

CITY OF EUHARLEE FENCE ORDINANCE

Sec. 1-1. Definitions.

For the purposes of this ordinance, the following words and phrases will have the meanings respectively ascribed to them by this section:

Approved fence materials means materials normally manufactured for, used as, and recognized as fencing materials. Fence materials must also be materials approved for exterior use and are weather and decay-resistant. The provisions of this ordinance are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this ordinance, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Code Enforcement Officer finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this ordinance in quality, strength, effectiveness, fire resistance, durability and safety.

City means the City of Euharlee.

Code means the Code of Ordinances of the City of Euharlee, Georgia.

Corner lot means a lot situated at the junction of two (2) or more streets.

Dilapidated fence means a fence which is decayed, deteriorated, or fallen into partial ruin.

Director means the City of Euharlee Code Enforcement Officer and his or her designee.

Easement means a right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of appurtenant land such as for the right to cross, or egress, such as a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive bounds.

Fence means any wall or structure more than twelve (12) inches in height erected or maintained for the purpose of enclosing, partitioning, screening, restricting access to or decorating the enclosed lot, parcel, building or structure, or divides any yard.

Fence structure means any part of a fence including the base, footings, supporting columns, braces, structural members, or any other of its appendages.

Front yard means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel to it at the building line.

Game court means a structure having a playing surface, paved or unpaved, with or without enclosing fences, designed to be used for playing or practicing tennis, badminton, volley ball, baseball, basketball, or similar games.

Interior lot means a lot situated in a block with frontage on only one (1) street, and specifically not a corner lot.

Interior lot line means a side yard lot line that is adjacent to a corner lot or an interior lot's side yard line.

Outside storage means the storage of commodities, goods and/or refuses outside of an enclosed building.

Public right-of-way means a strip of land which is used as a roadbed for a street, alley or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

Rear yard means a yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and the point on the building line closest to the rear lot line.

Residential district means a district zoned for residential use in the City of Euharlee Zoning Ordinance excluding multi-family.

Retaining wall means a wall designed to bear against soil or other material and resists lateral and other forces from the material held in place.

Reverse frontage corner lot means a corner lot where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line.

Setback means the distance from the property line or the right-of-way line of all streets adjacent to the premises on which a fence is located to the part of the fence closest to the property line or right-of-way line.

Side yard means an open, unoccupied space on the same lot with the building, and between the building line and the side lot line.

Street means Public Street and Private Street.

Vision or visibility triangle means that an imaginary area is created by measuring along two (2) intersecting property lines. The vision triangle is determined by measuring back from the intersecting point of the two (2) property lines parallel to the intersecting streets a distance of thirty-five (35) feet, and drawing an imaginary line across these two (2) points.

Yard means an open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures.

Sec. 1-2. Permit Required.

No fence shall be erected without a permit from the City of Euharlee and payment of applicable fees.

Sec. 1-3. Encroachment on public or private property.

No person shall construct a fence, guy wire, brace or any fence post directly upon or protruding over public right-of-way or private property line or property that the city or the general public has dominion and control over, owns or has an easement over, under, around or through an adjacent private property line. It is an affirmative defense to this section that the property is a utility easement and the proposed fence location is approved by the Utility Company. (See Sec. 1-5)

Sec. 1-4. Fence not to create a traffic hazard.

It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard due to interference with sight lines. The City Engineer shall be empowered to determine required sight lines pursuant to applicable Georgia DOT, AASHTO, and/or City of Euharlee standards. Failure of the owner, agent or occupant to remove such obstruction within ten (10) days after receipt of notice to do so is a violation of this ordinance.

Sec. 1-5. Construction within easements.

(a) Permission to build a fence upon a utility easement does not remove the obligation of the owner of the fence to remove the fence upon demand of the utility company. The owner of the fence shall remove and rebuild the fence at the owner's expense.

(b) The owner of a fence shall be responsible for the design, construction and maintenance of the fence and shall be so as not to interfere with utility lines or normal drainage.

(c) Permission to build a fence upon a utility easement must be granted by the Utility Company.

(d) No fence shall be placed on a right of way containing underground utilities or on a City right of way.

Sec 1-6. Relocation or construction of private fences related to public improvement projects.

