



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

**Wednesday, June 8, 2022
7:00 PM**

**Montrose Community Center
200 Center Avenue South
Montrose, Minnesota 55363**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes
 - A. May 18, 2022 Planning and Zoning Commission Meeting Minutes
6. Old Business
7. New Business
 - A. Fence Ordinance – Chapter 1020 Discussion and Draft Ordinance
 - B. Updates from City Planner
8. Next Meeting
 - A. Wednesday, July 13, 2022 to be held at the Montrose Community Center – 7:00 p.m.
9. Adjournment

*** * Please note that a quorum of the City Council may be present at
the Planning and Zoning Commission Meeting. * ***

City of Montrose
 Planning and Zoning Commission Meeting
 Montrose Community Center
 200 Center Avenue South
 Wednesday, May 18, 2022
 7:00 P.M.

1. CALL TO ORDER

Pursuant to call and notice the Montrose Planning and Zoning Commission met in rescheduled Regular Session on Wednesday, May 18, 2022 at 7:00pm.

Planning and Zoning Commission Chair, Mr. Charles Smallwood, called the meeting to order at 7:01pm.

2. ROLL CALL

Present: Commissioner Charles Smallwood
 Commissioner Sylvia Henry
 Commissioner Catherine Neiberger
 Commissioner Roger Fraumann
 City Council Liaison Sam Solarz

Absent: Commissioner Shawn Cuff

Staff Present: Ms. Jessica Bonniwell, City Administrator
 Mr. Bob Kirmis, City Planner

3. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

Commissioner Neiberger motioned to approve the May 18, 2022 Planning and Zoning Commission Meeting Agenda as presented. Commissioner Henry seconded the motion. Motion carried 4-0.

5. APPROVAL OF THE MINUTES

Commissioner Henry motioned to approve the February 9, 2022 Planning and Zoning Commission Meeting Minutes as written. Commissioner Neiberger seconded the motion. Motion carried 4-0.

6. OLD BUSINESS

A. No Old Business

7. NEW BUSINESS

A. Fence Ordinance – Chapter 1020 Discussion

Ms. Bonniwell stated that staff had received requests to have Planning and Zoning review the fence ordinance to see if any restrictions could be changed such as height and setback requirements. Ms. Bonniwell stated that Mr. Grittmann prepared a memo regarding the current fence ordinance and Mr. Kirmis was in attendance in place of Mr. Grittmann to facilitate discussion regarding the fence ordinance. The Planner's memo was as follows:

There are two particular clauses that have been raised by staff, at the request of residents, as being at issue in recent fence permit requests as follows:

- 1) Requirements related to boundary line fences, and the provisions requiring neighbor "sign-off" on a boundary line fence less than two feet from the common property line. This can be burdensome for many, particularly in instances where neighbors are not getting along. Without the neighbor's agreement, the fence-building resident effectively gives up access to two feet of his/her property.

Staff would prefer a blanket change that eliminates this clause, and instead allows fences constructed of "no or low-maintenance" materials (such as coated steel, vinyl, etc.) to be built with a fence permit, and proof of property line location via surveyor's marking. The alternate for fences that require maintenance (such as wood materials) would maintain the two-foot setback to accommodate maintenance.

- 2) Side yard fencing on corner lots. The current regulations require that side yards of corner lots be treated as front yards for fence height, opacity, and setback purposes. This means that a property owner on a corner lot who wishes to enclose their rear yard with a privacy fence could only do so while leaving the 25 feet closest to the side street outside the fenced-in area. Most residents prefer to enclose as much of their backyards as possible. The Planning Commission may wish to discuss this issue and consider whether to relax some of the standards related to these situations.

The Planning Commission had a brief discussion regarding their opinions about the current fence ordinance and how they might like to see it changed. Mr. Kirmis suggested bringing a draft ordinance to the June 8, 2022 Planning and Zoning meeting for commission members to take a look at and use it as an aid to assist them while researching ordinances available from other cities. The commission decided they would like some time for research on this issue and want to wait until the July 13, 2022 meeting to have a public hearing on the matter.

Commissioner Henry motioned to scheduled a Public Hearing to discuss Ordinance 1020: Fencing on July 13, 2022 at 7:00 p.m. at the Montrose Community Center. Commissioner Fraumann seconded the motion. Motion carried 4-0.

