

# RECORD OF ORDINANCES

Ordinance No. 3736

Passed: October 11, 2022

**AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 154: ZONING CODE OF THE CODE OF ORDINANCES OF WEST CARROLLTON, SECTION 154.11.02, FENCING AND WALL REGULATIONS, TO PERMIT FENCES IN THE FRONT YARD OF PROPERTIES IN INDUSTRIAL AND COMMERCIAL ZONING DISTRICTS AND TO MAKE OTHER BEST PRACTICES AMENDMENTS.**

**WHEREAS**, an application has been filed by the City of West Carrollton proposing text amendments to Chapter 154: Zoning Code of the Code of Ordinances of the City of West Carrollton, Section 154.11.02, Fencing and Wall Regulations, to permit fences in the front yard of properties in industrial zoning districts and to make other best practices amendments; and

**WHEREAS**, a public hearing was held on September 15, 2022 by the West Carrollton Planning Commission, at which time all people who wished to testify gave their comments, and the Planning Commission recommends approval of the proposed amendments; and

**WHEREAS**, notification of a public hearing before the City Council regarding this matter was properly advertised in a newspaper of general circulation on August 25, 2022 in accordance with Section 154.08.01(D)(1) of the Zoning Code; and

**WHEREAS**, the proposal and meeting notice was posted on the City's website; and

**WHEREAS**, a public hearing was held by the West Carrollton City Council on September 27, 2022, at which time all people who wished to testify gave their comments; and

**WHEREAS**, Sections 154.05.05(C) of the West Carrollton Zoning Code specifies circumstances which justify amending the Zoning Code; and

**WHEREAS**, the City of West Carrollton has determined that adoption of the proposed amendments is in the best interest of the citizens of West Carrollton to preserve and enhance property values and protect the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, COUNTY OF MONTGOMERY, STATE OF OHIO:**

**SECTION I.** That the City Council makes the following findings of fact with respect to the proposed amendments to Chapter 154: Zoning Code of the Code of Ordinances of the City of West Carrollton, Section 154.11.02, Fencing and Wall Regulations, pursuant to

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case T-22-1, said findings of fact based upon criteria found within Section 154.05.05(C) of the Zoning Code:

- a) Currently fences are not permitted in the front yard of industrial districts, as provided in Section 154.11.02(D) Fencing and Wall Regulations.
- b) Many industrial properties in the city and other communities currently have fences in the front yard, as evidenced by photographs provided by staff.
- c) Best practices research indicates that most other communities in the area permit fences in the front yard of properties of industrial districts, including Beaver Creek, Centerville, Kettering, Miamisburg, Miami Township, and Springboro.
- d) It would seem to be reasonable that an industrial operation might want to entirely enclose its property with perimeter fencing.
- e) Staff reviewed this proposal with City Council on July 26, 2022 and staff was authorized to come forward with a formal proposal.
- f) The proposed amendments can be justified on the grounds that the change is in conformance with the Comprehensive Plan of the city. The proposed amendments to the Zoning Code support the goal of the *2009 West Carrollton Sustainable Comprehensive Plan* to create additional flexibility in land use controls, thereby enhancing property values and facilitating private investment. The proposal also supports the overarching goal to stimulate economic development, including the retention and expansion of existing businesses and the re-use of vacant buildings and sites.
- g) The proposed amendments can be justified on the grounds of substantial or significant change in area conditions. Due to significant City investment as well as market forces, West Carrollton is experiencing significant redevelopment of property with the potential for even more significant development in the future. This development will likely take the form of mixed-use development which will need as much flexibility in land use controls as possible.

**SECTION II.** That Chapter 154: Zoning Code of the Code of Ordinances of the City of West Carrollton, Section 154.11.02, Fencing and Wall Regulations, be and hereby is amended to read as indicated in Exhibit A, attached hereto.

**SECTION III.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION IV.** That this Ordinance shall take effect from and after the earliest period allowed by law.

