

Ordinance No. 6439

**AN ORDINANCE TO AMEND FENCE HEIGHT PROVISIONS BY AMENDING SECTION 17.50.340 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City has established standards for community development by adopting a zoning code in Title 17 of the Rapid City Municipal Code that encourages the use of property in accordance with its character, adaptability and suitability for particular purposes; and

WHEREAS, as part of the zoning code, R.C.M.C. 17.50.340 sets forth regulations for fences and walls in zoning districts, including fence height regulations; and

WHEREAS, facilities of public and private utilities are located in a variety of zoning districts, including in public, industrial, and commercial districts; and

WHEREAS, R.C.M.C. 17.50.340 generally limits the fence height in these districts to 4 feet in a setback, and 6 or 8 feet outside of setbacks, unless an exception is obtained; and

WHEREAS, public safety as well as regulatory oversight requires that these facilities are protected from unauthorized entry onto the property; and

WHEREAS, solid waste facilities require taller fences to control blowing litter outside of any front, side and rear yards; and

WHEREAS, the Common Council wishes to amend R.C.M.C. 17.50.340 to permit public and private utility facilities to erect 12 foot tall fences within setbacks and to permit even taller fences on solid waste facilities that are of the height necessary to control blowing litter from exiting the landfill; and

WHEREAS, the Common Council wishes to amend R.C.M.C. 17.50.340 to permit fences on public and private utility facilities to include anti-climb devices that include barbed wire so long as the barbed wire is 6 feet or more above the ground; and

WHEREAS, the City of Rapid City believes it to be in the best interest of the general health, safety, and welfare of the City and its citizens to amend Section 17.50.340 of the Rapid City Municipal Code to permit taller fences and walls and fences with anti-climb devices for public and private utility facilities.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 17.50.340 is hereby amended to read in its entirety as follows:

**17.50.340 Fences and walls.**

A. *Definitions.* As used in this section:

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**AUG 14 2020**

RAPID CITY DEPARTMENT OF  
COMMUNITY DEVELOPMENT

**FENCE.** A barrier constructed of materials other than living shrubbery erected for purpose of protection, confinement, enclosure or privacy. For purposes of this section, there shall be not distinction between fences and walls.

**FRONT YARD.** An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. The depth of the front yard shall be measured between the front line of the building and the street line.

**HEIGHT.**

a. For fences and walls shall be defined as the vertical distance from the top rail, masonry unit, board or wire to the ground directly below.

b. When a fence or wall is located on top of a retaining wall, the **HEIGHT** for fences or walls shall be defined as the vertical distance from the top rail, board or wire to the ground elevation on the uphill side of the retaining wall. When the ground elevation on the uphill side does not meet or exceed the top of the retaining wall, the height of the fence or wall may be increased up to 6 inches to account for standard fence material heights.

**RETAINING WALL.** A wall designed to resist the lateral displacement of soil or other materials.

**SECOND FRONT YARD.** In the case of a corner or double-frontage lot, a yard abutting a street that is not designated as the street address of the property.

**WALL.** A barrier constructed of materials other than living shrubbery erected for purpose of protection, confinement, enclosure or privacy. For the purposes of this section, there shall be not distinction between fences and walls.

**B. Residential, general agricultural, park forest and public zoning districts.**

1. *Fences and walls.* Fences and walls may be erected or maintained; provided that no fence or wall over 4 feet in height shall be erected or maintained in any front yard. On corner lots and double frontage lots, fences shall be no more than 4 feet in height in the required front yard; however, fences no more than 6 feet in height may be allowed in the second front yard when setback a minimum of 10 feet from the property line. In no case shall fences and walls exceed a height of 6 feet unless an exception is granted pursuant to § 17.50.340 (F)(1).

2. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of this section are met.

3. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current

building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

C. *Commercial zoning districts.*

1. *Fences and walls in front yards.* Fences and walls may be erected or maintained; provided that no fence or wall over 4 feet shall be erected or maintained in any required front yard. On corner lots and double frontage lots, fences shall be no more than 4 feet in height in the required front yard; however, fences no more than 8 feet in height may be allowed in a second front yard when setback a minimum of 10 feet from the property line. In no case shall fences and walls exceed a height of 8 feet unless an exception is granted pursuant to § 17.50.340 (F)(1).

2. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of this section are met.

3. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

D. *Industrial and mining and earth resources extraction zoning districts.*

1. *Erected in front, side, and rear yards.* Fences and walls may be erected in front, side and rear yards. In no case shall fences and walls exceed a height of 8 feet unless an exception is granted pursuant to § 17.50.340(F)(1).

2. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height from the highest point of grade on either side of the structure does not exceed 8 feet.

3. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the City of Rapid City. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

E. *Airport zoning district.*

1. *Erected in front, side, and rear yards.* Fences and walls may be erected in front, side and rear yards. Fences shall not exceed a height of 12 feet.

2. *Constructed on top of retaining walls.* Fences or walls may be constructed on top of retaining walls provided that the maximum height requirements for fences and walls set forth in subsection A. of the section are met.

3. *Guardrails required on retaining walls.* Unless a fence is already present, guardrails shall be constructed on top of retaining walls in accordance with, and if required by, the current building codes adopted by the city. Such guardrails shall be limited in height to the applicable maximum height for a fence or wall.

F. *Variances and exceptions.*

1. Variances to the requirements of this section shall be subject to the Board of Adjustment process in § 17.54.020 and administrative exceptions process in § 17.50.070. Additional fence requirements approved as part of a Planned Development Overlay District shall follow the major and minor amendment procedures process in § 17.50.050. Additional fence requirements approved as part of a planned unit development shall follow the PUD zoning document amendment procedures in § 17.50.060.

2. Barbed wire is allowed on rural properties being used for agricultural purposes such as containing livestock, but not zoned as such, as determined by the Director.

3. Chain link fences for tennis courts, basketball courts, baseball fields, or similar outdoor recreational uses may be constructed to a maximum height of 24 feet provided that the fence is not located within the required setback area. In addition, mesh netting is allowed for these outdoor recreational uses

4. For public and private utility facilities, fences and walls may be erected in front, side and rear yards. Fences on such facilities shall not exceed a height of 12 feet. Fences for such facilities may include anti-climb devices, including barbed wire, necessary to prevent unauthorized access. Utility facilities shall include, but not be limited to, the following: water treatment, purification, storage and pumping facilities; sanitary sewer pump stations and water reclamation facilities; solid waste disposal sites; public utility service yard or electrical receiving or transforming station; and utility substations. Solid waste disposal sites may erect and maintain litter control devices of sufficient size and height to control blowing litter outside of any front, side and rear yards.

45. The Director may permit the use of prohibited fencing materials if it is determined that the allowance is not contrary to the public interest and will not be injurious to the surrounding neighborhood.

G. *Fences over 6 feet—permit required.* A building permit is required for all fences over 6 feet in height.

H. *Location.* No fence or wall shall be placed in designated easements unless approved in writing by the City Engineer. No fence or wall shall be erected in public right-of-way, except as approved by the Common Council.

I. *Visibility at intersections.*

1. No fence, wall, plant material or earthen berm shall be placed or maintained which obstructs the required sight triangle as provided in § 17.50.335 except as follows:

a. A fence may be allowed in the required site triangle if the fence is not more than 30% solid.

b. Trees may be allowed in the required site triangle if the tree is located more than 30 feet from the intersection of the curb lines and the trees shall have a minimum of 40 feet spacing between trees; provided that the canopy of the tree is 10 feet or more above grade.

*J. Prohibited fences.*

1. No electrified fences nor fences designed to function as an electrified fence shall be permitted in any zoning district except the general agricultural zoning district and the airport zoning district. Any electrified fence lawfully installed shall have a controller which is labeled and listed by an accepted testing laboratory.

2. No barbed wire fencing shall be permitted in any park forest, residential, mobile home, neighborhood commercial, center, public or floodway zoning district except in association with ~~hazardous public or private utility substations~~ facilities as described in 17.40.340.F.4. When used in association with a utility ~~substation~~, the barbed wire fencing shall be not less than 6 feet above the ground.

3. Barbed wire fencing may be permitted in a general agricultural zoning district to contain livestock and in the airport zoning district.

4. Barbed wire fencing materials may be used as a fence in a central business, general commercial, light industrial, heavy industrial or mining and extraction zoning district when the material is located not less than 6 feet above the ground.

(Ord. 6282 (part), 2019: Ord. 5884, 2012)

**CITY OF RAPID CITY**

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Mayor

Attest

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Finance Officer

(seal)