B. Updates from City Planner

Mr. Kirmis stated that the Northridge 6th addition final plat has been approved as well as the Ouverson 2nd addition final plat. The City is waiting on both developers to sign the developer agreement and get everything filed with the County before they begin building. Ms. Bonniwell stated that the Subway that Planning Commission had worked on to approve a Conditional Use Permit for a drive-through lane will not be setting up for business in Montrose, citing personal financial reasons for this withdrawal from the city. Ms. Bonniwell stated that staff continues to have ongoing discussions with developers on a few different developments around town, and would be expecting some movement on those this summer.

8. NEXT MEETING

A. Wednesday, June 8, 2022 to be held at the Montrose Community Center – 7:00 p.m.

9. ADJOURNMENT

**Commissioner Henry motioned to adjourn the Planning and Zoning Commission Meeting at 7:41 p.m.
Commissioner Neiberger seconded the motion. Motion carried 4-0.**

Charles Smallwood
Planning and Zoning Chair
City of Montrose

ATTEST:

Jessica Bonniwell
City Administrator
City of Montrose

**NORTHWEST ASSOCIATED CONSULTANTS, INC.**

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422
Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM

TO: Montrose Planning Commission
FROM: Stephen Gritman
DATE: June 3, 2022
MEETING DATE: June 8, 2022
RE: Montrose – Fence Regulations
FILE NO: 273.02

This memorandum forwards a copy of the City's fence regulations for Planning Commission review and discussion, following up from the general discussion in May. A copy of the fence section of the zoning ordinance is attached to this memorandum, with redlined suggestions for changes. There are two particular clauses that have been raised by staff as being at issue in recent fence requests as follows:

1. Requirements related to boundary line fences, and the provisions requiring neighbor "sign-off" on a boundary line fence less than 2 feet from the common property line. This can be burdensome for many, particularly in instances where neighbors are not getting along. Without the neighbor's agreement, the fence-building resident effectively gives up access to 2 feet of his/her property.

Staff would prefer a blanket change that eliminates this clause, and instead allows fences constructed of "no or low-maintenance" materials (such as coated steel, vinyl, etc.) to be built with a fence permit, and proof of property line location via surveyor's marking. The alternative for fences that require maintenance (such as wood materials) would maintain the 2 foot setback to accommodate that maintenance.

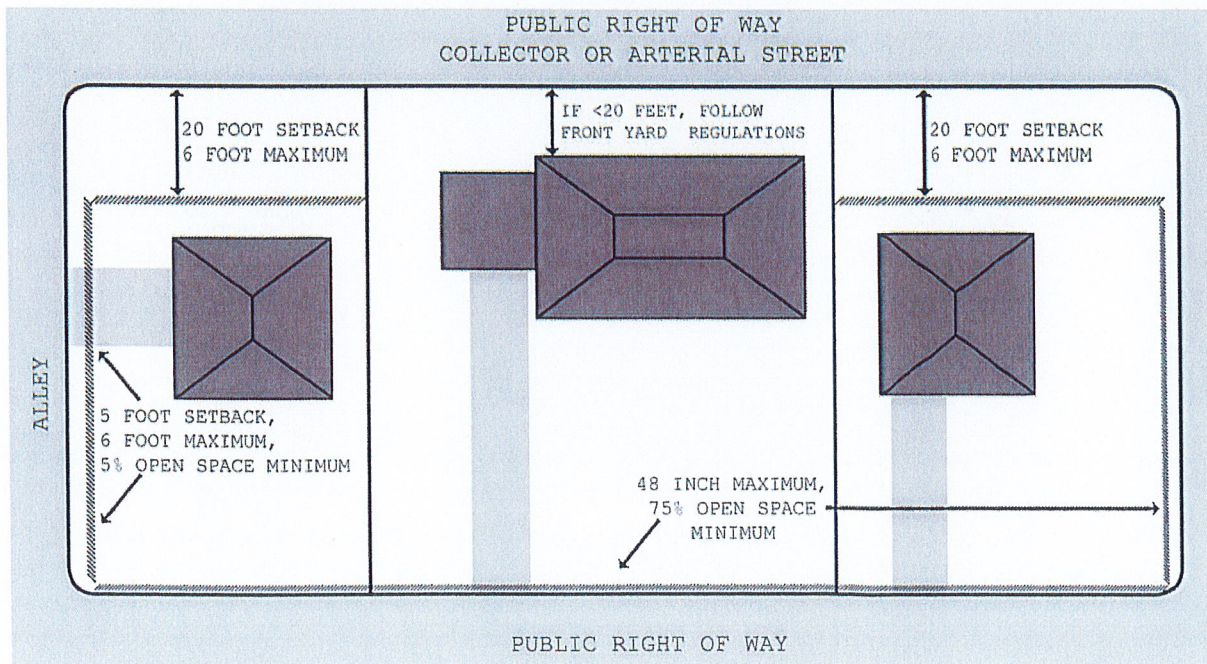
The redline changes for this section are found in the attached ordinance language in 1020-2 B.1 and B.2.