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Attest: Tom Rully  
Clerk of Council

[Signature]  
Mayor

Effective Date: November 11, 2022

## ORDINANCE 3736

### EXHIBIT A

#### § 154.11.02 FENCING AND WALL REGULATIONS.

All fences and walls shall be in conformance with the following provisions, except as otherwise required for screening under the provisions of this chapter.

HISTORY: (Formerly § 154.179(K))

(A) Definitions. For the purpose of this section, the following words and phrases shall have the following meanings ascribed to them respectively:

(1) Corner side yard. On a corner lot, the area between the principal building and the side lot line which abuts a public street, extending from the front line of the building to the rear line of the building, is considered to be the corner side yard.

~~—(2) Fence. A barrier erected to enclose, screen or separate any premises or part of any premises from adjoining premises. For the purposes of this section, walls, hedges, shrubbery or other natural vegetation, and trellises or other similar structures when installed in such a manner shall be included within this definition.~~

~~—(3) (2) Fence height. The vertical distance from the lowest adjoining finished grade, either natural or filled, to the topmost portion of the fence. Fence posts or ornamental projections may exceed the maximum permitted fence height by up to six (6) inches.~~

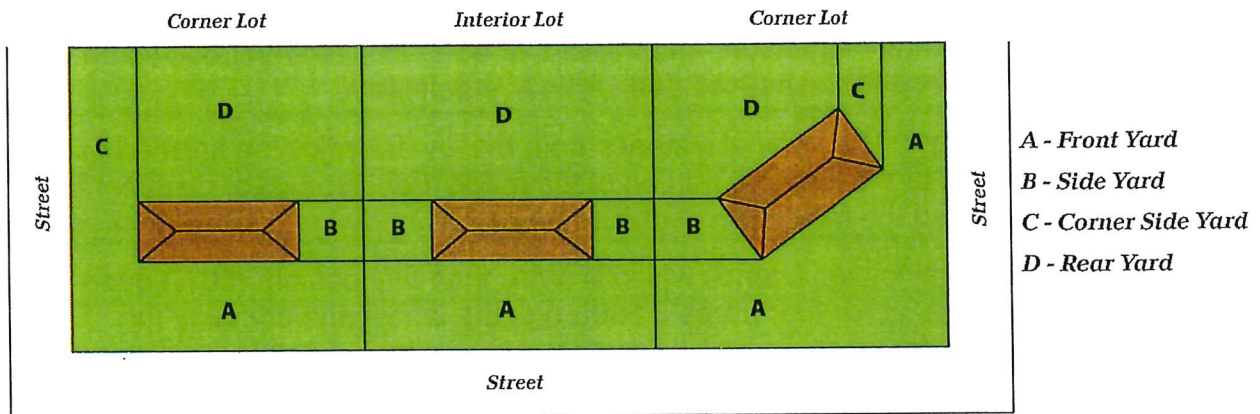
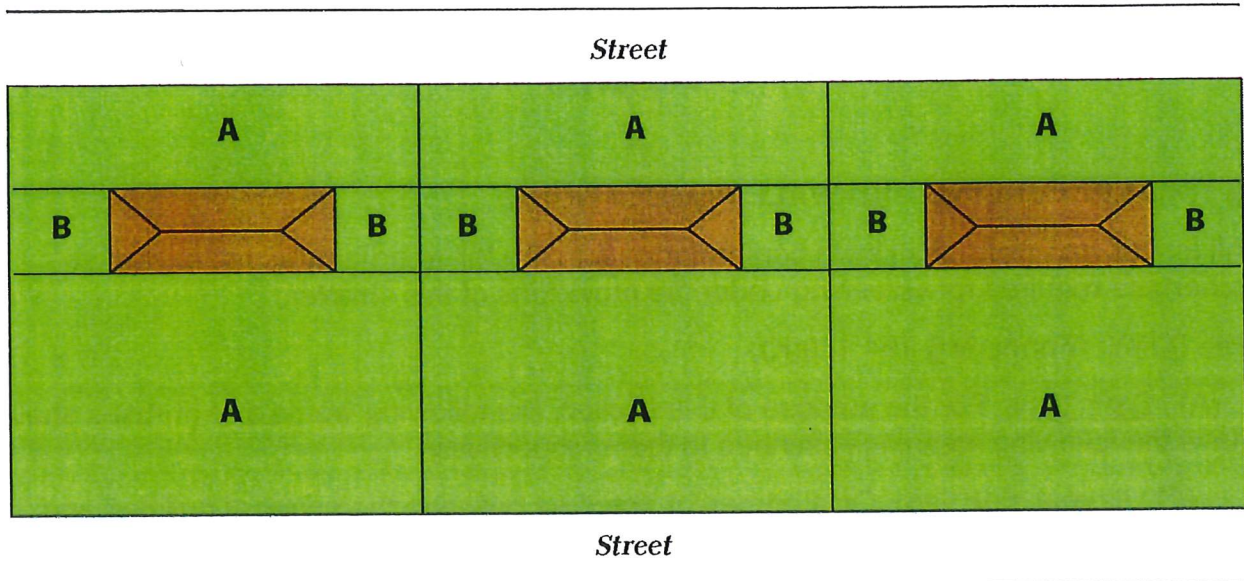
~~—(4) (3) Ornamental fence. A fence which is more than fifty percent (50%) open that is intended to decorate, accent, or frame a feature of the landscape primarily for aesthetic appeal, and does not serve the purpose of enclosing, screening, or separating premises or part of any premises from adjoining premises.~~

