

ORDINANCE 2005-09

AN ORDINANCE OF THE CITY OF BRENTWOOD, TENNESSEE PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF BRENTWOOD BE AMENDED BY REVISING SECTION 78-10, PROVIDING FOR MINIMUM STANDARDS FOR FENCES AND SCREENING WALLS IN ALL ZONING DISTRICTS

WHEREAS, fences and screening walls are increasingly being installed by property owners to enhance privacy, improved security and for sound absorption purposes; and

WHEREAS, such fences and screening walls can adversely affect adjoining properties and dedicated rights-of-way and public easements if not constructed in proper locations using generally accepted materials and maintained properly thereafter; and

WHEREAS, the creation of minimum standards for fences and screening walls in the City is necessary to protect the health, safety and general welfare of the citizens of Brentwood.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENTWOOD, TENNESSEE, AS FOLLOWS:

SECTION 1. That the existing section 78-10 of the Code of Ordinances of the City of Brentwood shall be repealed, and a new section 78-10 is hereby enacted, said new section to read as follows:

Section 78-10. Fences and screening walls.

(a) *Definitions.* For the purposes of this section, the following definitions shall apply.

- a. *Fence* shall mean any self-standing structure, partition and/or wall erected to enclose a piece of land to provide privacy, security and/or sound absorption/reflection. For the purposes of this section, a screening wall shall be considered a fence.
- b. *Open fence* shall mean any fence having no more than 50 percent of its surface covered.
- c. *Perimeter fence* shall mean any fence running approximately parallel to and within 20 feet of a lot line.
- d. *Solid fence* shall mean any fence having more than 50 percent of its surface covered.

(b) *Materials and type of installations permitted.* Fences may be constructed or erected only in accordance with the following provisions.

- (1) Permitted materials - Fences shall be constructed of redwood, cedar, pressure treated lumber, chain link, wood and vinyl plank, split rail, wrought iron, concrete, stone or masonry materials; or masonry columns in combination with one of the previously listed materials.
- (2) Prohibited materials - Fences made of plywood, plastic sheeting, cloth and similar nondurable materials are expressly prohibited. Fences made with barbed wire and/or like material and chain link fences with exposed spike ends are prohibited, except for fences that fall within the agricultural exemption set forth in this section or other fences which were in existence prior to June 1, 2005 and are maintained in accordance with this section.
- (3) Support orientation - Any exposed support and cross framing for a fence shall be located on the inside of the fence and oriented toward the principal portion of the property upon which the fence is erected to serve. The finished side of a fence shall face the adjacent properties and street.
- (4) Agricultural exemption - Barbed wire fences shall be permitted for agricultural uses on tracts that are a minimum size of three acres.
- (5) Swimming pools – Pools shall be protected by a fence in accordance with the minimum requirements in the city’s building code.
- (6) Perimeter fences on residential lots – No more than one perimeter fence may be constructed or erected on a residential lot; provided, however, that additional fences meeting the criteria established in this section may be constructed within the interior of a lot.
- (7) Height/design limitations:
 - a. *Standard height/design criteria* – Open and solid fences may be constructed or erected in any yard, provided that such fences shall not exceed the height limits established below:
 1. Four feet in height for any front or side yard adjacent to a street, except as authorized below.
 2. Six feet in any other yard, except as authorized below.
 - b. *Height exceptions* – Taller fences may be permitted in all yards in all zoning districts in accordance with the requirements below, provided that construction plans prepared by a qualified professional engineer shall be submitted for the approval of the

planning and codes department for any solid fences exceeding eight feet in height.

1. Commercial and service-institution property - As a part of the site plan approval process, the planning commission may approve taller fences when it is determined to be necessary to minimize the effects of the development on the adjacent property and/or for safety/security purposes.
2. Residential property – Open fences, not to exceed six feet in height, and of a permitted material other than chain link, may be permitted on residential lots in side yards adjacent to streets and in front yards. Open or solid fences, not to exceed eight feet in height, may surround any patio or deck adjacent or attached to a residence.
3. Utilities/parks/schools exemptions - Open fences in excess of six feet in height used for athletic and security purposes shall be permitted for public utilities, at schools and in all public parks.
4. Temporary construction site – Open fences up to eight feet in height shall be permitted for safety and security purposes for the duration of the construction project.
5. Any fence of permitted materials which exceeds the height limits established herein may continue to exist if such fence was in existence prior to June 1, 2005 and is otherwise maintained in accordance with this section.

