

ORDINANCE NO. 2010-08-072

An Ordinance Amending Chapter 7 of the Urbana City Code to Modify Fence Height and Opacity Standards

WHEREAS, the City of Urbana, Illinois, is a home-rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, the Urbana City Code has periodically been recodified and republished by the City of Urbana to incorporate the numerous amendments; and

WHEREAS, the Urbana Zoning Administrator proposes to enact an amendment to Chapter 7 of the Urbana City Code in order to improve safety and visibility of fences; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interest of the City of Urbana to amend the text of the Urbana City Code as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that Chapter 7 of the Urbana City Code shall be amended as follows:

Section 1. Urbana City Code Chapter 7, "Fences," Section 7-5, is hereby amended as follows:

Sec. 7-5. Height and opacity limitations.

(a) No fence within a required front yard, as such required front yard is defined in the zoning ordinance of the city, as amended, may be taller than four (4) feet measured from the ground at a point directly beneath the fence. Fences within a required front yard shall be no more than 50% opaque, allowing for the passage of light directly through the fence, except that on corner lots, fences behind the front face of the principal structure may be up to six (6) feet tall and solid. Where such a required front yard abuts a principal or minor arterial street, as designated by the comprehensive plan of the city, as amended, fences may be constructed as a rear or side yard fence pursuant to subsection (b) of this section. However, any fence constructed within ten feet of the intersection of public right-of-way and a driveway, shall be no more than 50% opaque, as

shown in Figure 1. Any fence existing on March 1, 1989, which is not in compliance with this subsection (a), may continue to lawfully exist, and normal repairs to such fences are permissible where such repairs do not constitute a total fence replacement.

(b) No fence within a required side or rear yard, as such required side or rear yard is defined in the zoning ordinance of the City of Urbana, as amended, may be taller than eight (8) feet measured from the ground at a point directly beneath the fence.

(c) Where the ground at a point directly beneath the fence has been increased in elevation from its original elevation at the time of subdivision development through berming, retaining walls, fill or other measures and where such increased ground elevation has resulted in an increase in ground elevation above an adjoining lot anywhere within a required yard as defined by the Urbana Zoning Ordinance, the height of a fence shall be measured from the original ground elevation before installation of berming, retaining walls, fill or other measures as determined by the building official. The building official shall consult U.S. Geological Survey contour maps, city base map contours and recorded subdivision plat information in making such a determination. The building official's determination of original ground elevation at the time of subdivision development may be appealed to the building safety code board of appeals.

(d) The building official may grant a permit for the construction of a fence exceeding the height limits set forth in this section when:

- (1) Demonstrated as necessary to secure property from trespass; or
- (2) Used to protect adjacent residences and rights-of-way from a demonstrable hazard or nuisance; and
- (3) Approved by the building official, after a review of the documentation indicating the need for security or protection from a demonstrable hazard or nuisance;

Section 2. Figure 7-1, Standards for Circular Drives is hereby added as attached in Attachment A.

Section 3. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 16th day of August, 2010.

PASSED by the City Council this _____ day of _____, 2010.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2010.