(4) Perimeter fence. A barrier erected to enclose, screen or separate any premises or part of any premises from adjoining premises, but not including hedges, shrubs, trees, or other natural vegetation.

~~—(5) Required front yards. The minimum area of open space extending along the full frontage of a lot measured from the street right of way line to the closest permitted point of a building or structure, as required within each zoning district. This area is also referred to as the required building setback. ('70 Code § 1319.01; amend. Ord. 2170, passed 12-11-79; amend. Ord. 2890, passed 2-9-93)~~

(5) Yards. Unless otherwise defined in this section, all yards shall be defined as provided in section 154.02.01 Definitions of this Zoning Code.

(6) Yard types illustration. The following graphics are intended to illustrate the different yard types as defined above.



(B) Classification of Fences. Fences are classified as follows for the purposes of this section:

Class 1: Masonry walls.

Class 2: Iron, wood or vinyl pickets and wood split rail (more than 50% open).

Class 3: Wood, vinyl, iron, aluminum, or other commonly-used fencing materials (more than 80% 50% open).

Class 4: Wood, vinyl, iron, aluminum or other commonly-used fencing materials (less than 80% 50% open).

Class 5: Chain link or similar woven wire, excluding chicken wire (more than 80% open).

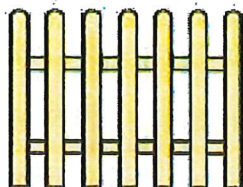
Class 6: Barbed wire or sharp-pointed fences.

Class 7: Hedges, shrubbery, or similar natural vegetation.

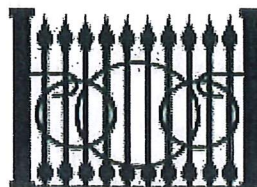
(Ord. 2890, passed 2-9-93; amend. Ord. 2952, passed 9-27-94)



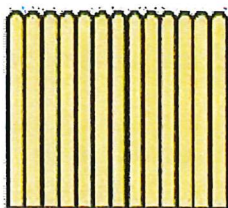
Class 1



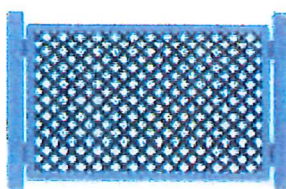
Class 2



Class 3



Class 4



Class 5



Class 6

(C) Permit, Plan and Inspection.

