



City of Dyersville
City Administrator's Office

APPLICATION FOR TEXT AMENDMENT

Chapter 165, Zoning Regulations — Section 165.09.11, Fence Regulations

This package supports a City-initiated text amendment to the Dyersville Code of Ordinances. Section 165.03.04(K)(i) authorizes the City Council to amend the text of the Zoning Ordinance on its own motion. Part One states what to enter on the official Zoning Approvals application form. Part Two is the supplemental narrative required by Section 165.03.04(K)(ii), including the proposed restated Code language and the basis for the amendment.

Part One — Application Form Entries

On the City of Dyersville Zoning Approvals application form, mark and enter the following:

Application type: Text Amendment.

Applicant: City of Dyersville, on its own motion under Section 165.03.04.K.i, as initiated by Resolution No. 58-26.

Owner: Not applicable. This is a text amendment of citywide effect, not a change to the zoning of any parcel.

Contact: Mick J. Michel, City Administrator, 340 1st Avenue East, Dyersville, IA 52040; 563.875.7724; mmichel@cityofdiersville.com.

General Location / Address: Not applicable — citywide text amendment.

Legal Description: Not applicable — no subject parcel.

Proposed Use / Existing Use / Site Summary: Not applicable. These fields apply to site plan, planned unit development, and sign applications, not to a text amendment.

Filing fee: Not applicable

Signature: Resolution 58-26



Part Two — Supplemental Narrative

1. The proposed amendment

The City proposes to repeal Section 165.09.11 of the Dyersville Code of Ordinances and reenact it in its entirety, so the complete fence regulations can be read as they will appear after adoption rather than as a single amended subsection. The only substantive changes are in subsection E, Permit, which: states that a fence permit is required for a permanent fence and not for a temporary, movable fence; sets location and height limits for temporary, movable fences in residential districts; confirms which other requirements continue to apply; and adopts the term “fence permit” the City already uses in practice. Subsections A, B, C, D, and F are carried forward unchanged, and subsection G is carried forward with the single change of using the term “fence permit.” The full restated text is set out in Part 4.

2. The reason for the amendment

Section 165.09.11(E) currently provides that no fence shall be constructed or reconstructed without a building permit. Read in isolation, that language appears to apply to every fence. But the building permit section it references, Section 165.03.04(D), defines construction as the commencement of site work and grading, and Section 165.04.03 defines a “structure” to exclude fences. The Code does not define “fence” and draws no distinction between a permanent fence and a temporary, movable one. The Code also calls the permit a “building permit,” though the City has long administered it as a fence permit.

This gap has practical consequences. The City reviews roughly fifteen to twenty fence permits a year, and the process works well for permanent fences set in the ground. But residents increasingly use light, movable fences for gardens and pet areas — fences that involve no digging and can be picked up and moved. Without a clear rule, these fences are treated inconsistently, and the question of whether a permit is even required can arise only after a fence is already in place. The amendment removes that uncertainty by writing a clear, administrable line into the Code, by setting limits suited to movable fences in residential districts, and by using the term the City already uses.

To maintain consistency in the meantime, the City Administrator has issued an interim administrative interpretation to guide enforcement while this amendment is considered. This amendment would make that standard permanent and place it directly in the Code, where residents and staff can find it.

3. Basis under the approval criteria

Section 165.03.04(K)(x) sets the criteria for a text amendment. Several of those criteria are written for map amendments — the rezoning of a specific parcel — and do not apply to a citywide text amendment of this kind; that is true of the criteria addressing consistency with the future land use map, compatibility with nearby properties, parcel dimensions, and the inventory of vacant land (criteria b through e). The remaining criteria are addressed below.

Criterion (a) — relationship to the Comprehensive Plan. This criterion is directed primarily at map amendments and is only weakly implicated by a text amendment of this

kind. Section 165.01.04 states the City's intent to keep Chapter 165 clear and in conformance with the Comprehensive Plan, and the amendment serves that intent by replacing an ambiguous provision with a clear one. The stronger basis for this amendment is criterion (f) and the changed-conditions purpose stated in Section 165.03.04(K) addressed below.