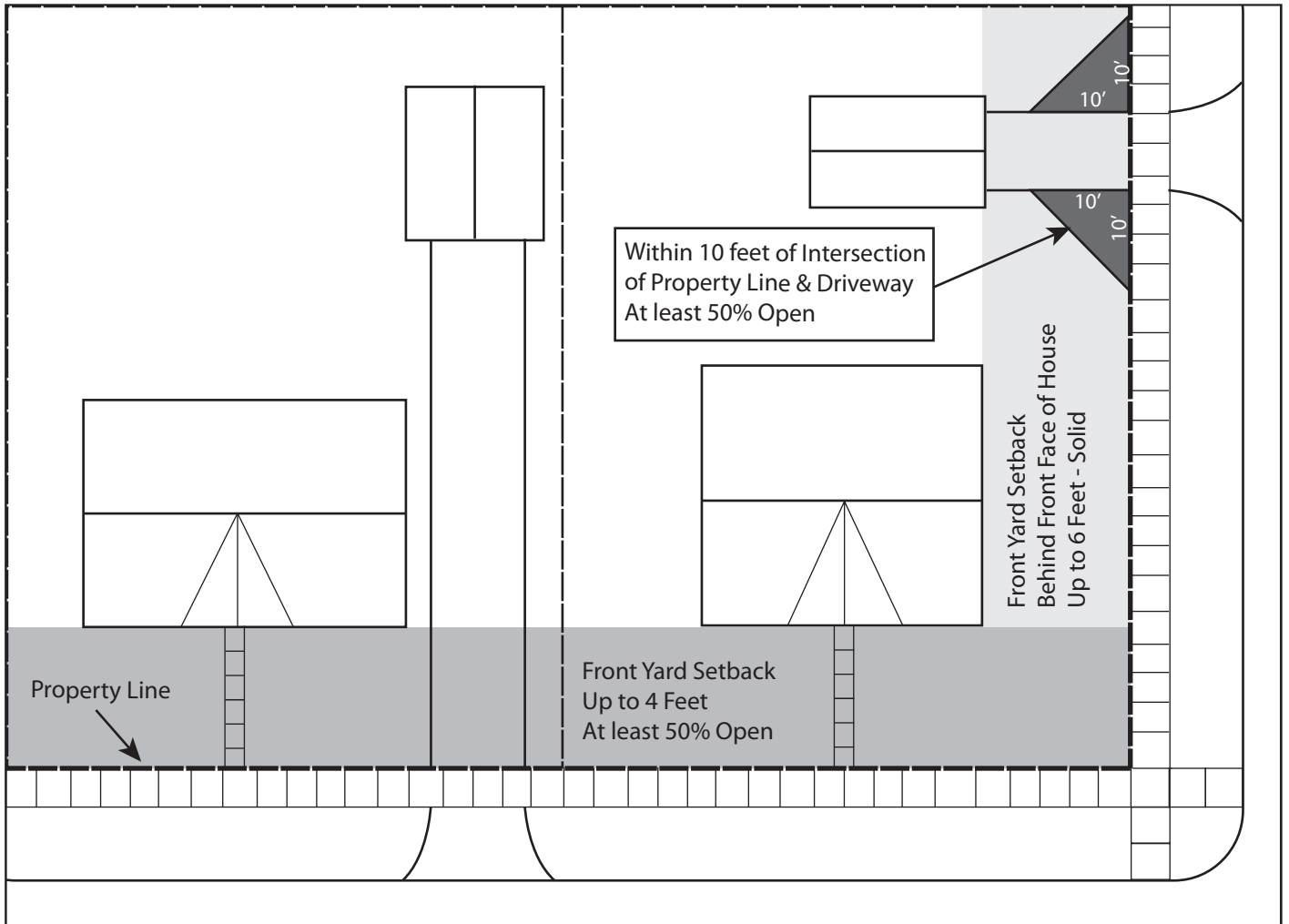
Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the ____ day of _____, 2010, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "An Ordinance Amending Chapter 7 of the Urbana City Code to Modify Fence Height and Opacity Standards" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____, including all of its attachments, was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2010, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2010.

Figure 7-1: Fence Height and Opacity Standards



MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: July 22, 2010

TIME: 7:30 P.M.

PLACE: Urbana City Building – City Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Jane Burris, Andrew Fell, Ben Grosser, Lew Hopkins, Michael Pollock, Marilyn Upah-Bant

MEMBERS EXCUSED: Tyler Fitch, Dannie Otto, Bernadine Stake

STAFF PRESENT: Robert Myers, Planning Manager; Jeff Engstrom, Planner I; Teri Andel, Planning Secretary

OTHERS PRESENT: no audience members present

NEW PUBLIC HEARINGS

Plan Case No. 2122-T-10: Multipart Text Amendment to the Urbana Zoning Ordinance, including limited revisions to Article II (Definitions), Table V-1 (Table of Uses), Article VI (Development Regulations), Table VI-3 (Development Regulations by District), Article VI (Development Regulations), Article VIII (Parking and Access), Table VIII-7 (Parking Requirements by Use), and Article XI (Administration); as well as adding Section VIII-8 regarding pedestrian access requirements.

Jeff Engstrom, Planner I, presented this case to the Urbana Plan Commission. He began by explaining the purpose of the proposed text amendment. He said that upon approval of the proposed text amendment, City staff will republish the Zoning Ordinance, including those Zoning Ordinance text amendments adopted over the past two years following the last republication. The proposed text amendment is in three parts.

The changes recommended in Part A are as follows:

PART A: Miscellaneous Text Changes

Article II. Definitions

- Remove the definition of *Area, Building*.

Article V. Use Regulations

- Amend V-2.D.7 to refer to footprint instead of building area.