(a) Fences relocated or constructed due to construction of a public improvement project (e.g. road widening project) may be located as close as practical on or inside the new property line and must comply with the installation standards required by this ordinance. This section does not permit any obstruction, which may create traffic or other safety hazard. The owner of the fence shall comply with all other requirements of this ordinance.

Sec. 1-7. Height limitation.

It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence in exceeds the height limitations of this section. Height shall be measured from the finished grade at any point eighteen (18) inches or less from either side of the fence.

(a) Rear yard; rear lot line; side yard; or side lot line outside front yard area

Residential lot: six (6) feet
Commercial lot: ten (10) feet
Industrial lot: ten (10) feet

(b) Front yard; front lot line; side lot line in front yard area

Fences are not permitted in the front yard or front setback area except as follows:

(1) The fence is forty-eight (48) inches or less in height measured from the finished grade at any point eighteen (18) inches or less from either side of the fence, and the fence allows at least fifty (50) percent through vision exception is picket fencing.

(2) In the case of a corner lot and when the fence is located in a vision triangle the fence is thirty-six (36) inches or less in height measured from the finished grade at any point eighteen (18) inches or less from either side of the fence, and the fence allows at least fifty (50) percent through vision, with a triangular area formed by the intersection of the adjacent street right-of-way lines and a point on each such right-of-way line thirty-five (35) feet from the intersection.

(3) That the vertical support posts and gates do not extend more than four (4) inches above the top of the fence intersection.

(4) Materials: No chain link, agriculture fencing or concrete block in residential. Exception Sec. 1-9 (7) of the City of Euharlee Zoning Ordinance.

(c) Dumpsters. A screening fence or wall used to screen trash dumpsters on a commercial or industrial lot shall not exceed ten (10) feet in height.

Sec. 1-9. Construction on reverse frontage lots.

(a) On all reverse frontage lots located on property zoned or used for residential purposes, it is unlawful for any person to construct, maintain, suffer or permit a fence within the required side yard area that is adjacent to a front yard area at a distance closer than fifteen (15) feet from and perpendicular to the side property line or right of way.

(b) It is an affirmative defense to subsection (a) above that:

(1) The fence is forty-eight (48) inches or less in height measured from the finished grade at any point eighteen (18) inches or less from either side of the fence, and the fence allows at least fifty (50) percent through vision.

(2) In the case of a corner lot and when the fence is located in a vision triangle the fence is thirty-six (36) inches or less in height measured from the finished grade at any point eighteen (18) inches or less from either side of the fence, and the fence allows at least fifty (50) percent through vision, within a triangular area formed by the intersection of the adjacent street right-of-way lines and a point on each such right-of-way line thirty-five (35) feet from the intersection

(3) That the vertical support posts and gates do not extend more than four (4) inches above the top of the fence.

(c) If any commercial or industrial property abuts a residential property, with the exception of an agricultural property, any fences on the commercial or industrial property must comply with the residential requirements of this section.

Sec. 1-10. Game courts and game court fences.

(a) No person shall locate a game court or game court fence on a lot, within a front yard, between a principal residence and a front setback line, or over or on top of any building or structure unless approved by a site specific zoning case or approved by a variance in accordance with Section 1-13. To obtain a variance to this subsection, the applicant must prove that such court or fence will not have a substantial adverse visual impact on the surrounding neighborhood and will not have an adverse impact on public safety.

(b) No person shall construct a game court on a pad that is not level.

(c) Notwithstanding any other regulation set forth in this ordinance, no person shall construct a game court fence that is more than twelve (12) feet in height in or adjacent to a residentially zoned district or sixteen (16) feet in height in a non-residentially zoned district.

(d) Notwithstanding any other regulation set forth in this chapter, no person shall construct a game court lighting that creates a glare on adjacent property.

(e) Construction of a game court fence must be of chain link or similar materials approved by the Zoning Administrator. It is an affirmative defense to this subsection that the fence includes a retaining wall that does not exceed a height of eight (8) feet provided that the cumulative height of the retaining wall and the fence does not exceed the height requirements of subsection (c).

(f) Court fences and lighting standards shall be engineered to withstand the wind load and soil conditions required by the building code.

Sec. 1-11. Fence construction and materials.

