FENCES

§ 156.380 PURPOSE AND INTENT.

(A) The purpose of a fence is to provide privacy, security, boundary definition, weather conditions control (snow fencing), decoration and safety for the residents and property owners of the city, the general public and for the various land uses within the corporate limits of the city.

(B) The intent of the following regulations is to provide a framework for the protection of the residents and property owners of the city, the general public and public and private property through the regulation of the installation, erection, repair, construction, placement and maintenance of fences on property located within the city. (Ord. 0-02-0009, passed--2002)

§ 156.381 DEFINITION AND CLASSIFICATION.

(A) *Definition.* A ***FENCE*** shall be defined as a manmade structure partially or completely surrounding a part of, or the whole of, a zoned lot from within the area controlled, including a hedge or other natural growth specifically planted as a barrier.

(B) *Classification.* A fence shall be of the following classifications:

(1) Wooden picket, PVI or other similar materials (not more than 50% open);
(2) Woven wire, chain link and similar metal materials (excluding chicken wire);
(3) Ornamental iron of any type;
(4) Wooden split rail and the like;
(5) Privacy fencing of solid material (90% or more solid opaque material and taller than four foot), including PVC fencing, designed to physically and visually enclose areas;
(6) Shrubbery, including hedges, trees (excluding shade trees), or plants planted so as to provide a visual barrier of 50% or more solid;
(7) Masonry walls of the following materials; brick, stone, decorative block, concrete block (in commercial and industrial zoning districts only) and/or other similar materials; constructed on a foundation; and
(8) Any similar fence-type structure not specifically mentioned above, designed to enclose all or part of a zoning lot that serves a purpose similar to a fence excluding masonry walls. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.382 LOCATION OF FENCES.

The location of all fencing and associated bases shall adhere to all setback and yard requirements provided in the zoning regulations and shall be within the property line. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.383 MAINTENANCE AND REPAIR OF FENCES.

(A) All fences (including walls) shall be constructed of new or good used material and in accordance with the methods of construction that conform to the requirements of the adopted Building Code.

(B) All materials used in the construction of fences shall be clean, sound and free from decay or other defects that would seriously hamper or impair the strength of the fence. All materials used shall be nontoxic, non-hazardous, and not deleterious to the environment. Wood fences shall be proper fencing materials. All fences shall be of a uniform material from the ground or lowest level to the top of highest level of the fence. City staff shall review all proposed materials as part of the fence permit application process.

(C) All fences shall be maintained in a state of good repair. Any dilapidated, dangerous or unsightly fences or retaining walls shall be repaired, painted or removed when so ordered by the Building Commissioner. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.384 PROHIBITED FENCES.

(A) *Barbed wire; razor wire fences and the like.*

(1) No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain any fence or barrier consisting of, or made of what is called barbed wire in residential zoning districts.

(2) Barbed wire is also prohibited along the line of, or in or upon a public park, church, school or other location intended for use by children. Use of barbed wire for special reasons is subject to review by city staff for use in only commercial and industrial zoning districts.

(B) *Electrically charged fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain an electrically charged fence within any zoning district of the city.

(C) *Excluded materials used to construct fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/or maintain any fence or barrier consisting of, or made of what is commonly known as railroad ties, blocking lumber, pallets or similar materials. Additionally, no metal siding, metal sheeting or the like shall be used to construct a fence.

D) *Protrusion on fences.* No person shall place, erect, install, build, construct, add as a repair item, use and/ or maintain any fence or barrier with spikes or nails or any other sharp objects imbedded on the top or sides of a fence or barrier within any zoning district of the city.

(E) Fences and other obstacles causing obstruction of view. No owner, occupant or tenant of any real estate abutting any street intersection shall permit any fence, tree, shrubbery or obstacle at any street intersection or within 20 feet from the intersecting right-of-way lines of the intersection. No fence, tree, shrubbery or obstacle shall obstruct or tend to obstruct the view of any operator of a vehicle or a bicycle or a pedestrian approaching any intersection within the city in what is known as the vision clearance area. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.385 CERTAIN FENCE ENCLOSURES REQUIRED.

The following shall be required to be enclosed by a fence.

(A) *Property undergoing new construction.*

(1) Prior to the initiation of construction and upon obtaining a required fence permit, a temporary security fence of six feet is required to be erected with sufficient anchoring to secure the new construction site.

(2) The temporary security fence is to be removed after the construction completion and prior to occupancy of the site.