Table V-1. Table of Uses

- Allow “Mobile Home in approved Mobile Home Park” to be permitted by right in the AG District.
- Allow Self-Storage Facility as a Conditional Use in the B-3 District.

Article VI. Development Regulations

- Rearrange Section VI-6 so that the general provisions (F and G) are at the beginning of the section.
- Move Screening Requirements for parking lots from Section VIII-3.F to Section VI-6.B and rename the section to “Screening of Off-Street Parking and Storage Areas”.
- Amend Paragraph VI-6.B.2 so that it does not state the required front yard setback is 15 feet and remove CCD.
- Add heading to Paragraph VI-6.C and D.
- Amend Table VI-3 to increase allowed FAR in the CRE District to 0.40.

Article VIII. Parking and Access

- Amend Section VIII-3.E to reference the proposed Figure VIII-8 regarding standards for circular access drives. Insert Figure VIII-8, Standards for Circular Access Drives.
- Amend and rename Section VIII-3.F so that it only addresses shade tree requirements.
- Amend Paragraph VIII-4.F.6 so that it does not state the required front yard setback is 15 feet and remove CCD.
- Restore language mistakenly removed from Paragraph VIII-5.A.
- Amend Table VIII-7, Parking Requirements by Use.

Mr. Engstrom asked if anyone had questions regarding the changes recommended in Part A of the proposed text amendment.

Mr. Hopkins pointed out that Figure VIII-4 doesn't clearly illustrate the parking requirements on page 2 of Exhibit A: Zoning Ordinance Proposed Changes. Mr. Engstrom explained that Figure VIII-4 does not show parking facing an alley. Basically parking “facing” an alley is when the headlights of parked cars point across the alley. In this case they need to be screened from intruding in residences.

Mr. Hopkins noted that there are three parcels illustrated on Figure VIII-4. The first parcel is zoned for retail use, and the second and third parcels are zoned multi-family residential. He does not understand why screening is required for the second parcel, and it is not clear whether three feet is the maximum or minimum screening height. Mr. Engstrom responded that City staff can revise the figure to clarify these issues.

Mr. Hopkins asked what is being superseded in Paragraph a) under *Design of Parking Screening, Materials, and Maintenance* on page 2 in Exhibit A. What is the effect of the proposed changes? Mr. Engstrom believes this refers to an older version of Chapter VII, and there have been many changes made over time. He will verify whether this reference is still needed.

Mr. Fell suggested that Planning staff check with the City's Engineering Division, because they have some visibility triangle requirements that overlap these requirements. Mr. Engstrom replied that he believes the intent was to limit parking screening to three feet. Mr. Hopkins stated that Article VI of Chapter 20 of the Urbana City Code already deals with this, but most people are not going to realize this. Mr. Engstrom stated that this language can be cleared up.

Mr. Hopkins wondered if there were diagrams in the Zoning Ordinance about loading docks. Mr. Engstrom said no. Mr. Hopkins asked what constitutes a loading dock. Does the loading dock include the parking space or just the dock itself? He recommended that Planning staff include a diagram of loading docks. Mr. Engstrom responded that this is explained in Part B of the proposed changes.

He then continued his presentation by explaining the changes being proposed in Part B of the text amendment. He mentioned that the purpose of the changes in Part B are to reduce land use conflicts between businesses with loading docks or loading spaces and nearby residences. The proposed changes are as follows:

PART B: Loading Area Standards

Article II. Definitions

- Add the definitions for *Loading Dock* and *Loading Space*.

Article VI. Development Regulations

- Change language in Paragraph VI-6.B.5 so that it does not refer to loading areas. Loading areas are to be addressed in the proposed Section VI-6.F.
- Add a new Paragraph VI-6.F, Screening of Loading Docks and cross-reference new requirements for loading docks in Section VIII-6.

Article VIII-6. Parking and Access

- Revise language in paragraph VIII-6.C to reference screening requirements for loading docks specified in Section VI-6.F.
- Specify that loading docks must be paved with a hard surface.
- Add requirements for the location and design of loading docks in Section VIII-6.G.

Mr. Engstrom asked if there were any questions on Part B.

Ms. Burris asked for clarification on whether the Planning staff is recommending a 75-foot setback from the actual loading dock to adjacent residences or 75-feet from the parking space at a loading dock. Mr. Engstrom stated that a loading dock is a type of loading space. Loading space is being defined as the area where the truck and trailer park. Ms. Burris stated that the language is what confuses her. Robert Myers, Planning Manager, suggested that they could change the wording to something like "loading spaces with docks" and "loading spaces without docks." Ms. Burris indicated this would be an improvement.