2. Side yard fencing on corner lots. The current regulations require that the side yards of corner lots be treated as front yards for fence height, opacity, and setback purposes. This means that a property owner on a corner lot who wishes to enclose their rear yard with a privacy fence could only do so while leaving the 25 feet closest to the side street outside the fenced-in area. Most residents prefer to enclose as much of their back yards as possible.

A recommended text change would propose that in side yards on corner lots (or rear yards on through lots), a fence of up to 6 feet in height could be constructed so long as it meets a 10 foot setback (rather than the current 25 feet). It is noted here that an open 4 foot fence can currently be constructed up to the property/right-of-way line. This allowance would not change.

The Planning Commission asked for information on surrounding communities treatment of this issue.

- a. In Buffalo, where building setbacks from public right of way are generally 30 feet, the allowance for rear yard fences on through lots is 6 feet with a 20 foot setback. Buffalo does not have an allowance for taller fences adjoining side yards on corner lots. Their code mays an allowance for yards that adjoin alleys. A visual depiction of this is shown below:



- b. In **Monticello**, the code permits side or rear fences abutting a public right of way to be up to 7 feet in height (exceeding their typical 4-foot high front yard fence), with a requirement that such fences be set back at least 6 feet and include additional landscaping in that 6 foot set back area.
- c. In **Delano**, the code permits side or rear fences on corner lots abutting a public right-of-way to be up to 6 feet in height, with a setback of at least 10 feet from the property/right-of-way line, and provided they are behind the front building line of the home.

As an additional comment, some communities (Monticello is an example) have increased their fence height allowances in side and rear yards to 7 feet, over the prior requirement of 6 feet. This tracks with the Building Code changes that create an exemption from building permit requirements for fences of that 7 foot height – the prior standard was 6 feet. This further avoids disputes over 6-foot fences that occasionally exceed that height due to variations in the ground level at the bottom of the fence.

In sum, the decision points on side/rear yard fences adjoining a public right-of-way are as follows:

- A. Should the City permit taller fences in these areas on corner or through lots?
The draft materials attached include this permission.
- B. If so, should the taller fence be located behind the rear building line of the home, or behind the front building line of the home?
The draft materials attached suggest the rear building line.
- C. How tall should the fence be allowed to be?
The draft materials suggest 6 feet, consistent with the current maximum fence height in rear yards.
- D. What setback from the public right of way should the fence maintain?
The draft materials suggest 10 feet, reduced from the current 25 feet.
- E. Should the rear-yard fence height be kept at 6 feet, or increased to 7 feet?
This amendment could be made if preferred by the Planning Commission.

We will be prepared to further discuss these options, with any changes to be scheduled for a public hearing at a subsequent meeting.

New Draft Ordinance

1020-2: FENCES: Fences shall be permitted in all yards subject to the following:

A. Permit Required: No person except on a farm and related to agricultural uses, but not including hobby farms, shall construct any fence without first making an application for and securing an administrative permit for fences not exceeding six feet (6') in height, and a building permit for fences exceeding six feet (6') in height.

B. Locations; Boundary Line Fences:

1. A fence that requires periodic maintenance shall be located no closer than two feet (2') from any side or rear yard lot line on the property of the person constructing said fence. An exception to this may be allowed by administrative fence permit provided that ~~an agreement addressing construction, maintenance, and repair responsibilities, as well as trespass rights, is established between the adjoining property owners and said agreement is determined acceptable to the City Attorney and filed with the Wright County Recorder against the titles of the respective properties. The fence agreement shall provide for amendment or cancellation only upon written approval from the Zoning Administrator~~ the proposed fence is constructed of maintenance free materials (vinyl, vinyl-coated steel, metal with a durable finish, etc.), and is located entirely upon the property of the fence permit applicant, verified by a certificate of survey.
2. A fence that is maintenance free, such as a chain link of steel, plastic or vinyl, and is acceptable as such to the zoning administrator, may be constructed up to the side or rear yard property line, with submission of a certificate of survey to verify the location of the fence.
3. The City may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any land surveyor.
4. No fences shall be placed on or extend into public rights of way or onto public property.

