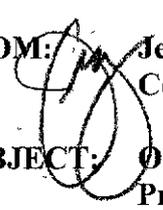


SUMMARY OF AGENDA ITEM

DATE: December 13, 2007
TO: Mayor and Council
FROM:  Jerry Owen
Community Development Director
SUBJECT: Ordinance 730, Resolution 2346
Proposed Addition of "Fences" to the Unified Development Code (UDC)

PURPOSE:

Historically, requirements for fences were included in the original Zoning Code of Payson. When the Unified Development Code (UDC) was adopted in 1996, these fence requirements were inadvertently left out. This request would update and re-establish development standards for fences in the current UDC.

SUMMARY:

In June, 2007, the Planning & Zoning Commission directed staff to prepare and bring back a draft fence section to be added to the UDC. After working with citizens and several members of the Commission, staff presented a draft to the Commission at the August 13, 2007, P&Z meeting. The Commission discussed the draft at length and directed staff to make adjustments and bring it back to the Commission. On October 8, 2007, the Commission reviewed and recommended approval to the Town Council of a fence ordinance.

Fence height, design, and materials used would be regulated. Permits would be required for certain fences. The sight triangle is clearly defined for intersections as well as private driveways. Illustrations of both fence height requirements and sight triangle locations are provided for clarity. The approval of this addition to the UDC will give citizens and staff specific direction regarding establishing and enforcing fence requirements.

Ordinance 730/ Resolution 2346 contains minor changes from the Commission's recommended language made for the purposes of statutory construction, clarity and consistency with the entire UDC. Additionally, the height requirement in the current Section 15-03-002 (C)(1), is being amended to six feet in conformance with the P&Z Commission's recommendation; and the current Section 15-03-002 (C)(4) is being deleted because it is now covered by the P&Z Commission's recommendation for the new fence ordinance.

A copy of the various drafts presented to the Commission, the Commission's meeting minutes and the staff reports are available upon request.

DEC 13 2007 68

ORDINANCE NO. 730

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-03-006 AND AMENDING SECTIONS 15-03-003 AND 15-11-002 OF CHAPTER 154 (THE UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE TOWN OF PAYSON. (REGULATING FENCES)

WHEREAS, the Town of Payson desires to regulate the type and placement of fences to assure safety on its roadways and to protect the public's health and safety; and

WHEREAS, the Town additionally desires to regulate the type and placement of fences to maintain the aesthetic quality of the Town and to maintain and increase property values of the citizens of the Town,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

- Section 1. That Section 15-03-006 (Fences) and the amendment to Section 15-11-002 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2346 were heretofore declared to be a public record by such Resolution, and that Section 15-03-006 (Fences) and the amendment to Section 15-11-002 are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 730
- Section 2. That at least three copies of Section 15-03-006 (Fences) and the amendment to Section 15-11-002 of Chapter 154, as adopted by this Ordinance Number 730 shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection
- Section 3. All references to the number eight (8) in Section 15-03-002(C)(1) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson are hereby amended to the number six (6).
- Section 4. Section 15-03-002(C)(4) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson is hereby deleted
- Section 5. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 730 are hereby repealed to the extent of such conflict.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 730 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance Number 730. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 730 and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this ____ day of _____, 2008, by the following vote:

AYES ____ NOES ____ ABSTENTIONS ____ ABSENT ____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

**RESOLUTION NO. 2346 IS
PROVIDED FOR INFORMATION
ONLY
AT THE 12/13/07 COUNCIL MEETING.**

**RESOLUTION NO. 2346 WILL
BE AGENDIZED AS AN ACTION ITEM
AT THE 1/3/08 COUNCIL MEETING.**

RESOLUTION NO. 2346

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-03-06 AND AMENDING SECTION 15-11-02 OF CHAPTER 154 (THE UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE TOWN OF PAYSON, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD. (REGULATING FENCES)

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to add Section 15-03-006 and amend Section 15-11-002 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson related to Fences; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

- Section 1. Section 15-03-006 of Chapter 154 of the Code of the Town of Payson is hereby added, is declared to be a public record, and as added shall read as set forth in Exhibit A attached hereto.
- Section 2. Section 15-11-002 of Chapter 154 of the Code of the Town of Payson is hereby amended, is declared to be a public record, and the definitions set forth in Exhibit B attached hereto are hereby added.
- Section 3. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2346 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Resolution Number 2346. The Town Council of Payson declares that it would have adopted Resolution Number 2346 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF
THE TOWN OF PAYSON this _____ day of _____, 2008, by the following
vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

EXHIBIT A TO RESOLUTION 2346

15-03-006 Fences

A Applicability

The provisions of this section shall apply to all zoning districts.

B. Permit Required

1. A fence permit shall be required before a property line fence may be constructed, reconstructed or altered within the Town of Payson. A permit is not required for maintenance or repairs that do not alter or change the original fence. The Building Official may waive the permit requirement if the fence is part of a project where plans will include fencing
2. A fence permit application shall be submitted including a scale drawing site plan showing all fence dimensions, gates, lot lines, setbacks, and any information that may be required by the building and construction codes adopted by the Town.
3. The property owner shall locate affected property corners prior to constructing a fence.

