



Memorandum

TO: Council Member Denise Adams, Chairperson, Community Development/Housing/General Government Committee and Committee Members
FROM: Angela I. Carmon, City Attorney
DATE: February 12, 2019
SUBJECT: Input received regarding draft fence ordinance
CC: Lee D. Garrity, City Manager

City Attorney's Office

P.O. Box 2511
Winston-Salem, NC 27102
CityLink 311 (336.727.8000)
Fax 336.748.3816

Following the November 20, 2018, meeting of the Community Development Housing/General Government (“General Government”) Committee, City staff provided a copy of the draft fence ordinance to the NC Realtors Association and the Neighborhood Alliance and received the following comments:

A. NC Realtors Association:

Overall, NC Realtors Association was supportive of the ordinance stating “...it seems like a very reasonable ordinance, and I whole-heartedly support the prohibition of fences made of junk or other debris.” The additional comments were as follows:

1) A removal period of 6 months is too short given the potential cost of the process and factoring in weather. I suggest 2 years or more.

City Response: Staff will make the General Government Committee aware of this comment/request.

2) For clarity: based on the new purpose and intent of the ordinance, this *only* applies to fences in the front yards? Is there any plan to regulate fences in back or side yards in the future?

City Response: It only applies to fences in the front yard up to the face of the building. The regulation of fences in the back and side yards is a tall order and is not on the agenda at the moment. Given the divergence of opinion regarding such, I do not anticipate that the General Government Committee will undertake the review of such an ordinance in the near future.

3) Does this ordinance affect masonry boundary walls enclosing housing developments in any way?

City Response: No, provided the wall is made entirely of masonry.

4) Based on CM Larson’s comments at the November CDHGG, I am aware that the finished side provision is based on how fences have historically been installed. However,

CityLink311

Call 311 or 336-727-8000
citylink@cityofws.org

City Council: Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Annette Scippio, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity

mandating that a property owner install the finished side a certain way seems unnecessary given the other provisions in the ordinance (i.e. 50% opacity and height).

City Response: City Staff will advise the General Government Committee of this comment.

5) What would the complaint process look like? How many complaints from how many neighbors would mandate fence removal?

City Response: If Inspections gets a complaint, it will investigate the same to determine if the fence is in compliance with the ordinance. One complaint is sufficient to initiate an investigation.

6) When will the public input sessions for this occur?

City Response: There will be a public hearing at the Planning Board level and a public hearing at the City Council level. Notice of said hearings will be provided in accordance with the UDO and applicable statutes. City Staff will ask the chairperson of the General Government Committee if she wants: (i) to hold a public hearing at the committee level and/or (ii) staff to set up a separate public input session.

B. Neighborhood Alliance

1) WSNA members' main questions are: What's the motivation for this?

City Response: The fence ordinance arose out of a council member concerns about fortress like fences, in particular those that obscure/hide the front yard and are made of substandard materials.

2) What problem or problems is this ordinance meant to address?

City Response: The ordinance is designed to address the problems that precipitated the ordinance.

3) The other topic that came up in discussion involved trying to understand the masonry (brick?) wall exemption. It appears that brick walls would not be restricted to 4 feet in height. I just drove past some existing tall brick walls, so I can understand that requiring them to be dismantled might be difficult. Some folks wondered about allowing new ones to be built, however.

City Response: Staff has not received complaints about masonry fences. I suspect, in part, because such fences are not, normally, made of substandard material.

Based upon the above input, please advise if additional public input should be solicited prior to the draft going through the Planning Board process which requires a public hearing. An additional public hearing will be held at the City Council level as well.