(1) In any district, a fence permit is required to erect, move, or replace an existing perimeter fence or repair twenty-five percent (25%) or more of the length of an existing perimeter fence. No perimeter fence shall be installed unless and until a permit for that purpose shall have been issued by the Building Inspection Division city. Application for such permit shall be made in writing and shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence is to be installed; the exact location, height, type of material and length of the proposed fence; and the location of all buildings on the lot. The permit fees for fence permits shall be as set forth in Section 37.27 of Chapter 37, General Fee Schedule, of the Codified Ordinances of the City of West Carrollton.

(2) Perimeter fences are permitted to be constructed on property lines and if not on the property line, a minimum setback of two (2) feet or greater from the property line shall be provided to allow for maintenance of the fence and yard area falling outside the fenced area. It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the Building Inspector city and the fence does not encroach on another lot or parcel of land. The city shall conduct an inspection to determine that the fence is constructed in accordance with the plans submitted for a permit as outlined in subsection (C)(1) hereof; provided, however, that the issuance of the permit by the city shall not be construed to mean the city has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed imposed on him herein. (Ord. 3346, passed 7-10-07; amend. Ord. 3436, passed 12-22-09.)

(3) Ornamental fences not exceeding 42 inches in height shall not require a permit or inspection.

(4) Fences may be located within utility easement areas. However, the issuance of a permit by the City shall not be construed to mean the City has determined that proper permission has been granted from the utility provider, nor shall it relieve the property

owner of the duty imposed herein. Responsibility for installing a fence within a utility easement shall rest solely with the property owner.

(D) Location and Height.

(1) Subsection (E), Intersection Visibility, applies to all fences.

(2) Ornamental fences up to 42 inches in height may be located in any yard.

(3) Residential and Agricultural Districts. Fences and walls within any Residential (R), Office Residential (O-R), Office (O), Limited Development (L-D), Heritage (H), Residential Planned Unit Development (R-PUD), or Agricultural (A) Zoning District shall conform to the following requirements:

(a) Required front yards. Class 2 and Class 3 fences may be erected up to a maximum height of 42 inches and Class 7 fences may be planted and maintained up to 30 inches, except on corner lots, where approval must be obtained by the Service Director based on the relation of the fence to the intersection. These fences may be located up to and on the front property line, subject to the requirements of subsection (E).

(b) Side, corner side, or rear yards. Class 1, 2, 3, 4, or 5 or 7, fences may be erected up to a maximum height of 72 inches. Fences in side or rear yards may be located up to and on the side or rear lot line, subject to the requirements of Subsection (E). Fences in corner side yards may not be located closer than three (3) feet to the corner side lot line, except where the lot does not meet minimum lot frontage requirements, in which case the fence may be located up to and on the corner side lot line, subject to the requirements of Subsection (E).

(4) Commercial Districts. Fences and walls within Commercial (B), City Center (CC), Olde Downtown (OD), and Planned Unit Development (PUD) Zoning Districts including those associated with all conditionally permitted uses shall conform to the following requirements.

(a) Required front yards. No fences shall be permitted in the required front yard. Class 1 and Class 3 fences may be erected up to a maximum height of 42 inches.

(b) Side, corner side, or rear yards. Class 1, 2, 3, 4, or 5 or 7, fences may be erected up to a maximum height of 72 inches. Fences in side or rear yards may be located up to and on the side or rear lot line, subject to the requirements of Subsection (E). Fences in corner side yards may not be located closer than three (3) feet to the corner side lot line, except where the lot does not meet minimum lot frontage requirements, in which case the fence may be located up to and on the corner side lot line, subject to the requirements of Subsection (E). In the case of walls required to screen outdoor storage areas, the wall height shall be one (1) foot higher than the material to be screened, but shall not exceed twelve (12) feet.

