

AN ORDINANCE OF THE CITY COUNCIL AMENDING THE MUNICIPAL CODE OF THE CITY OF REPUBLIC, MISSOURI BY AMENDING TITLE V "BUILDING AND CONSTRUCTION", CHAPTER 520 "FENCES AND WALLS", SECTION 520.020 "APPLICABILITY", SECTION 520.030 "DEFINITIONS", AND SECTION 520.040 "FENCES AND WALLS"

WHEREAS, the City of Republic, Missouri, ("City" or "Republic") is a municipal corporation and Charter City located in Greene County, Missouri, being duly created, organized, and existing under the laws of the State of Missouri; and

WHEREAS, the City routinely reviews its Municipal Code to ensure conformity with governing state and federal law, enhance clarity, and eliminate ambiguity, as well as to the further promote the City's mission, vision and values in the best interests of the City and its citizenship body as a whole; and

WHEREAS, the City has identified a need to amend the existing City Municipal Code to ensure conformity with changes in law relating to fences and walls.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REPUBLIC, MISSOURI, AS FOLLOWS:

Section 1: Title V "Building and Construction", Chapter 520 "Fences and Walls", is hereby amended by amending Section 520.020 "APPLICABILITY", Section 520.030 "Definitions", and 520.040 "Fences and Walls" to read as follows:

520.20 Applicability

- A. Jurisdiction. This Chapter shall apply to all real property within the corporate limits of the City of Republic, Missouri.
- B. Required. Any property owner or authorized agent who intends to construct, install, substantially alter, or replace a fence or wall, or to cause any such work to be done, **shall acknowledge the following:** ~~first make application to the City's building official and obtain the required permit.~~
 - 1. Prior to any fence or wall being constructed, substantially altered, or replaced a permit shall be obtained.**
 - 2. It is the responsibility of the property owner to obtain such permit.**
 - 3. Any agent who intends to obtain a permit must have authorization by the property owner.**
 - 4. It is the responsibility of the property owner to ensure that the fence is constructed no further than the lot lines of the subject lot or parcel of land.**
- C. Prohibited. No individual or entity performing any of the actions listed in Subsection (B) on behalf of the owner or authorized agent of property shall do so without first verifying with the owner or authorized agent that the required permit has been issued and is available for inspection by the City's building official during the duration of the work being performed. The individual or entity performing the work shall maintain a copy of the permit at the worksite for inspection purposes and shall be responsible for performing the work in compliance with the requirements of this Chapter and any other applicable provisions of the City Code.

- D. Exemptions. **If the fence meets one of the following conditions than it shall be exempt from the permitting process.**
1. All real property that is zoned as Agricultural (AG) or used as a public utility facility or other public use shall be exempt from the provisions of this Chapter.
 - 1. Property zoned as Agricultural (AG), that is 1.5 or more acres, and not located within a platted subdivision.**
 - 2. Property used as a public utility facility or other public use shall be exempt from the provisions of this Chapter.**
 - 3. Any fence being repaired or replaced with the same type and size of material and not disturbing the ground may be exempt. shall be exempt as long as the existing fence is not non-conforming. Such fences will be subject to review to ensure they are not non-conforming and do not encroach on easements or areas of special flood hazard.**
- E. Violation. Any Violation of this Section shall be punished pursuant to section **520.060**.

520.030 Definitions

For the purposes of interpreting the regulations found here, the certain words and terms shall have the following meanings:

AREA OF SPECIAL FLOOD HAZARD The land in a floodplain within a community subject to a one-percent or greater chance of flooding in any given year, as delineated in the Flood Insurance Rate Map.

BUILDING Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

BUILDING LINE The line established by laws, beyond which a building shall not extend, except as specifically provided by law.

BUILDING OFFICIAL The officer or other designated authority charged with the administration and enforcement of this Chapter or a duly authorized representative.

EASEMENT That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property.

