



TO: City Council and City Manager

FROM: J. Pat Rich, Development Coordinator *J. Pat Rich*

DATE: June 28, 2023

SUBJECT: Recommendation from Planning Commission Text Amendment Fence Ordinance

The City of Diamondhead has filed an application requesting a text amendment to clarify the responsibility of the homeowner in situations where fences that are placed in the easement must be removed to gain access to the easement. The proposed text amendment is to add "If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner." at the end of 9.8.C. The Case File Number is 202300274.

At its meeting on June 27, 2023, the Planning Commission voted 4-0 to recommend approving the Text Amendment.



Commissioner Bennett  
Commissioner Brewer  
Commissioner Debrow  
Commissioner Flowers  
Commissioner Harwood  
Commissioner Layel  
Commissioner Nicaud

## AGENDA PLANNING AND ZONING COMMISSION

Tuesday, June 27, 2023

6:00 PM CST

Council Chambers, City Hall  
and via teleconference, if necessary

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### Call to Order

### Statement of Purpose

1. May our decisions today be made with wisdom, careful deliberation and in the best interest of the City of Diamondhead. May we display patience and kindness in our dealings with each other and all who are in attendance and may any decisions made today promote the health, safety and welfare of the citizens of Diamondhead and the enhancement of the City as a whole.

### Pledge of Allegiance

### Roll Call

### Confirmation or Adjustments to Agenda

### Approval of Minutes

2. Approval of May 23, 2023 minutes.

### New Business

3. Public hearing on a proposed Text Amendment to the Fence Ordinance Article 9.8 – General Requirements and Restrictions. The proposed text amendment is to add “If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.” at the end of 9.8.C. The Case File Number is 202300274.
4. **Public Hearing** concerning the draft to revise Article 11 - Tree Ordinance. Presentation of draft for discussion and comments prior to offering a final recommendation for the revisions to the Tree Ordinance.

### Unfinished Business

### Open Public Comments to Non-Agenda Items

### Commissioners' Comments

### Communication / Announcements

5. The next City Council meeting is Wednesday, July 5, 2023.  
The next Planning Meeting is Tuesday, July 25, 2023.

The fee for each permit shall be established by the City of Diamondhead.

9.8. - GENERAL REQUIREMENTS AND RESTRICTIONS.

- A. Fences constructed on any lot, and specifically corner lots, will be subject to, and shall conform to the visibility range requirements contained in Section 5.4.3 Traffic Visibility across Corners of this ordinance. An additional clear zone may be required by the Zoning Administrator.
- B. No fence, guy wire, brace or post shall be constructed upon or extend over property that the City has control over, owns or has an easement over or under, except upon:
  - i. Underground drainage easements that contain non-pressurized storm sewer pipes if written permission is granted by all users.
  - ii. Underground sanitary sewer easements that contain non-pressurized pipes if written permission is granted by all users.
  - iii. Utility easements if written permission is granted by all users.
- C. No drainage easement, public or private, shall be fenced or obstructed in any manner, without prior written permission by all users. A gate shall be constructed in a fence along easements to allow ingress and egress for maintenance. If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.
- D. No fence shall exceed six (6) feet in height measured from the finished grade of the lot or property upon which the fence is being erected except as otherwise provided for in this Article. Moveable screening devices utilized to comply with the parking or storage regulations of this ordinance shall not be considered a fence for the purpose of these height restrictions.
- E. No fence erected within the City limits shall be electrically charged in any manner, without prior written permission by the City Council.
- F. No fence shall be constructed of barbed wire or other sharp, pointed material except on property utilized for agricultural purposes and is five acres or greater in size, or except as provided for in Subsection (H) of this Section.
- G. All fences shall have a minimum of one gate for emergency ingress and egress. The minimum width of such gate shall be three feet. A driveway approach shall be required for all vehicle gates.
- H. In C-1, C-2, T, and I zoning districts, fences shall not exceed six (6) feet in height, unless otherwise permitted by this ordinance, and may be constructed with angle arms at the top and such angle arms may be armed with barbed wire. Such arms shall not extend over public property, city, county, or state rights-of-way, easements or adjacent private property. Any property that requires a screening device shall conform to the general development ordinance. In the Public Facilities and Recreation (PFR) zoning district, fences shall not exceed six (6) feet in height unless otherwise permitted by the Zoning Administrator to meet the recreational needs and standards and for public safety concerns in parks which chain link may be utilized as the fence material.
- I. Construction material may be wood, vinyl, masonry, or other approved material except in the case where a screening device is required; in all such cases the City Zoning Ordinance requirements shall prevail. Chain-link shall not be used in areas that are zoned residential.
  - i. The finished side of the fence shall display toward the outside of the lot being fenced.
  - ii. All exposed structural members and cross bracing shall display internally on the lot being fenced.
- J. No fence shall be constructed in the required front yard building setback area of R-1, R-2, R-3, R-4, MH, C-1, C-2, T, I, PR, or PFR zoning districts. In the situation of a corner lot, each street-side frontage shall be considered as a front yard. In the case of the primary structure being set back further than the required front yard setback, no fence shall be constructed closer to the street than the building façade.

**NOTICE OF PUBLIC HEARING  
PLANNING AND ZONING COMMISSION  
DIAMONDHEAD, MS**

The City of Diamondhead will hold a public hearing on a proposed Text Amendment to the Fence Ordinance Article 9.8 – General Requirements and Restrictions. The proposed text amendment is to add “If fences, landscaping material, and other appurtenances installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner.” at the end of 9.8.C. The Case File Number is 202300274.

In accordance with Article 2.8.2, the City Council shall have jurisdiction with respect to all Text Amendments and Rezoning. The Planning Commission shall review and submit a recommendation to the City Council on Text Amendments and Rezoning.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, June 27, 2023, at 6:00 p.m.** The public hearing will be held at Diamondhead City Hall in the Council Chambers at 5000 Diamondhead Circle in Diamondhead, MS 39525. Interested members of the public are invited to attend. This meeting will also be live streamed for your convenience.

If you have any questions or comments or would like to review the application, you may contact the Building Department at the above address and/or at 228-222-4626.