C Fence Materials

1. All fences shall be constructed of new materials only.
2. Only the following fence materials may be used.
 - a. In all zoning districts - vinyl, plastic, chain link, wood board, wood picket, wood rail, masonry, stone, block, concrete or other materials simulating any allowable material.
 - b. In commercial and industrial zoning districts – the top 12 to 24 inches may be barbed wire, if such barbed wire is not adjacent to a residential use
 - c. In all zoning districts – pipe fences may be allowed for the maintaining livestock.
3. No fence in any zoning district shall
 - a. contain or be constructed of razor or similar wire, or
 - b. have an electrical current or an electrical charge.

D. Height

1. Residential Uses
 - a. Six-foot high fences are allowed on the side and rear yard property lines up to the required front yard setback
 - b. Fences shall not exceed four (4) feet in height on the front property line or within the required front yard setback.
 - c. Street side yard fences shall not exceed four (4) feet at the property line. A maximum height of six feet above ground level is allowed when placed at the street side setback line.
2. Commercial/Industrial Uses
 - a. Fences up to six (6) feet in height are permitted

- 3 Height of fences shall be measured at the existing grade from the inside of the fence
- 4 Fences encroaching into any sight triangle shall not exceed three (3) feet in height.
5. For visual depiction, see Exhibit 1 to this Section.

E Fence Design

1. Colors and design shall be consistent with the Town of Payson “The Mountain Town with a Western Heritage” theme.
2. The finished or decorative side of any front yard or street side yard fence shall face the public right of way

F Exceptions

- 1 Fences of other than approved material, conventional design or color, including historical fences may be allowed by the Design Review Board so long as such fences compliments the color and architecture of the surrounding neighborhood and any buildings.
2. Fences over six feet in height may be evaluated on a case by case basis and may be allowed subject to written approval of the Town Engineer, Zoning Administrator, and Building Official.
- 3 Interior fences not over the allowed height and of approved materials shall not require a fence permit.
- 4 Height regulations shall not apply when fences of greater height are required by the Planning & Zoning Commission or Design Review Board in order to provide adequate screening.
5. Construction Fences in compliance with Subsection (E)(1) shall be exempt from all other provisions of this Section.

Exhibit 1 of Section 15-03-006

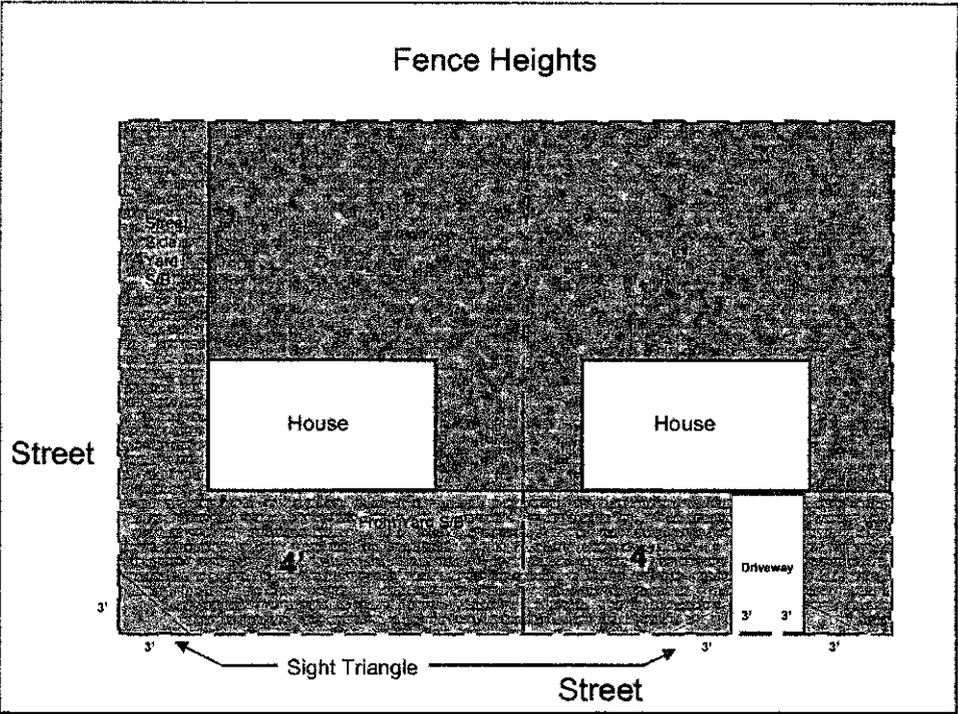


EXHIBIT B TO RESOLUTION 2346

15-11-002 Definitions

Fence(s): Any artificial barrier, not including plants, erected, constructed or placed on a lot, including masonry wall and ornamental construction.

Types of fences include:

- A. Property line fence: A fence constructed parallel to and within 10 feet of a property line.
- B. Interior fence: All fences that are not Property Line Fences.
- C. Construction Fence: Any temporary fence placed on a construction site that has a current building permit and is actively being constructed. Construction Fences shall be of the type, kind, and size typically used during construction for the type project on which the Construction Fence is used.

Sight Triangle: The triangle bounded by the edge of the intersecting roadways and the diagonal connecting the two farthest points creating an isosceles triangle. The equal legs of the triangle shall be a minimum length of 33 feet. The equal legs of the triangle formed by a driveway shall be a minimum length of 15 feet.