- A. **ACCESS EASEMENT** — That portion of land or property reserved for present or future use by a person or agency to access utility or drainage easements or adjacent properties. The easement shall be permitted to be for use on the lot or lots.
- B. **DRAINAGE EASEMENT** — That portion of land or property reserved for present or future stormwater run-off. The easement shall be permitted to be for use under or on the lot or lots.
- C. **UTILITY EASEMENT** — That portion of land or property reserved for present or future utility, such as electric, gas, water, etc. The easement shall be permitted to be for use under, on or above a lot or lots.

ELECTRIC Any material comprising a fence or wall that carries an electric current intended to generate an electric shock upon contact, excluding fences comprised of individual wires specifically designed for conditioning domesticated animals owned as pets and nuisance-rodents to recognize certain boundaries.

FENCE An enclosure, wall or partition constructed of approved materials, which encloses or divides a lot, parcel or tract of land.

FENCE HEIGHT Any fence or wall measured from the finished grade to the top of said fence or wall.

FLOOD INSURANCE RATE MAP An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR The officer or other designated authority charged with the administration and implementation of flood damage prevention, pursuant to Chapter **420** of the Republic City Code.

LOT A parcel of land occupied or intended for occupancy by a use permitted in this Chapter, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by the ordinance and having its principal frontage upon a street or upon an officially approved place.

LOT LINE A line dividing one lot from another, or from a street or any public way.

OPEN VOIDS The space between the screening of fence that allows for visibility from adjacent properties and public way. When calculating open voids, posts should be included in the screening if they are wider than (4) feet and spaced less than (8) feet apart. Cross bars should also be included if they are wider than (4) feet.

OWNER Any person, agent, firm or corporation having a legal or equitable interest in the property.

PERMIT An official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

PERSON An individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PUBLIC WAY Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

REPAIR The substantial reconstruction or renewal of an existing fence or wall for the purpose of maintenance.

RETAINING WALL: A wall that that is not laterally supported at the top, and is intended to hold dirt, soil, or any other similar materials of backfill.

SIGHT-OBSCURING FENCE: Any fence with screening that exceeds more than 50 percent of the total structure and obstructs visibility from adjacent lots and public way.

STRUCTURE Anything constructed or erected, the use of which requires more or less ground.

WALL See "fence."

WALL HEIGHT See "fence height."

WORKMANLIKE Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD An open space, other than a court, unobstructed from the ground to the sky, on the same lot, which a building is situated.

- A. **FRONT** — The open space on the same lot with a residential or commercial building, between the front wall of the building and the line of that wall extended to the side property lines of the lot and the front property line of the lot nearest the street on which the building fronts.
- B. **REAR** — The open space on the same lot with a residential or commercial building, between the rear wall of the building and the line of that wall extended to the side property lines of the lot, and the rear property line.
- C. **SIDE (CORNER LOT ADJACENT TO STREET)** — The open space on the same lot with a residential or commercial building, between the sidewall of the building and the side property line of the lot nearest the adjacent public street and extending from the front yard to the rear yard.
- D. **SIDE (CORNER LOT)** — The open space on the same lot with a residential or commercial building, between the sidewall of the building and the side property line and extending from the front yard to the rear yard.
- E. **SIDE (REGULAR LOT)** — The open space on the same lot with a residential or commercial building, between the sidewall of the building and the side property line and extending from the front yard to the rear yard.
- F. **FRONT HALF OF SIDE** — The open space on the same lot with a residential or commercial building, between the sidewall of the building and the side property line and extending from the midpoint of the sidewall to the front yard.
- G. **REAR HALF OF SIDE** — The open space on the same lot with a residential or commercial building, between the sidewall of the building and the side property line and extending from the midpoint of the sidewall to the rear yard.

520.040 Fences and Walls

- A. Fences and walls constructed within the City limits shall comply with the provisions of this Section and be constructed in workmanlike fashion.
- B. Materials.

