, design reviews and other special zoning approvals involving changes to the elevation on which the bars or grills are located unless the bars or grills have been shown to be architecturally consistent with the architectural style of the building.

~~E. F.~~ Retaining Walls.

Section 17.102.420 Special design requirements for lots located in a residential and commercial zones and the OS, S-1, S-2, S-3, and S-15 zones.

The provisions of this section apply to any lot located in a residential or commercial zone, or in the OS, S-1, S-2, S-3, or S-15 zone.

A. Restriction on barbed wire and razor wire. In any location visible from the public right of way, no barbed wire or razor wire may be attached to the exterior of any building or similar facility.

Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT, AND FENCE REGULATIONS

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty (50) percent of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities

within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

| Allowed Projection Into or Location Within Minimum Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph | | | | | |
|--|---|--|--|--|-------|
| Facilities | Front Yard | Side Yard on Street Side of Corner Lot | Side Yard Along Interior Side Lot Line | Rear Yard (But see coverage limit in first paragraph.) | Court |
| O. Fences; dense hedges; barrier, and similar freestanding walls but excluding retaining walls; and earthen mounds and embankments and other fill. | <p>In any yard or court, provided that such facilities <u>comply with the provisions of Section 17.108.140.</u></p> <p>1. Shall not exceed the following heights above the required level of the yard or court see illustration I-15a):</p> <p>a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: 42 inches, except that 6 feet is permitted in the following cases:</p> <p>i. In the portions of street side yards located within the greater of the following distances from the rear lot line:</p> <p>(A) 35 feet from the rear lot line; or</p> <p>(B) the distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the principal building on the lot; or</p> <p>ii. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p> <p>b. In any minimum rear yard if within 10 feet of a street line that abuts the lot: 6 feet.</p> <p>c. In any other minimum yard or court: 8 feet; and</p> <p>d. One entry gateway, trellis or other entry structure may be permitted in the required front setback area of each lot provided the maximum height or width of the facility does not exceed 10 feet;</p> <p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p> <p><u>See Section 17.102.400F for provisions concerning retaining walls.</u></p> | | | | |

Section 17.108.140. Fences, dense hedges, barrier and similar freestanding walls

A. Compliance with Oakland Traffic Code. Notwithstanding other provisions of the Oakland Planning Code, all fences, dense hedges, barrier and similar freestanding walls shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."

B. Residential Zones and Residential Facilities. The provisions of this section apply to all properties located in residential zones, and to all properties located in any zone containing Residential Facilities and no Nonresidential Facilities.

1. Height. In the locations specified below, the height of any fence, dense hedge, or barrier or similar freestanding wall, but excluding retaining walls, shall not exceed the following (see Illustration I-15a):

a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: 42 inches, except that six (6) feet is permitted in the following cases:

i. In the portions of street side yards located within the greater of the following distances from the rear lot line:

a) 35 feet from the rear lot line; or

b) the distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the principal building on the lot; or

ii. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

b. In any minimum rear yard if within 10 feet of a street line that abuts the lot: six (6) feet.

c. In any other minimum yard or court: eight (8) feet; and

d. One entry gateway, trellis or other entry structure may be permitted in the required front setback area of each lot provided the maximum height or width of the facility does not exceed 10 feet;

2. Materials. The following materials are restricted in constructing or rebuilding walls and fences:

a. Barbed wire and razor wire is not allowed to be used in fences;

b. Chain link fencing is permitted in the following locations only if it does not exceed 42 inches in height;

i. Street-fronting yards; or

ii. Interior side yards if closer to the front lot line than the front wall of the principal Residential Facility.

c. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.

C. Commercial and S-1, S-2, S-3, and S-15 Zones. The provisions of this subsection apply to fences, dense hedges, barrier and similar freestanding walls, but excluding retaining walls, located within all commercial zones and in the S-1, S-2, S-3, and S-15 zones.

1. Height:
 - a. The height of any fence, dense hedge, barrier or similar freestanding wall located within 10 feet of any street line or within 10 feet of any abutting property located in a residential zone shall not exceed eight (8) feet. A fence higher than eight (8) feet but no more than 10 feet may be permitted in these locations upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
 - b. The maximum height of any fence, dense hedge, barrier, or similar freestanding wall elsewhere on a lot shall be 10 feet.
2. Restricted materials. In any location visible from the adjacent public right of way, no barbed wire or razor wire shall be permitted as part of or attached to fences or walls.
 - a. Exceptions: Fences enclosing the following activities shall be exempted from the above limitation on barbed wire and razor wire where the Director of City Planning determines that trespassing could present a public safety hazard and/or disruption of public utility, transportation, or communication services:
 - i. Public utility installations, including but not limited to electrical substations and gas substations
 - ii. Rights of way for rapid transit routes

D. Manufacturing Zones. The provisions of this subsection apply to fences, dense hedges, barrier and similar freestanding walls located within all manufacturing zoning districts.

1. Height:
 - a. The maximum height of any fence, dense hedge, barrier or similar freestanding wall located within 10 feet of any abutting property located in a residential zone shall be eight (8) feet. A fence higher than eight (8) feet but no more than 10 feet may be permitted in these locations upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

CHAPTER 17.124 LANDSCAPING AND SCREENING STANDARDS

Section 17.124.100 Exceptions to Requirements

D. Height Within Required Minimum Yard or Court. Required fences, walls, or dense landscaping need not be higher than three and one-half feet in that portion of any required minimum yard which lies within ten feet of any street line. The height of fences, walls, and dense landscaping shall be limited within all required minimum yards and courts by the applicable provisions of Section 17.108.130140.

CHAPTER 17.136 DESIGN REVIEW PROCEDURE

Section 17.136.020 Definition of regular and small project design review.

A. Small Project Design Review. "Small project design review" means design review for projects in nonresidential zones which are determined exempt from the California Environmental Quality Act; do not require any other permit, variance or approval pursuant to the zoning regulations of Title 17 of the Oakland Planning Code; and are limited to one or more of the following types of work:

9. Fences.

SECTION 4. Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

SECTION 6. This ordinance shall become effective as provided in Section 216 of the City Charter. This ordinance shall be published once with the names of the City Council Members voting for and against it in the Oakland Tribune, a newspaper which is published in this City and in Alameda County.

Introduction Date: JUL 29 2003

In Council, Oakland, California **SEP 16 2003** Passed By The Following

Vote:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN - 7

NOES - 0

ABSENT- 0

ABSTENTION - 0

EXCUSED - DE LA FUENTE - 1