(8) Prohibited areas:

- a. *Public right-of-way* - Fences shall be prohibited on any street or public right-of-way. In addition, any fence constructed or erected after June 1, 2005 must be placed a minimum of three feet away from any public sidewalk or bikeway.
- b. *Easements* - No fence may be placed within any section of a recorded public utility, drainage or detention pond easement, unless authorized in writing by the city engineer, in accordance with section 58-6 of this Code, as the same may be amended or replaced.
- c. *Sight distance limitations* - No fence shall be placed on private property near an intersection and/or driveway entrance in a manner that creates a visual obstruction or safety hazard for vehicular traffic and pedestrians.

- (9) Maintenance. All fences shall be maintained in a safe, structurally sound and upright condition, and present a uniform appearance so as not to constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair shall include, but not limited to: leaning fences; fences that are missing slats, parts, or blocks; holes; breaks; rot; cracking or peeling paint; rust; graffiti; or other broken, damaged, or removed material.
- (10) Replacement/removal. Any existing fence not conforming to the provisions of this section shall be repaired or removed, except for fences which are specifically allowed to continue to exist under the provisions herein. Any replacement or substantial repair (greater than 50 percent rebuilding) of an existing fence which has been allowed to remain, under the provisions of this section, shall be carried out in accordance with the requirements of this section. This requirement shall not preclude the complete removal and nonreplacement of a fence.
- (11) Administration and enforcement. The provisions of this section shall be administered and enforced as follows.
- a. *Compliance* - No permit shall be required for the construction of a fence; provided, however, that no solid fence exceeding eight feet in height may be constructed or erected until construction plans prepared by a qualified professional engineer have been approved by the planning and codes department. Furthermore, prior to the installation of a fence, it shall be the responsibility of the property owner to verify the location of property lines, public right-of-way, easements and utility installations; to confirm that the type and placement of the proposed fence will comply with the restrictive covenants and other regulations in force for the subdivision or development; and to secure any additional required approvals. While not required, the use of a licensed land surveyor to verify property line, easement and utility locations prior to installation is strongly encouraged.
 - b. *Enforcement* - The planning and codes director and his designees are authorized and directed to enforce all of the provisions of this section. This authority empowers such individuals to perform any necessary inspections, and to issue related citations for enforcement of this section.
 - c. *Violation notice* – The planning and codes director or his designees shall order the removal or remediation of any fence in violation of this section, providing 30 days written notice to the owner to achieve compliance. If the owner fails to achieve compliance, a citation to municipal court shall be issued. When a good faith effort to bring the

fence into compliance has begun, an additional 30 days may be provided for correction prior to the issuance of the citation. Notwithstanding the foregoing, if the planning and codes director or any of his designees determine that a fence poses an immediate and substantial threat to the public health and safety, such fence shall be immediately removed or remediated immediately.

SECTION 2. In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall prevail.

SECTION 3. If any section, subsection, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance.

SECTION 4. That the ordinance shall take effect from and after its final passage and publication thereof, or fifteen days after its first passage, whichever occurs later, the general welfare of the City of Brentwood, Williamson County, Tennessee, requiring it.

PASSED:	1st reading	<u>4/11/2005</u>	PLANNING COMMISSION	<u>5/2/2005</u>
	2nd reading	<u>5/23/2005</u>	NOTICE OF PASSAGE	
			Notice published in:	<u>Williamson A.M.</u>
PUBLIC HEARING			Date of publication:	<u>5/31/2005</u>
	Notice published in:	<u>Williamson A.M.</u>		
	Date of publication:	<u>4/18/2005</u>		
	Date of hearing:	<u>5/9/2005</u>	EFFECTIVE DATE	<u>5/31/2005</u>

MAYOR Brian J. Sweeney

RECORDER Roger A. Horner

Approved as to form:

CITY ATTORNEY Roger A. Horner