1. General. All materials, including fasteners, supports, ornamental decorations, etc., used in construction of fences and walls as defined herein, shall be resistant to the elements.
 2. Prohibited. The following materials shall be prohibited in the construction or use with fences and walls as defined herein:
 - a. Chain link (~~front yard only~~ **Only prohibited in front yards**);
 - b. ~~Metals, other than wrought iron or its synthetic substitutes;~~ **Non-galvanized Metals**;
 - c. Razor wire (concertina wire);
 - d. Barb wire;
 - e. **Chicken wire or any other similar material that is intended for agricultural purposes**;
 - e- ~~f.~~ **f.** Electric;
 - f- ~~g.~~ **g.** Cinder block; and
 - g- ~~h.~~ **h.** Tires, pallets or other material not specifically designed to be used as a fence.
 3. Exceptions.
 - a. Security fences located in commercial or manufacturing zoning districts may be comprised of chain link and barbed or razor wire and may be located in the front, side, and rear yards of the property, subject to approval by **Administrator of the BUILDS Department or their designee** ~~Community Development Department staff~~. All barbed or razor wire shall be placed no less than seven (7) feet above the finished grade.
- C. Construction Requirements.
1. Fences and walls can be installed up to the property line; but all posts, bases and other structural parts shall be located completely within the boundaries of the lot on which it is located.
 2. All fences and walls erected adjacent to a public street shall have the finished side of the fences facing toward the street.
 3. In residential zoning districts, fences and walls located in the front yard shall be constructed **in a manner that provides visibility and allows for safe traversal of public way and access to adjacent properties** ~~so as to have a four-inch, maximum open spaced, picketed type pattern.~~ **To provide visibility, fences shall not be sight-obscuring. A non-sight-obscuring fence shall have an allotted amount of open voids at 50% or greater. The following calculations will determine the percentage of open voids:**
 - a. **Length of Fence X Height of Fence = Total Square Footage.**
 - b. **Square Footage of Sight-obscuring Material = Screening Square Footage.**

- c. Total Square Footage – Screening Square Footage = Square Footage of Open Voids.
 - d. Square Footage of Open Voids / Total Square Footage X 100 = Percentage of Open Voids.
4. The owner and/or occupant of the property shall maintain his or her fence or wall in good condition at all times. Fences or walls found to be in a deteriorated condition and/or in need of repair shall be subject to the provisions of Chapter **425** of the Republic City Code.
 5. Fences or walls shall not be installed in or through a stormwater detention basin, retention pond, drainage easement or area of special flood hazard, unless such fences or walls are formally authorized by the City's Floodplain Administrator through the issuance of a permit.
 6. Fences or walls installed in or through a utility easement shall be installed at the property owner's risk, and the property owner shall be responsible for the cost of repair to the fence or wall removed or damaged by a utility company or the City exercising its rights under the terms of the easement.
 - ~~7. Fences or walls erected at the intersection of streets or driveways shall not be located within a reserved sight triangle, as indicated by Section 405.910 of the Republic City Code.~~
 - ~~8. Exceptions to height requirements in the side yard may be granted by City staff responsible for plan review where irregular sidewalls or other unusual circumstances exist.~~
 - ~~9.~~**7.** Any application for the construction of a fence or **(non-retaining)** wall that is proposed to exceed seven (7) nominal feet in height, ~~in residential zoning districts~~, shall be constructed in accordance with the design criteria listed below; or by an alternate design prepared by a design professional registered in the State of Missouri; or by a design deemed acceptable by the Building Official.
 - a. Fence posts shall be a minimum of six-inch-by-six-inch nominal wood; and
 - b. Minimum fence post pier shall be twelve (12) inches in diameter with a minimum depth of thirty-six (36) inches into undisturbed soil; and
 - c. The post shall be set into the post pier a minimum of thirty (30) inches; and
 - d. Fence posts shall be a maximum of six (6) feet on center; and
 - e. Fence rails shall be a minimum of three (3) each two-inch-by-four-inch nominal wood; and
 - f. Maximum fence height shall be eight (8) feet.
 - ~~10.~~**8.** All fence or wall construction with electric materials that carry an electric current intended to generate an electric shock upon contact shall install warning signage on the fence. There shall be at least one (1) clearly visible warning sign located on the exterior of each side of the fence and every twenty-

five (25) feet of the entire length of the portion of the fence comprised of electric materials as described above. Each warning sign shall clearly and legibly indicate that an electric fence is in use and have an area no less than twenty-five (25) square inches on either side.