(5) Industrial Districts. Fences and walls within Business Park and Manufacturing (M) Zoning Districts including those associated with all conditionally permitted uses shall conform to the following requirements:

(a) Required front yards. ~~No fences shall be permitted in the required front yard.~~ Class 1 and Class 3 fences may be erected up to a maximum height of 72 inches.

(b) Side, corner side, or rear yards. Class 1, 2, 3, 4, 5, or 6 or 7, fences may be erected up to a maximum height of 96 inches. Fences in side or rear yards in these districts may be located up to and on the side or rear lot line, subject to the requirements of Subsection (E). Fences in corner side yards in these districts may not be located closer than three (3) feet to the corner side lot line, except where the lot does not meet minimum lot frontage requirements, in which case the fence may be located up to and on the corner side lot line subject to the requirements of Subsection (E). In the case of walls required to screen outdoor storage areas, the wall height shall be one (1) foot higher than the material to be screened, but shall not exceed twelve (12) feet.

(Ord. 2170, passed 12-11-79; amend. Ord. 2890, passed 2-9-93) ~~Penalty, see § 150.99(D))~~

(E) Intersection Visibility. On corner lots no fence shall be erected, placed, or maintained within the public right-of-way or within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines 50 feet from the point of intersection of the street lines unless reviewed and approved by the Service Director.

(Ord. 2170, passed 12-11-79; amend. Ord. 2890, passed 2-9-93) ~~Penalty, see § 150.99(D))~~

(F) Construction Requirements.

(1) A fence that is supported by posts on the side of the fence shall be erected so that exposed posts and supporting cross-elements face the interior of the property and the finished surface faces outward to adjoining adjoining properties or public rights-of-way.

(2) Fences shall be uniformly constructed in a workmanlike manner of commonly used fencing material, such as including but not limited to wood, chain link, aluminum, vinyl, masonry walls, or wrought iron, and shall not consist of discarded materials or other materials such as corrugated metal, garage doors or drywall, or any materials resembling these. (Ord. 2890, passed 2-9-93) ~~Penalty, see § 150.99(D))~~

(3) Prohibited materials: The following materials shall not be used for any fence or wall:

(a) Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence;

(b) Corrugated and galvanized steel or metal sheets;

(c) Plywood, pallets, particle board, paper, visqueen plastic, plastic tarp, or similar material;

(d) Wire farm-style fencing outside of the A Agricultural District; and



(e) The use of poured concrete, concrete masonry unit, metal panel, corrugated metal, rebar or other similar product where the surface of such material is exposed and visible from any direction, shall be prohibited unless specifically permitted elsewhere in this section;

(f) Any other material not described in this section which is deemed by the city to be inconsistent with the standards of this section.

(4) The bottom of all fences shall be kept six inches above drainage swales or watercourses, and shall not cause damage to underground utilities. Any changes to existing grade shall require approval by the City Engineer.

(5) If a new fence is being constructed on the same property as an existing fence, the existing fence shall be removed in its entirety. This provision is meant to prevent a situation where a double fence row exists on an individual property.

(6) No fence shall be erected where it prevents or unreasonably obstructs the use of adjacent property, nor shall a fence be erected where it would obstruct or prevent the continued safe use of an existing driveway or other means of access to adjacent property. In enforcing this provision, the city may require a fence to be set back a minimum distance of not more than two feet from a driveway or property line in order to provide for the safe passage of pedestrians, bicyclists or vehicular traffic or other safety related concerns.

(7) Any Class 2 fence shall be permitted to have wire mesh installed on the interior side of the fence for a height of up to 42 inches. Such wire mesh, or similar material shall have openings at least one square inch in size, shall be factory coated with vinyl or a similar material and shall be a dark color such as black, green, or brown.

(8) Class 3 and 4 aluminum or iron fences must be painted black or another earth-tone color; bare iron or aluminum is prohibited.

