

ORDINANCE 1044

AN ORDINANCE OF THE CITY OF PAYETTE IDAHO, ESTABLISHING FENCE REGULATIONS FOR LANDS LYING WITHIN THE CITY LIMITS OF PAYETTE; ESTABLISHING A FEE; PENALTY; SETTING AN EFFECTIVE DATE; REPEALER; SEVERABILITY:

Be it Ordained by the Mayor and City Council of the City of Payette, Idaho:

Section 1. There is hereby created a new chapter 17 of title 12 of the Payette Municipal code which shall read as follows:

FENCES

A: The installation, construction, or maintenance of fences within the City of Payette shall be regulated as follows:

1. It shall be unlawful to construct a fence in any front yard, side yard, back yard or in any open space except in conformity with this chapter.

2. It shall be unlawful to construct in any yard adjacent to a public street any fence, wall or hedge where the fence will interfere with the free movement of pedestrian traffic along existing public sidewalks.

3. No fence, wall or hedge shall be installed, constructed, planted, created, maintained, or allowed on any city right of way without first obtaining a permit from the City Clerk or a properly designated official. If a fence or any structure is built upon or across any city easement or right of way, in the event it becomes necessary to perform work upon that right of way, the landowner shall be responsible for removal of the structure to insure access to a city work crew.

4. Except as otherwise provided, Fences shall not be constructed of plastic, wood paneling, metal paneling, barbed wire, woven wire, hog wire, chicken wire, mesh wire, electric fencing wire, Rayon Wire, Concertina Wire, or any single wire or woven wire.

5. Unless otherwise provided, fences, walls, and hedges located within a yard area shall not exceed six feet (6') in height. All fences, walls and hedges within twenty-five feet (25') of a front property line shall not exceed thirty-six inches (36") in height. Nothing herein shall permit an obstruction of vision at an intersection as is prohibited in Sections 6 and 7 of this Code.

6. Metal chain link or woven wire fencing shall be allowed, provided such fencing:

a. Does not cross a sidewalk.

b. Does not interfere with automobile operator's visibility along a public street;

c. Does not create a blind spot at the intersection of a private drive and a public street;

d. Does not interfere with visibility at the intersection of public roadways;

e. Is no smaller than eleven and one-half (11 1/2) gauge, but no larger than nine (9) gauge wire.

7. Wooden fencing shall be allowed, provided such fencing:

a. Does not cross a sidewalk.

b. Does not interfere with automobile operator's visibility along a public street;

c. Does not interfere with visibility at the intersection of a private drive and a public roadway;

d. Does not interfere with visibility at the intersection of public roadways.

8. All fences permitted by this Chapter shall be kept in good order and repair and shall not be allowed to become run down or in such a state of disrepair as to constitute a private or public nuisance. No fence shall be built until a permit is first obtained from the City Clerk or City Building Inspector. The City Clerk shall be allowed to charge a \$10.00 fee.

9. All fences permitted by this Chapter shall be kept free of weeds and grasses which exceed eight (8) inches in height.

10. In the event a fence interferes with direct and unrestricted access to a water meter, the landowner at the landowners expense, shall provide a remote reading device which device is approved by the city.

11. No fence permitted by this Chapter and constructed after its adoption shall be used as evidence to establish a boundary line, unless said fence was placed upon a boundary line designated by a licensed surveyor of the State of Idaho, after a survey has been conducted and the boundary line established thereby. All expenses incurred in establishing said boundary

shall be at the property owners expense.

12. A person who places a fence on a boundary line, or his successor or tenant, shall be solely responsible for its maintenance and upkeep, but shall not acquire any rights to trespass on adjoining lands to maintain the same, unless the fence has been set back at least three feet (3') from the property line. Setting a fence back pursuant to this Chapter in order that the same may be properly maintained shall not be construed as forfeiting any property to adjoining landowners in the event any suit is filed for taking by adverse possession or under a similar theory.

13. Any fence which is constructed in such a manner as to be in violation of this Chapter, or any fence which is allowed to become in violation after construction, shall be subject to removal in accordance with the following terms:

(A) Any fence which is being constructed in such a manner so that, upon completion, the fence would violate this Chapter, shall be subject to injunctive action.

(B) Any fence which is constructed in violation of this Chapter is a nuisance per se and shall be subject to immediate removal by the City, if after ten (10) days' notice, mailed by regular mail to either the landowner, a tenant or occupant of the premises, the violation has not been eliminated or the fence removed.

(C) Any fence which shall fall into a state of disrepair so as to constitute a public or private nuisance shall be subject to repair or removal, if ten (10) days after notice has been mailed, as above, the condition has not been corrected.

(D) Any fence which has been constructed in such a manner so that it obstructs the visibility of drivers at intersections on public roadways shall be subject to immediate removal, without notice of any kind.

14. Should it be necessary to enforce any provisions of this Chapter, all costs incurred shall be borne by the property owner, tenant or occupant, jointly or severally. Costs shall include costs of notice, removal, repair, cleaning, court costs and attorney's fees. The costs and expenses shall then be assessed against the property with the owner of the property responsible therefore.

15. Any individual whose property is affected by this act may, upon written application, apply to the Planning and Zoning Commission of the City of Payette for conditional use to allow a variation in the height of any fence, wall or hedge. The Planning and Zoning Commission of the City of Payette may upon investigation grant to the applicant the requested conditional use.

Any affected Party may appeal to the City Council.

16. Any person convicted of violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be subject to a fine not exceeding One Hundred Dollars (\$100.00) or imprisonment for a period not exceeding five (5) days, or both such fine and imprisonment.

Section 2. This ordinance shall be in full force and effect after it's passage and publication as provided by law.

Section 3. This ordinance may be published by summary as provided by law.

Section 4. If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remainder of the Ordinance shall remain in full force and effect and shall constitute Ordinance 1044.

Section 5. All ordinances in conflict with this Ordinance are hereby repealed insofar as the conflict exists.

Passed and Approved by the Mayor and City Council of the City of Payette, Idaho the 20 day of April, 1992.

Joseph L. Meyer  
Mayor

Attest: John P. Franks  
City Clerk