- ~~11.~~ **9.** All fences or walls constructed with electric materials that carry an electric current intended to generate an electric shock upon contact shall be located completely within the boundaries of a separate fence or wall composed of non-electric materials and be installed at a height no higher than the height of the separate fence or wall which encloses it.
- ~~12.~~ **10.** In no case shall a fence encroach into a public space or into a sidewalk. All fences shall remain a minimum of twelve (12) inches from the closest sidewalk edge.
- ~~13.~~ **11.** In no case shall a fence enclose or restrict access to a water meter.
- ~~14.~~ **12.** ~~In cases where fences are not erected on property lines due to easement or other restrictions, a pedestrian gate shall be installed within the fence that allows access to the unenclosed space for maintenance activities.~~

D. Gates

- 1. In cases where fences are not erected on property lines due to easement or other restrictions, a pedestrian gate shall be installed within the fence that allows access to the unenclosed space for maintenance activities.**
- 2. Gates that are 10 feet in width or wider installed on a fence shall be easily accessible to a driveway. The access path shall not obstruct, encroach upon, or damage any curb or gutter, drainage easements, or any other utilities located in the public right-of-way.**

E. Retaining Walls

- 1. Any application for the construction of a retaining wall proposed to support backfill of a height greater than four (4) nominal feet shall be prepared by a design professional registered in the State of Missouri.**

~~D. Fence And Wall Height Requirements.~~

F. Maximum Allowable Fence and Wall Height

Maximum Allowable Fence/Wall Height		
Fence Location	All Residential Zoned Districts (R1-L, R1-M, R1-MH, R1-H, R1-Z, R-2, R-3)	All Commercial Zoned Districts (C-0, C-1, C-2, M-1, M-2)
Front yard and front half of side yard	48 inches	12 feet
Rear yard and rear half of side yard	8 feet	12 feet

- 1. Fences constructed in the front yard and the front half of the side yard of a residential zoned district shall have a maximum fence/wall height of four (4)**

nominal feet or as determined by the Administrator of the BUILDS Department or their designee.

2. Fences constructed in the rear yard and the rear half of the side yard of a residential zoned district shall have a maximum fence/wall height of eight (8) nominal feet or as determined by the Administrator of the BUILDS Department or their designee.
3. Fences constructed in a C-0, C-1, C-2, M-1, and M-2 district shall have a maximum fence/wall height of twelve (12) nominal feet.

G. Fences Erected Within a Sight Visibility Triangle

1. Sight-obscuring fences or walls erected at the intersection of streets or driveways shall not be located within a reserved sight triangle, as indicated by the table below.
2. The following fences are deemed non-sight-obscuring and allowable within the sight visibility triangle:
 - a. Fences that do not exceed 50 percent screening.
 - b. Fences that do not exceed (4) nominal feet in height.

SIGHT TRIANGLE REQUIREMENTS

	<u>Driveway/Sidewalk</u>	<u>Local</u>	<u>Collector</u>	<u>Arterial</u>
<u>Driveway/Sidewalk</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>30' x 30'</u>
<u>Local</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>30' x 30'</u>
<u>Collector</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>10' x 10'</u>	<u>30' x 30'</u>
<u>Arterial</u>	<u>30' x 30'</u>	<u>30' x 30'</u>	<u>30' x 30'</u>	<u>60' x 60'</u>

EXPLANATION(S) - Matter in **bold underlined** text in the above is added language. Matter in ~~strikethrough~~ text in the above is deleted.

- Section 2:** All other Sections of the Municipal Code of the City of Republic, Missouri, not specifically referenced in this Ordinance shall remain unmodified and in full force and effect.
- Section 3:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.
- Section 4:** The City Administrator or his/her designee, on behalf of the City, is authorized to take the necessary steps to execute this Ordinance.
- Section 5:** The WHEREAS clauses above are specifically incorporated herein by reference.
- Section 6:** The provisions of this Ordinance are severable, and if any provisions hereof are declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this Ordinance.

Section 7: This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Republic, Missouri, this _____ day of _____, 2023.

Attest:

Matt Russell, Mayor

Laura Burbridge, City Clerk

Approved as to Form:



Megan McCullough, City Attorney