(a) *Construction.*

- (1) No person shall construct a fence that is not able to structurally support fencing materials.
- (2) A person building a fence to enclose an area shall provide a gate or other opening in the fence of at least three (4) feet in width.
- (3) A person building a fence shall comply with the requirements of the building code and all other city ordinances with regard to construction, materials, and workmanship.
- (4) A person constructing a fence shall build it of rigid construction with acceptable materials.
- (5) A person constructing a masonry fence shall make the exterior surfaces free from sharp projections.
- (6) A person applying a stain, pigment, paint or other surface treatment to a wooden fence shall use materials and finishes specifically manufactured for the purpose of preserving a specific wooden material.
- (7) No person shall construct a wall or fence that exceeds two (2) feet in thickness, unless approved by the Zoning Administrator.
- (8) A person constructing a fence shall use only approved materials and construction methods that ensure uniform construction throughout. Once the person has established a pattern of materials and construction method he or she shall carry it out throughout the entire length of the section from corner post to corner post.
- (9) A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot-tub, or spa shall comply with the minimum requirements of the Building code.
- (10) A person constructing a fence with boards shall use species such as cedar, redwood, or other durable decay-resistant composition, such as treated lumber.
- (11) A person constructing a fence shall install the finished sides of all fences facing outward (that is, neighboring properties).
- (12) A person constructing a fence shall comply with any covenants or restrictions of record.
- (13) No person shall construct a barbed wire or electric fence within a residential subdivision.

(14) Any Person constructing a fence shall call the Utility Protection Agency to ensure that any necessary utility locates are conducted. The telephone number to call is 1-800-282-7411.

Sec. 1-12. Maintenance and standard of fences.

A fence or fences, including those existing prior to the adoption of this ordinance, shall be maintained by the owner of the property in compliance with the requirements of this chapter including but not limited to the following maintenance standards:

(1) The owner shall replace broken, damaged, removed or missing parts of a fence within ten (10) days of, the day the owner received notice from the Code Enforcement Officer, with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made. The Code Enforcement Officer may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time as required. The Code Enforcement Officer shall not extend the replacement time longer than reasonably necessary. No person shall use materials not specifically manufactured as fencing materials.

(2) A fence shall be maintained in sound structural condition.

(3) Property owners shall not maintain graffiti, writings and other symbols on a fence.

(4) Existing fences that were constructed prior to the adoption of this chapter that were constructed with materials not currently permitted by this chapter may be maintained as long as no part of the fence is or becomes unsafe, dilapidated, or a public nuisance. If the Code Enforcement Officer determines the existing fence is unsafe, dilapidated, or a public nuisance the fence must be repaired with materials approved by this chapter or removed. The repairs must be made in complete sections. If the Code Enforcement Officer determines the extent of repair on any existing fence (materials in non-compliance) is in excess of fifty (50) percent of the linear length of the total fence or more than a combined 100 linear feet then the entire fence must be replaced with materials approved by this chapter.

(5) The construction of a fence or wall on the property line shall not preclude the property owner's responsibility to maintain and keep the area defined between the property line to the back of curb or edge of the pavement free and clear of debris and high weeds.

Sec. 1-13. Variance procedures.

(a) A variance to the provisions of this chapter may be granted in the following areas:

- (1) Height regulations;
- (2) Area regulations;
- (3) Setback regulations; and
- (4) Material regulations.

(c) In order to grant a variance to the provisions of this ordinance, it must be determined that:

- (1) The requested variance does not violate the intent of this chapter;
- (2) The requested variance will not adversely affect surrounding properties;
- (3) The requested variance will not adversely affect public safety; and
- (4) Special conditions exist which are unique to this applicant or property.

Sec. 1-14. Repealer.

The Ordinance replaces the prior Fence Ordinance. In the event all of this Ordinance is struck down as void, unconstitutional or invalid, including therefore this provision, that prior ordinance shall be considered to not have been repealed.

Sec. 1-15. Severability.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

This Ordinance shall be in effect and be in force from and after its adoption, the public welfare of Euharlee demanding.

ADOPTED THIS 9th DAY OF March, 2010

Kathy S. Foulk, Mayor

ATTEST:

Liz H. Dempsey, City Clerk