

Agenda Item: GB-C
Meeting Date: January 9, 2023

Subject: Public hearing and consideration of Ordinance 938, an ordinance amending Chapter 16 of the Dacono Municipal Code to add a new Section 16-12 concerning fence permit requirements on first reading.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: Currently, fence regulations apply only to the MH and R-1 Districts. The Design Standards for Nonresidential Development, Section 16-713, include regulations concerning buffering and screening. These regulations apply to new non-residential development. The International Codes (I-Codes) adopted by the City contained in Section 18-40 of the Dacono Municipal Code requires a building permit only for fences over six feet (1829 mm) high.

Ordinance 938 would apply uniform fence regulations and permit requirements.

Recommended Action: Staff is recommending approval of Ordinance 938 on the first reading.

ORDINANCE NO. 938

AN ORDINANCE AMENDING CHAPTER 16 OF THE DACONO MUNICIPAL CODE TO ADD A NEW SECTION 16-12 CONCERNING FENCE PERMIT REQUIREMENTS

WHEREAS, the City regulates zoning and use of property within the City pursuant to Chapter 16 of the Dacono Municipal Code and regulates the construction of buildings and other structures pursuant to Chapter 18 of the Dacono Municipal Code; and

WHEREAS, the uniform building codes adopted by the City pursuant to Section 18-40 of the Dacono Municipal Code provide that a building permit is not required to construct a fence not over six feet (1829 mm) high; and

WHEREAS, the City currently regulates fencing within the R-1 and MH zone districts pursuant to Sections 16-111 and 16-166 of the Dacono Municipal Code, but permits are not required by the zoning code; and

WHEREAS, the City Council finds that uniform regulation of all fencing constructed or erected within the City supports and advances the purposes of the City's zoning code, and by this ordinance desires to implement a permit requirement and establish basic standards for all fencing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Chapter 16 of the Dacono Municipal Code is hereby amended by the addition of a new Section 16-12 to read as follows:

Sec. 16-12 Fences, hedges, retaining walls; permit required.

(a) This Section shall be applicable to all fences, hedges, and retaining walls to be erected within the City, except for those projects with fence standards contained within an approved Planned Unit Development (PUD) Final Development Plan. The provisions of this Section shall be administered by the City's Building Official or their designee.

(b) It is unlawful for any person to erect, construct, or reconstruct any fence or retaining wall in any zone district of the City until the Building Official has issued a permit therefor pursuant to this Chapter, which shall be in addition to any permit required by Chapter 18 of this Code.

(c) Application for a fence permit shall be made on forms to be provided by the Building Official and shall clearly show the type of fence or wall proposed to be erected, the material to be used, and the location where it is to be placed. No permit shall be issued unless and until the proposed fence meets all

requirements of this Code, the fee established by resolution of the City Council has been paid, and the City's use tax has been collected on the construction materials and supplies.

(d) Fences, hedges, and retaining walls shall be governed by the following regulations:

- (1) Retaining walls must conform to lateral pressure engineering specifications and shall not be unsightly or detrimental to abutting property.
- (2) Barbed wire or electric fences are not permitted.
- (3) Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Building Official. All fencing, walls, and hedges shall be maintained in good condition, including but not limited to replacing or repairing broken components, such as pickets, and repainting.
- (4) For corner lots, front yard fence regulations shall apply to both street sides of lot.
- (5) Front yard fence shall be constructed of chain link or split rail or other standard residential fence materials approved by the Building Official, except that no fence shall be constructed of plywood or particle board. Fences shall not exceed forty-two (42) inches in height, measured from the ground level immediately adjacent to the fence or wall, and shall be at least fifty percent (50%) open space. Fence pickets shall not exceed six (6) inches in width. No front yard fence shall be constructed nearer than thirty (30) inches from the sidewalk or other public walkway. No fence shall enclose a meter pit.
- (6) Back yard fences may be constructed of masonry walls or any of the material permitted in Paragraph (5) above, and the walls may be solid. Maximum height of back yard fences shall be six (6) feet, said fence not to extend past the front side of a dwelling to which it abuts.
- (7) Fences and retaining walls may not be located within platted or other recorded easements, except that fences may be located along the rear lot lines of residential lots unless the plat specifically provides otherwise. Fencing on multi-family residential and non-residential lots shall comply with the approved site plan.
- (8) Hedges shall not encroach over sidewalks, streets, or

alleyways and shall be trimmed to maintain sight distance as required by Section 16-288 of this Code.