C. Construction and Maintenance:

1. Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof.
2. That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.
3. Electric fences shall only be permitted in the UR District when related to agriculture, and on farms in other districts when related to agricultural purposes, but not as boundary fences.

4. Barbed wire fences shall only be permitted on farms related to agriculture except as provided for by Section 1020-2.H.3 of this Ordinance.

D. Solid Walls: Solid walls up to eight feet (8') in height that are not part of buildings may be constructed and maintained only within the buildable area of a lot.

E. Traffic Sight Visibility Triangle: On corner lots, no fence or screen shall be permitted within the traffic sight visibility triangle specified by Section 1016-7 of this Ordinance.

F. Residential Fencing and Screening:

1. Except as provided herein, fences shall be at least five percent (5%) open for passage of air, light, and drainage.

2. Except as provided herein, fences may not exceed six feet (6') in height. Montrose Zoning Ordinance 1020-2

3. Fences extending across front yards ~~and side~~ yards abutting a public right-of-way shall not exceed forty-eight inches (48") in height and shall be at least seventy five percent (75%) open space for passage of air and light and shall conform to the traffic visibility triangle requirements of Section 1016-7 of this Ordinance.

4. Fences extending across side yards adjoining a public right-of-way on corner lots, or across a rear yard on through lots, shall meet the following requirements:

a. Such fence may be constructed to a height of six feet.

b. The fence shall be located behind the rear building line of the principal structure.

c. The fence shall be located no closer than 10 feet from the public right-of-way line.

d. The fence may be constructed as a solid fence for screening purposes, and shall be exempt from the open space requirements in Section 1020-2 F.3. above. Notwithstanding this exemption, the traffic visibility requirements of that Section shall continue to apply.

G. Swimming Pool Protection:

1. All in-ground pools regardless of capacity and all aboveground swimming pools that exceed five thousand (5,000) gallons shall require a building permit before installation.

2. Each application for a building permit (to construct a swimming pool) shall be accompanied by plans of sufficient detail to illustrate:

a. The proposed location of the pool and its relationship to the principal building on the lot.

b. The size of the pool.

c. Fencing and other fixtures existing and proposed on the lot, including utility location and trees.

d. The location, size, and types of equipment to be used in connection with the pool, including, but not limited to, filter unit, pump fencing, and the pool itself.

e. The requirements contained in Sections 1020.G.2 and 1020.G.3 of this Ordinance will be satisfied including submission and approval of a site plan.

3. All swimming pools for which a permit is required shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four feet (4') in height. The bottoms of the fences shall not be more than four inches (4") from the ground nor shall any open space in the fence be more than four inches (4"). Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. The fencing requirements of this Section need only be provided around the means of access on aboveground pools which have four feet (4') high, vertical or outward inclined side walls. Prior to filling the pool, the Montrose Zoning Ordinance 1020-3 approved fence and/or screen shall be completely in place and inspected and approved by the City Building Official.

4. In all residential districts, swimming pools shall be set back ten feet (10') from all adjoining lots and, except for fences and pump enclosures, shall be located at least ten feet (10') away from any other building or structure on the same lot and shall not be located within a drainage or utility easement. Swimming pools shall not be permitted in a front yard or in the area between the street right-of-way and the minimum required building side yard setback line.

H. Business and Industrial Fencing:

1. No fence shall be allowed in the front yard of a business use except by conditional use permit.

2. Except in a required front yard, business and industrial fences may be erected up to eight feet (8') in height. Fences in excess of eight feet (8'), not located in a required front yard, shall require a conditional use permit.

3. Business and industrial fences with barbed wire security arms shall be erected a minimum of six feet (6') in height (measured without the security arm). The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public. Security fencing shall be prohibited within a required front yard or when located along a property line abutting a residential use.

I. Special Purpose Fences: Fences for special purposes and fences differing in construction, height or setback that are not constructed within a required front yard may be permitted in any district as a conditional use permit subject to Chapter 1005 of this Ordinance.

Current Ordinance

1020-2: FENCES: Fences shall be permitted in all yards subject to the following:

A. Permit Required: No person except on a farm and related to agricultural uses, but not including hobby farms, shall construct any fence without first making an application for and securing an administrative permit for fences not exceeding six feet (6') in height, and a building permit for fences exceeding six feet (6') in height.