(9) All Class 1 fences used for screening purposes shall be constructed of architecturally-compatible brick or decorative stone.

(10) Class 5 fences shall not have slats, fabric, or other screening attached.

**(G) Maintenance Requirements.**

(1) All fences shall be constructed and maintained straight, plumb, structurally sound and of an even height along its length, except such deviations as required by grade. Such fences shall not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports or nonuniform height.

(2) Missing boards, pickets or posts shall be replaced with material of the same type, color and quality.

(3) Vegetation adjacent to the fence must be maintained cut and trimmed as appropriate. Any grounds between such fences and property lines shall be maintained at all times and kept free from growing or noxious vegetation.

**~~(G)~~(H) Recreational Facilities.**

(1) Swimming pools. Swimming pools shall be surrounded by a fence not less than five feet in height with the widest opening dimension not exceeding four inches, and all doorways and entrances into the pool area shall be equipped with gates of equal height with the fence, and shall be provided with latches. This requirement shall not apply to above ground pools. (Ord. 2170, passed 12-11-79; amend Ord. 2890, passed 2-9-93) ~~Penalty, see § 150.99(D))~~

(2) Tennis courts. A fence enclosing a tennis court may have a maximum height of twelve (12) feet, provided any part of such fence above six (6) feet must be constructed of an open material that minimally obstructs vision.

~~(H)~~(I) Barbed Wire Fences. In districts where permitted, the barbed wire or sharp-pointed sections of fences shall not be lower than a height of 96 inches. The barbed wire must face away from the side of the fence that fronts a sidewalk or public way. (Ord. 2170, passed 12- 11-79) ~~Penalty, see § 150.99(D))~~

~~(I)~~(J) Electrified Fences. Electrified fences may only be erected upon approval of the Board of Zoning Appeals. Authority to erect an electrified fence may be granted only on proof being shown that no harm to the public will result and that there is a definite and unusual situation which requires such a fence. (Ord. 2170, passed 12-11-79) ~~Penalty see § 150.99(D))~~

~~(J)~~(K) Height of Fences Atop Retaining Walls. A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within the applicable district. These measurements shall be made at the point of the finished grade. (Ord. 2170, passed 12-11-79) ~~Penalty, see § 150.99(D))~~

~~(K)~~(L) Fences Around Trash Receptacles.

(1) All trash receptacles, including dumpsters and grease containers, sized two (2) cubic yards or larger which are visible from the public right-of-way shall be enclosed by a view-obscuring fence with a gate or gates and both the fence and a gate or gates shall not be less than six feet in height.

(2) A fence shall not be required for trash receptacles meeting any one of the following conditions:

- (a) Not visible from the public right-of- way.
- (b) Located on industrial property which does not abut residential property.
- (c) Used solely for and as part of an industrial manufacturing process.

(3) A gate shall not be required if the fence opening is not visible from the public right-of-way and is not visible from residential property.

(4) All fences and gates shall meet the design standards and building material specifications of the Planning and Building Department, but in no case shall chain link fence be permitted. (Ord. 3404, passed 1-27- 09)

(M) Temporary Fencing. The city shall have the ability to waive the requirements for fencing as outlined in this section to accommodate temporary fencing needed during active construction activities or special events taking place on the lot in which the temporary fencing is being requested.

—(L)(N) Fences or Walls Required by the Planning Commission or the Board of Zoning Appeals. The Planning Commission or the Board of Zoning Appeals may, when acting within their review procedures, exempt a fence from the provisions of this section when it is determined that the health, safety, or general welfare would not be impaired by such an exemption. (Ord. 2170, passed 12-11-79)

—(M)(O) Variances. The Board of Zoning Appeals shall hear any request for a variance to the requirements of this section as provided in § 154.06.01. An administrative setback variance may also be granted as provided in § 154.05.03(C).

(Ord. 3459, passed 11-9-10)