Mr. Hopkins questioned what the setback is being proposed for a "loading space." Mr. Engstrom stated that a loading space could be located anywhere in a regular parking lot area with the exception of the front-yard setback. Mr. Hopkins stated that a business could locate a fixed lift gate at the end of a parking space less than 75 feet away from the adjacent residences because a

fixed lift gate is different than a loading dock. He is not sure that the language is distinguished enough.

Mr. Grosser inquired about “loading zones.” Is there a definition of a “loading zone” in the Zoning Ordinance? Mr. Engstrom said no. Mr. Grosser asked if a “loading zone” would be a type of “loading space.” Mr. Engstrom explained that the proposed text amendment only addresses off-street loading. On-street loading in “loading zones” would be addressed in the Traffic Code.

Chair Pollock recalled that there were restrictions placed on loading/unloading at the Aldi site. Mr. Engstrom stated that Aldi’s is restricted to certain hours of the day for loading and unloading. Chair Pollock asked if this was one of the options in the proposed text amendment. Mr. Engstrom said yes. Chair Pollock inquired as to what kind of impact this would have on existing businesses. Mr. Engstrom replied that the proposed text amendment, if approved, would not be retroactive. Unless a business expands or does some reconfiguring of its loading space, the proposed text amendment would not affect existing businesses.

Mr. Grosser wondered if the proposed text amendment would have mitigated some of the issues and concerns that arose from the loading dock at Meijer on Philo Road. Mr. Engstrom responded by saying yes. City staff had Meijer in mind when creating the proposed changes for loading dock requirements even though if approved, the text amendment would not apply only to new loading spaces. He mentioned that Mr. Myers has been working with Meijer and the adjacent property owners to mitigate the issues they have.

Mr. Myers added that Meijer changed their delivery hours to avoid using their loading docks overnight. The Illinois Pollution Control Board has more stringent noise standards for the hours 10:00 p.m. and 7:00 a.m. This is recognized in the proposed ordinance as not using loading docks during those hours would be one measure to mitigate noise when close to residential. Admittedly this can be tricky because the term “shall not be utilized” may require interpretation. For example, if a truck is parked at a loading dock with a noisy refrigeration unit running all night, is the dock being utilized?

Mr. Engstrom continued with his presentation. He discussed the changes being proposed in the last part, Part C, which are as follows:

PART C: Fence Code Changes

- Fences in a required front yard shall be no more than 50% opaque, and shall be no taller than four feet.
- On a corner lot, fences behind the front face of the house will be allowed to be six feet tall and solid.
- Within ten feet of the intersection of a driveway and sidewalk, fences must be at least 50% transparent.
- The Building Official will be allowed to grant an administrative variance to the height limits if there is a demonstrated nuisance, hazard, or security concern.

Mr. Engstrom read the options of the Plan Commission and presented staff’s recommendation, which was as follows:

Based on the evidence presented in the written staff report, and without the benefit of considering additional evidence that may be presented during the public hearing, staff recommends that the Plan Commission recommend approval of the proposed multipart text amendment to the Zoning Ordinance in its entirety.

Mr. Grosser noticed a typo in Section 7-5 of Chapter 7, Fences. Paragraph (b) should read: “No ~~in or around~~ fence within a required side or rear yard, ...”. The word fence is missing.

Mr. Fell cited an instance where the property owner did not want the fence to be opaque, so they raised the fence supports up four inches and called it the top of the fence. This met the letter of the fence ordinance, but he wondered whether this was a loophole which needed to be addressed.

Chair Pollock, having noted that no one was present to speak at the public hearing, opened the hearing for Plan Commission discussion and/or motion(s).

Ms. Burris moved that the Plan Commission forward this case to the Urbana City Council with a recommendation for approval based on changes as requested during the presentation and discussion. Ms. Upah-Bant seconded the motion. Roll call was as follows:

Mr. Fell	-	Yes	Mr. Grosser	-	Yes
Mr. Hopkins	-	Yes	Mr. Pollock	-	Yes
Ms. Upah-Bant	-	Yes	Ms. Burris	-	Yes

The motion was approved by unanimous vote. Mr. Myers pointed out that this case would go before the Urbana City Council on August 16, 2010.