B. Locations; Boundary Line Fences:

1. A fence that requires periodic maintenance shall be located no closer than two feet (2') from any side or rear yard lot line on the property of the person constructing said fence. An exception to this may be allowed by administrative permit provided that an agreement addressing construction, maintenance, and repair responsibilities, as well as trespass rights, is established between the adjoining property owners and said agreement is determined acceptable to the City Attorney and filed with the Wright County Recorder against the titles of the respective properties. The fence agreement shall provide for amendment or cancellation only upon written approval from the Zoning Administrator.
2. A fence that is maintenance free, such as a chain link of steel, plastic or vinyl, and is acceptable as such to the zoning administrator, may be constructed up to the side or rear yard property line.
3. The City may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any land surveyor.
4. No fences shall be placed on or extend into public rights of way or onto public property.

C. Construction and Maintenance:

1. Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof.
2. That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.
3. Electric fences shall only be permitted in the UR District when related to agriculture, and on farms in other districts when related to agricultural purposes, but not as boundary fences.
4. Barbed wire fences shall only be permitted on farms related to agriculture except as provided for by Section 1020-2.H.3 of this Ordinance.

D. Solid Walls: Solid walls up to eight feet (8') in height that are not part of buildings may be constructed and maintained only within the buildable area of a lot.

E. Traffic Sight Visibility Triangle: On corner lots, no fence or screen shall be permitted within the traffic sight visibility triangle specified by Section 1016-7 of this Ordinance.

F. Residential Fencing and Screening:

1. Except as provided herein, fences shall be at least five percent (5%) open for passage of air, light, and drainage.
2. Except as provided herein, fences may not exceed six feet (6') in height. Montrose Zoning Ordinance 1020-2
3. Fences extending across front yards and side yards abutting a public right-of-way shall not exceed forty-eight inches (48") in height and shall be at least seventy five percent (75%) open space for passage of air and light and shall conform to the traffic visibility triangle requirements of Section 1016-7 of this Ordinance.

G. Swimming Pool Protection:

1. All in-ground pools regardless of capacity and all aboveground swimming pools that exceed five thousand (5,000) gallons shall require a building permit before installation.
2. Each application for a building permit (to construct a swimming pool) shall be accompanied by plans of sufficient detail to illustrate:
 - a. The proposed location of the pool and its relationship to the principal building on the lot.
 - b. The size of the pool.
 - c. Fencing and other fixtures existing and proposed on the lot, including utility location and trees.
 - d. The location, size, and types of equipment to be used in connection with the pool, including, but not limited to, filter unit, pump fencing, and the pool itself.
 - e. The requirements contained in Sections 1020.G.2 and 1020.G.3 of this Ordinance will be satisfied including submission and approval of a site plan.
3. All swimming pools for which a permit is required shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four feet (4') in height. The bottoms of the fences shall not be more than four inches (4") from the ground nor shall any open space in the fence be more than four inches (4"). Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small

children. The fencing requirements of this Section need only be provided around the means of access on aboveground pools which have four feet (4') high, vertical or outward inclined side walls. Prior to filling the pool, the Montrose Zoning Ordinance 1020-3 approved fence and/or screen shall be completely in place and inspected and approved by the City Building Official.

4. In all residential districts, swimming pools shall be set back ten feet (10') from all adjoining lots and, except for fences and pump enclosures, shall be located at least ten feet (10') away from any other building or structure on the same lot and shall not be located within a drainage or utility easement. Swimming pools shall not be permitted in a front yard or in the area between the street right-of-way and the minimum required building side yard setback line.

H. Business and Industrial Fencing:

1. No fence shall be allowed in the front yard of a business use except by conditional use permit.

2. Except in a required front yard, business and industrial fences may be erected up to eight feet (8') in height. Fences in excess of eight feet (8'), not located in a required front yard, shall require a conditional use permit.

3. Business and industrial fences with barbed wire security arms shall be erected a minimum of six feet (6') in height (measured without the security arm). The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public. Security fencing shall be prohibited within a required front yard or when located along a property line abutting a residential use.

I. Special Purpose Fences: Fences for special purposes and fences differing in construction, height or setback that are not constructed within a required front yard may be permitted in any district as a conditional use permit subject to Chapter 1005 of this Ordinance.