(B) *Property undergoing demolition and/or repair.*

(1) Prior to the initiation of demolition, dismantling, removing or extensively repairing of a building or structure abutting a street, alley or sidewalk; and, upon obtaining a required fence permit, protection in the form of a temporary security fence shall be provided for the site being affected. Any temporary security fence installed with sufficient anchoring shall not be less than our feet high with approved and appropriate cautionary signage, barricades and/or ribbon taping. The temporary security fence shall be removed after completion of the demolition or repair.

(2) A minimum four-foot high temporary security fence shall also be required for any building under 40 feet high and shall be placed within 15 feet of, or adjacent to, a street and alley line.

(a) For buildings not exceeding 22 feet in height the fence shall not be less than seven feet from the building line.

(b) For buildings exceeding 22 feet in height the fence shall not be less than nine feet from the building line. The fence must fully enclose the building from the required distance between the face of the building and the property line, but shall not extend beyond the lot line of the property upon which the building is located without special acknowledgment by the issued permit.

(3) For buildings exceeding 40 feet in height the temporary security fence shall not be less than six feet high and shall be located 15 feet or more from the building line. Where the protection extends beyond the lot line of the property upon which the building is located, a special acknowledgment shall be noted on the issued permit.

(C) *Storage yards.* Every premises or enclosure (except a completely enclosed building) used for the purpose of storing materials, including bulk storage, junkyard materials, inoperable and/or dismantled vehicles and similar items, shall be entirely surrounded by a privacy fence. The privacy fence shall be at a minimum six feet high and not exceeding eight feet in height. The fence shall be kept in a proper state of repair and none of the enclosed items or stored materials shall be piled higher than the fence or visible above the top of the fence.

(D) *Swimming pools.* All swimming pools shall be enclosed by means of a fence. The fence shall be at least six feet, and not exceeding eight feet in height, and shall be of a type not readily climbed by children. The gates for the fence shall be of a self-closing and latching type with the latch on the inside of the gate not readily accessible for public entrance. If a privacy fence of at least six feet encloses the entire rear yard of the residential unit, this provision may be waived after inspection and approval of the residential enclosure by the City Building Commissioner's office. The approval shall be issued on forms provided by the City Building Commissioner's office and must be retained by the property owner. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.386 PERMITTED FENCES-RESIDENTIAL DISTRICTS.

In residence districts, fences enclosing plots used for dwelling purposes shall conform to the following requirements.

(A) *Residential units not at an intersection (see Diagram A).*

(1) Fences erected in front of the building line shall be as listed in § 156.381(B) (1), (2), (3), (4), (6) or (8) and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Masonry pillars may be permitted as part of the permit. The pillars for a fence shall not exceed 4.6 feet in height and each pillar shall not exceed 18 inches in width and depth.

(2) Side yard fences placed behind the front building line, may be of any type but shall not exceed a height of six feet.

(3) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

(B) *Residential units at an intersection (see Diagram B).*

(1) Corner lot properties (those having a side yard adjacent to a street) fences erected in front of the building line shall be as listed in § 156.381(B)(1), (2), (3), (4) or (6), and shall not exceed four feet in height unless approved by variance. No privacy fence may be erected in front of the building line. Fence type (§ 156.381(B)(6)) shrubbery, and the like, may be used on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front building line. Any pillar use shall conform to the above.

(2) Side yard fences, on the nonadjacent street side, placed behind the front building line to the rear building line, may be of any type but shall not exceed a height of six feet.

(3) Side yard fences, on the adjacent street side, § 156.381(B)-privacy fencing may be on the side yard adjacent to a street, up to a maximum height of six feet, provided the fence is located behind the front and rear building lines.

(4) Rear yard fences may be of any type, but shall not exceed a height of eight feet.

(C) *Generally.* Any residential district or subdivision with a developmental covenant restricting the use of fencing or places certain restrictions on fencing type and height and the like, remain in force and will be enforced by this subchapter. (Ord. 0-02-0009, passed--2002) Penalty, see § 156.999

§ 156.387 PERMITTED FENCES-COMMERCIAL AND INDUSTRIAL DISTRICTS.

In commercial and industrial zones fences shall conform to the following requirements.

(A) Fences erected along the front property line in commercially and industrially zoned districts shall not exceed six feet in height and may be of any type except§ 156.381(B)(7)-masonry walls. Fences along the sides and back building lines may be of any type and shall not exceed six feet.