- (9) Prohibited fence materials.
 - a. No person shall use rope; string; wire products including but not limited to chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence, or use any other materials that are not manufactured specifically as fencing materials, unless approved by the Building Official. The Building Official may require the applicant to provide the manufacturer's standards to establish the intended use of proposed fencing materials.
 - b. Used materials, equipment, and devices shall not be used unless the Building Official determines they meet the requirements of the building code for new materials.
 - c. No person shall construct a fence of wood, metal, or plastic products that are designed specifically for uses other than fence construction.

(e) City Exemption From Compliance. All property, uses, structures, and facilities owned or operated by the City for the purpose of providing municipal services are exempt from complying with all requirements contained in this Section.

Section 2. Sections 16-111 (fencing regulations in R-1 zone district) and 16-166 (fencing regulations in MH zone district) of the Dacono Municipal Code are hereby repealed.

Section 3. Any person charged with a violation of this ordinance, upon conviction thereof, shall be subject to the General Penalty in Section 1-70 of the Dacono Municipal Code, which currently provides for incarceration for a period not to three hundred sixty-four (364) days, a fine not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment. As provided in Section 1-70(b), each and every day during any portion of which any violation is committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

Section 4. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect

the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance, or any portion hereof, are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this ____ day of _____, 2023.

PUBLIC HEARING AND SECOND READING WILL BE THE ____ day of _____, 2023, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY AVENUE, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2023.

CITY OF DACONO, COLORADO

Adam Morehead, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. _____, **“AN ORDINANCE AMENDING CHAPTER 16 OF THE DACONO MUNICIPAL CODE TO ADD A NEW SECTION 16-12 CONCERNING FENCE PERMIT REQUIREMENTS”** Requires a permit be obtained prior to erecting or building a fence or retaining wall in any zone district within the City and provides that existing requirements applicable to fences, hedges retaining walls in the R-1 and MH zone districts apply throughout all zone districts.



January 9, 2023

To: City of Dacono City Council

From: Jennifer Krieger, AICP, Community Development Director

Agenda Item: Public hearing and consideration of Ordinance 938, an Ordinance amending Chapter 16 of the Dacono Municipal Code to add a new Section 16-12 concerning fence permit requirements, on first reading.

Background

Currently, fence regulations apply only to the MH and R-1 Districts. The Design Standards for Nonresidential Development, Section 16-713, include regulations concerning buffering and screening. These regulations apply to new non-residential development. The International Codes (I-Codes) adopted by the City contained in Section 18-40 of the Dacono Municipal Code requires a building permit only for fences over six feet (1829 mm) high.

Ordinance 938 would apply uniform fence regulations and permit requirements.

**Proposed
Amendments**

The proposed amendment to Chapter 16 requires a permit before erecting or building a fence or retaining wall in any zone district within the City and provides existing requirements applicable to fences, hedges retaining walls throughout all zone districts.

The proposed amendments add a new Section 16-12 concerning fence requirements.

Section 16-12 (a) This section makes fence, hedge, and retaining wall regulations applicable to all structures erected within the City, except for those projects with fence standards contained within an approved PUD Final Development Plan.

Section 16-12 (b) Requires a permit for a fence or retaining wall, or as required by Chapter 18 (fences over six feet)

Section 16-12 (c) Requires an application for a fence permit to show location, materials, and type of fence

- Section 16-12 (d)
- Requires retaining walls to follow lateral pressure engineering specifications
 - Prohibits barbed wire and electric fences
 - Allows the Building Official to order the removal of dilapidated or dangerous fences
 - Applies setbacks to fences
 - Limits the height of front yard fences and open space
 - Limits backyard fences from extending past the front side of another dwelling
 - Prohibits fences and retaining walls in platted or recorded easements, with some exceptions
 - Requires hedges to be trimmed to maintain sight distance
 - Identifies prohibited fence materials.

Section 16-12 (e) Exempts the City from compliance with the fence regulations.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission held a properly noticed public hearing on December 13, 2022, and recommended approval of amendments to Chapter 16 of the Dacono Municipal Code to add a new Section 16-12 concerning fence permits.

Staff Recommendation

Staff recommends amending Chapter 16 of the Dacono Municipal Code to add a new Section 16-12 concerning fence permit requirements finding:

1. The uniform regulation of all fences in the City of Dacono advances the purpose of the City's zoning code.
2. The adoption of uniform fence regulations promotes citizens' health, safety, and welfare by ensuring that fences do not obscure the sight distance at intersections and are not harmful to its citizens or the broader community through citywide standards for the structural integrity of fences and materials.
3. This amendment to Chapter 16 advances the Comprehensive Plan's vision and priorities by adopting regulations that foster a high-quality built environment.