Criterion (f) — consistency with the purposes of the Ordinance. Section 165.01.05 states the purposes of the Zoning Ordinance, including to secure safety from fire, panic, and other dangers, to promote health and the general welfare, and to conserve the value of buildings and property. The amendment serves these purposes: it keeps the permit requirement focused on permanent fences, where review for sight lines, drainage, and easements matters most; sets sensible location and height limits for movable fences in residential districts; and relieves residents of a permit for light, movable fences that present none of those concerns. All other applicable fence requirements continue to apply.

The amendment also fits the stated purpose of the text-amendment authority itself. Section 165.03.04.K provides for a text amendment to address changing or changed conditions or to otherwise advance the public health, safety, and welfare of the City. The growth in the use of temporary, movable fences is a changed condition the current text did not anticipate, and a clear rule advances the public welfare by making the City's requirements predictable and fair.

4. Proposed restated text of Section 165.09.11

The City proposes to repeal Section 165.09.11 and reenact it to read in its entirety as follows. (The only substantive changes are in subsection E; subsections A through D and F are existing language carried forward, and subsection G is carried forward using the term "fence permit." The 180-day period is a proposed figure; the City may set a different period.)

165.09.11. Fence Regulations.

A. Corner Visibility. In any residential district, no fence or continuous planting shall be maintained within thirty (30) feet of any corner lot street line intersection, which would impair the sight distance of the operator of a motor vehicle.

B. Location. No fences are permitted in the public street right-of-way and shall be erected and maintained to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

C. Easements. Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the fence owner.

D. Materials. The following materials shall be required:

- i.** Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only.
 - ii.** Wood fences shall use standard building lumber only.
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iii. Barbed wire fences are not permitted except for in the A-1 and I-3 districts and are defined as any fence that includes in its material barbs, blades, razors, electric current, or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence.

iv. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

E. Permit.

i. Permanent fences. A fence permit, issued pursuant to Subsubsection 165.03.04.D, Building Permit, is required before any permanent fence is constructed or reconstructed. A permanent fence is a fence that is supported by posts, footings, or other members set into the ground, or that otherwise requires site work or grading to install.

ii. Temporary, movable fences. A fence permit is not required for a temporary, movable fence. A temporary, movable fence is a fence that is placed on the surface of the ground or held in place by stakes or supports that can be removed by hand, that requires no site work or grading to install, that can be relocated without disassembly of members set into the ground, and that remains in place no longer than one hundred eighty (180) consecutive days. A fence that remains in place longer than one hundred eighty (180) consecutive days, or that is installed in any manner described in paragraph i, requires a fence permit.

iii. Location, height, and other requirements for temporary, movable fences. In a residential district, a temporary, movable fence shall not be located in a front yard and shall not exceed four (4) feet in height in a side or rear yard; this requirement applies in place of the residential height schedule in Subsection 165.09.11.F.i. In all other districts, a temporary, movable fence is subject to the height limits of Subsection 165.09.11.F. A temporary, movable fence remains subject to the corner-visibility requirement of Subsection 165.09.11.A, the location and drainage requirement of Subsection 165.09.11.B, the easement requirement of Subsection 165.09.11.C, and the prohibition on barbed wire and other injurious fencing in Subsection 165.09.11.D.iii. The remaining materials requirements of Subsection 165.09.11.D do not apply to a temporary, movable fence.

F. Height.

i. Residential Districts. No fence or continuous planting over three (3) feet in height shall be maintained in any front yard; no fence or continuous planting over four (4) feet in height shall be maintained in any side yard; and no fence or continuous planting over eight (8) feet in height shall be maintained in a rear yard.

ii. Civic Uses in Residential Districts. The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within residential zoning Districts shall be eight (8) feet.

iii. Non-Residential Districts. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight (8) feet, except that fences shall not be permitted in the front yard of commercial and civic districts.

G. Appeals. Denial, revocation, or cancellation of a fence permit based on the provisions of this Subsection may be appealed to the Board of Adjustment, as set forth in Section 165.03.04(M), Appeals.

5. Process and next steps

Under Section 165.03.04(K), the City Administrator refers the application to the Planning and Zoning Commission within 30 days. The Commission holds a public hearing after legal publication and notice, and makes a recommendation to the City Council within 30 days of the hearing. The City Council then holds a public hearing and votes within 30 days of receiving the Commission's report. The amendment takes effect as an amendatory ordinance upon adoption and publication.

Because this is a text amendment, not a map amendment, the mailed notice to property owners within 200 feet required by Section 165.03.04 for map amendments does not apply.