

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 250575

Amending Chapter 27, Fences and Walls, by repealing Section 27-1, "Title of chapter, delegation of duties by director of codes administration," Section 27-3, "Enforcement of chapter," Section 27-10, "Fences and walls," and Section 27-11, "Special exceptions" and enacting in lieu thereof new sections of like number and subject matter; and adopting a new Section 27-5, "Maintenance," for the purpose of clarifying enforcement parameters.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 27, Fences and Walls, is hereby amended by repealing Section 27-1, "Title of chapter, delegation of duties by director of codes administration," and enacting in lieu thereof a new section of like number and title for the purpose of clarifying enforcement, with said new section to read as follows:

Sec. 27-1.- Title of chapter; delegation of duties by director of codes administrationcity planning and development.

(a) This chapter shall be known as the fence and wall code of the city, and may be cited as such.

(b) Responsibilities of the director of codes administrationcity planning and development under this chapter may be performed by authorized representatives of the director.

Section 2. That Chapter 27, Fences and Walls, is hereby amended by repealing Section 27-3, "Enforcement of chapter," and enacting in lieu thereof a new section of like number and title for the purpose of clarifying enforcement, with said new section to read as follows:

Sec. 27-3. Enforcement of chapter.

(a) Violations; penalty. It shall be unlawful for any owner to construct, enlarge, repair, improve, use, occupy or maintain any fence or wall, partial or whole, in the city, or cause such work to be done, contrary to or in violation of any of the provisions of this chapter, or rules or regulations promulgated under this chapter. Upon conviction thereof, such person shall be punished by a fine of not more than \$500.00, imprisonment for not more than six months, or both such fine and imprisonment. Each day a fence or wall is maintained in violation of this chapter or any provision thereof shall constitute a separate offense.

(b) Appeals. Any decision of the director of codes administrationcity planning and development in the enforcement of this chapter shall be subject to appeal to the board of zoning adjustment.

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(c) ~~Right of entry.~~ Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director of ~~codes administration~~city planning and development has reasonable cause to believe that there exists any condition which makes the fence or wall unsafe, dangerous or ~~hazardous or~~ there exists a violation of this chapter, the director of ~~codes administration~~city planning and development may enter upon the premises at all reasonable times to inspect or ~~to~~ perform any duty imposed upon the director, provided that the director shall first request entry to inspect any area not properly open to the director.

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Section 3. That Chapter 27, Fences and Walls, is hereby amended by enacting a new Section 27-5, "Maintenance," within Article I, In General, with said new section to read as follows:

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Sec. 27-5. Maintenance.

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All fences and retaining walls on the premises shall be structurally sound and kept in good repair. The fenceposts shall be firmly set in a base that does not allow the posts to wobble. The fence railings or slatting shall be firmly attached to the supporting posts. Gaps or wedges in a retaining wall shall be restored to the original condition. Fences and retaining walls shall not encroach on the public right-of-way and must be maintained in a manner that will protect the fence or wall from rotting, decay, deterioration, or loss of structural integrity.

Section 4. That Chapter 27, Fences and Walls, is hereby amended by repealing Section 27-10, "Fences and walls," and enacting in lieu thereof a new section of like number and title for the purpose of clarifying enforcement, with said new section to read as follows:

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Sec. 27-10. Fences and walls.

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(a) ~~Fences and walls, generally.~~ No fence or wall over six feet high shall be erected on a residential lot, provided that this height restriction is further limited in subsections (b), (c), (d) and (e) of this ~~section~~.

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(b) ~~Front yard fences and walls.~~ No fence or wall in the front yard of a residential lot may be over 48 inches high. For the purposes of this subsection, front yard is defined as the open space on the same lot with a building used as a residence, between the front wall of the building and the line of that wall extended, the side property lines of the lot, and the front property line of the lot nearest the street on which the building fronts.

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(c) ~~Front yard fences and walls on vacant lots.~~ No fence or wall in the front yard of a vacant residential lot may be over 48 inches high. For the purposes of this subsection, the front yard is defined as the open space between the platted or established front building line, the side property lines of the lot, and the front property line of the lot nearest the street. The depth of a front yard of any vacant residential lot shall not be less than the least depth of the front yard of any existing improved residential property on the same side of the street within the same block.

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(d) ~~Fences and walls on corner lots.~~ No fence or wall in the front or side yard of a residential property may be over 48 inches high. For the purposes of this subsection, side yard is defined as the open space on the same lot with a building used as a residence, situated between the

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side wall of the building or structure and the side property line of the lot nearest the street and extending through from the front yard to the rear yard. For purposes of this subsection, the rear yard is defined as the open space on the same lot with a building used as a residence between the rear line of the building and that line extended, the side property lines of the lot and the rear property line of the lot.

(e) ~~Fences and walls on vacant corner lots. No fence or wall in the front or side yard of a residential corner lot may be over 48 inches high. For the purposes of this subsection, side yard is defined as the open space situated between the platted or established side yard setback line and the side property line of the lot nearest the street and extending through from the front yard to the platted or established rear yard setback line.~~

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~~(f) Applicability. (f) Fences and walls along Boulevard and Parkways. Fences and walls along boulevards and parkways must meet the standards as outlined in the Zoning and Development Code sections 88-323-02-D.~~

(g) Applicability. The requirements of this section do not apply to walls of buildings, portions of retaining walls below grade on one or both sides, or to any fence or wall constructed prior to March 20, 2000.

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Section 5. That Chapter 27, Fences and Walls, is hereby amended by repealing Section 27-11, "Special exceptions," and enacting in lieu thereof a new section of like number and title for the purpose of clarifying enforcement, with said new section to read as follows:

Section 27-11. Special exceptions.

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(a) The board of zoning adjustment is hereby authorized to grant special exceptions to the requirements set forth in section 27-10.

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(b) Special exceptions may be granted by the board provided that it is demonstrated that:

- (1) There is good and sufficient cause to grant the exception commensurate with the degree and nature of the exception requested;
- (2) The grant of a special exception will not adversely affect the appearance of the neighborhood or adjacent properties; and
- (3) The wall or fence is compatible with the existing residence/building in terms of materials, color and design.

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(c) Upon consideration of the factors set forth in subsection (b) of this section, the board may attach such conditions to the granting of the special exception as it deems necessary.

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(d) The board of zoning adjustment is hereby authorized to establish rules and regulations for the method of requesting special exceptions, nature of hearing, and such other matters it deems appropriate.

(e) The filing fee for requesting of a special exception shall be \$174.00.

(f) A simple majority of the board shall be required to approve any special exception.

(g) The requirements of sections ~~80-330 and 80-335~~88-565-05 as to public hearing and notice shall not apply to this section; provided, however, that all adjacent or contiguous property owners to the subject property shall be sent mailed notice 13 days in advance of any hearing before the board requesting a special exception to section 27-10. The notice shall set forth the general purpose of the hearing and the time and place thereof. The names of property owners shall be determined as the owners of record according to the records of the city assessor. For all ~~hearings~~hearing before the board of zoning adjustment, the director of city planning and development or his/her designee shall certify by affidavit that the mailing has occurred and such affidavit shall become part of the record as proof of such mailing.

(h) Any person or persons jointly or severally aggrieved by any decision of the board or any office, department, board or bureau of the municipality may present to the circuit court of the county in which the property is situated a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days of the date of the decision of the board.

(i) The city manager shall have the authority to adjust the fees listed above to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri/Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. The adjustments, if any, shall be made annually by the city manager in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk.

Approved as to form:

Sarah Baxter
Senior Associate City Attorney