(B) Fences erected along the front property in commercially and industrially zoned districts that are greater than six feet, but not more than eight feet in height, may be of any type. The fence shall be set back from the street line a minimum of five feet and softened by landscaping material as approved by the City Planning Department in the pre-application conference.

(C) Fences erected along the front property line of existing and occupied residential unit(s) in commercially and industrially zoned districts shall not exceed four feet in height unless approved by variance and shall be of any type § 156.381(B)(5)-privacy fencing. The residential lot can use any other type of fence for the sides and back of the parcel in conformance with the residential section of this subchapter.

(D) Fences erected in association with used car lots or parking lots (public or private) along the front property line (or the street frontages, if at a corner) in commercially and industrially zoned districts shall not exceed six feet in height and only can be of § 156.381(B)(2)-woven wire. A site plan showing lot ingress and egress, the placement of the vehicles on the lot, and the type of gate system to be used must accompany any application for the fence. The used car or parking lot can use any type of fence for the sides and back of the parcel in conformance with this section of this subchapter.

(E) Barbed wire, and the like, may be used at a height of not less than seven feet above grade. Barbed wire, and the like, shall be placed so that it does not project beyond the outside face of the fence. The City Planning Department in the pre-application conference shall approve the use of barbed wire, and/or the like, in conjunction with a fence. (Ord. 0-02-0009, passed--2002)

§ 156.388 FENCE PERMIT PRE-APPLICATION CONFERENCE REQUIRED.

A fence permit pre-application conference is required to place, erect, construct or install any fence in the city. A person with an existing fence needing repair in an amount over $100 is also required to participate in a fence permit pre-application conference. (Ord. 0-02-0009, passed - -2002) Penalty, see § 156.999

§ 156.389 FENCE PERMIT PRE-APPLICATION CONFERENCE.

(A) Application for a fence permit pre-application conference shall be made to the City Planner on forms as may be prescribed by the Department of Business Development and Planning. The person making application should submit a plat of survey with the fence located on the survey, it will become an attachment to the conference form.

(B) Approval for fences not requiring site plan review and conforming to the regulations of this subchapter shall be issued by the City Planner and referred to the Building Commissioner for a fence permit.

(B) An application for a fence requiring development plan review shall be referred by the City Planner to the Planning Commission for review in the same manner as other projects requiring development plan review. An application for a fence requiring a variance or special use permit shall be processed in the same manner as any other application for a variance or special use permit. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.390 PERMITS AND FEES.

(A) A plat of survey must accompany a fence permit application as part of the pre-application conference and any permitting submission to the Building Department.

(B) A building permit must be obtained (by either the owner of the property upon which the fence is to be constructed or erected, or by contractor performing the work) before placing, erecting, installing, construction or repairing the fence, after the pre-application conference form with fence approval has been issued by the City Planner. The permitting process shall use forms furnished by the Building Commissioner pursuant to building/construction codes adopted by the city.

(C) The Common Council of the city establishes fees for any permits from time to time. The current fee schedule, adopted contemporaneously with the ordinance adopting this subchapter, shall be based on the entire cost of the fence materials plus labor costs.

(D) The fence building permit fee shall accompany the fence permit application. (Ord. 0-02-0009, passed --2002) Penalty, see § 156.999

§ 156.391 ENFORCEMENT.

It shall be the duty of the Building Commissioner to see that this subchapter is enforced through the proper proceedings, including legal action.

(A) Any fence lawfully erected prior to the effective date of this subchapter and maintained in conformance with the requirements of this subchapter shall be permitted to continue as a legal nonconforming fence. No modification shall be made to a legal nonconforming fence, unless the modification serves to make the fence more conforming to the requirements of this subchapter. Any modification requires the pre-application conference process, as well as, a building permit.

(B) Any unlawfully erected or maintained fence shall be subject to removal under the provisions of Indiana Code and the city municipal code. The actual expense ·of removal, including reasonable attorney fees, may be placed as a lien on the property on which the fence was unlawfully erected or maintained.

(C) (1) If a dispute arises between the property owner erecting the fence and any adjacent property owners as to the location of the fence, the Building Commissioner may require the property owner erecting the fence to either:

(a) Show that the fence was erected according to the plat of survey described in §156.390(A); or

(b) Shall obtain a current land survey from a registered surveyor.

(2) If the parties in the dispute find that the fence has been improperly placed/located, the owner erecting the fence shall be required to move the fence.

(Ord. 0-02-0009, passed --2002) Penalty, see § 156.999