

City of Hesperia

STAFF REPORT



DATE: January 22, 2019

TO: City Council

FROM: Mike Blay, Assistant City Manager

BY: Chris Borchert, Acting Principal Planner

SUBJECT: Development Code Amendment DCA18-00003 & Title 8 amendment pertaining to Minor Exceptions regarding fence heights, and approved fencing materials; Applicant: City of Hesperia; Area affected: City-wide

RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2019-01 amending the Hesperia Municipal Code, Chapter 16.12 related to fence height exceptions, amending Chapter 16.20 and Chapter 8.32 relating to fencing material and fencing maintenance regulations.

BACKGROUND

The proposed amendments to the Variances and Minor Exceptions section, the Projections Into Yards section, and Title 8 Property Maintenance section of the City of Hesperia Municipal Code are intended to 1) help residents deal with privacy and screening issues; 2) help residents understand what materials are appropriate to use for fencing; and 3) help Code Enforcement when they need to pursue a fencing violation.

On November 8, 2018, the Planning Commission unanimously (5-0) forwarded this item to the City Council with a recommendation for approval. The Commission's only concern was that the "Animal Enclosures" section be expanded to state that the prohibited fence materials are also prohibited from use on an animal enclosure. Staff has added that line to the end of the paragraph. There were no comments received during the public comment period or public hearing.

ISSUES/ANALYSIS

16.12 - Minor Exceptions for Fence Height

The current Minor Exception language only allows 20% of the total length of the fence to exceed the maximum height, which can result in only a portion of a fence being allowed which does not completely resolve the issue. The proposed amendment would remove the 20% maximum and allow the reviewing body (DRC) to approve the additional height where it is needed to resolve the issue. The majority of requests to exceed the fence height are for residential properties. The current maximum height allowed is 6 feet, and exception requests are typically for the two foot maximum, resulting in a fence height of 8 feet.

Current Code: The following section is from 16.12.220 (B)(1) Minor Exceptions and is allowed through the Development Review Committee with a hearing and the findings contained within the section.

1. Fence Height. In any zone, the maximum height of any fence, wall, hedge or equivalent screening may be increased by a maximum of two feet, for not more than twenty (20) percent of the total length of said wall or other screening, where the topography of sloping sites or a difference in grade between abutting sites warrants such increase in height to maintain a level of privacy, or to maintain effectiveness of screening, provided that the increased height does not encroach into the clear sight triangle area. The requirement for an exception may be waived where the requesting party is located on the low side of said wall or other screening, and the proposal does not present visual impacts to area larger than the properties directly involved in the request.

Technically, if your rear property line is 80 feet, only 16 feet can be approved to exceed the maximum height, however, staff has taken a more liberal view of the "total length", which allows accounting for the entire length of fence on the property, thereby using the sides also, and potentially the front as well. If the sides are 100 feet long, the total would equal 360 feet, which would then allow 72 feet of the rear wall to exceed the height, still not enough to complete the 80 foot rear property line.

Proposed Code: The following proposal would remove the 20% maximum, allowing the applicant to propose the amount they think is appropriate. A planner would then visit the property and determine whether their proposal complies with the need, or is excessive and requires reduction.

1. Fence Height. In any zone, the maximum height of any fence, wall, hedge or equivalent screening may be increased by a maximum of two feet, for ~~not more than twenty (20) percent of~~ the total length or portion of said wall or other screening, where the topography of sloping sites or a difference in grade between abutting sites warrants such increase in height to maintain a level of privacy, or to maintain effectiveness of screening, provided that the increased height does not encroach into the clear sight triangle area. The requirement for an exception may be waived where the requesting party is located on the low side of said wall or other screening, and the proposal does not present visual impacts to an area larger than the properties directly involved in the request.

16.20 & 8.32 Fence and Wall Materials

Staff is proposing amendments to both Title 16, Projections Into Yards, and Title 8 Property Maintenance. Code Enforcement has encountered cases where residents have utilized a variety of materials not typically associated with fencing, such as garage doors, pallets and metal roofing, to repair or enhance existing fences. The proposed amendments will give them more support in enforcing these situations.

Proposed Code: For Title 16, the proposed amendment will separate fences and walls into its own section and add the following paragraphs discussing construction materials to help clarify what materials are allowed, and what is prohibited, for fences.

C. Fences, walls or yard enclosures (not including animal enclosures) shall be constructed of approved materials. Approved materials include masonry block, split face block, wrought iron, chain link, wood or plastic slats, vinyl fencing, and split rail. Any other material must be approved by the Director or designee as a fencing material. Fencing constructed of approved materials must still meet all other requirements of this code, including but not limited to design standards and permitting requirements.

D. All fencing shall be constructed to add to the overall look of the property, installed in a professional manner using treated materials to withstand the environment. In no case shall a

fence be constructed of secondhand or castoff materials not originally designed for fencing. Examples of prohibited materials include, but are not limited to garage doors, corrugated metal scrap, mattresses, tires, car parts, and plywood less than five-eighths inches thick, plywood not of a grade approved by the Director or designee, particle board, paper, visqueen plastic, plastic tarp, cloth or similar material.

E. Animal enclosures shall be constructed of materials treated and installed to withstand the environment, be appropriate for the keeping of animals, and be properly maintained. Animal enclosures shall meet all other requirements of this code. The materials listed as prohibited in Section D are also prohibited for use as an animal enclosure.

The Title 8 change will ensure existing fencing is maintained with the appropriate material. This will be the section that Code Enforcement lists on their notice of violation, which will have a reference to Title 16 for the approved materials.

8.32.040 - Property maintenance.

J. Buildings, structures, walls or fences, or yard enclosures constructed of materials not approved for exterior use unapproved materials or improperly maintained. Improperly maintained may include but not be limited to listing from the vertical axis, moveable with a lateral force of ten pounds or less, dilapidation or similar structural deficiency. (See Chapter 16.20.080 for approved materials)

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Development Code Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Development Code Amendments are exempt if they do not propose to increase the density or intensity allowed in the General Plan.

Conclusion: Staff supports the Development Code Amendments, as it will provide property owners the ability to more effectively mitigate privacy and screening issues, along with improving aesthetics and property values.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ALTERNATIVE(S)

Minor Exceptions

1. The City Council could raise the minimum fence height in residential zones to 7 or 8 feet. This could cut down on the number of exceptions, however, the additional height could negatively impact the aesthetics of a neighborhood. The number of exceptions is minor in light of the city as a whole, and six feet is adequate in most cases, therefore, staff does not support this alternative.
2. The City Council could increase the percentage of wall allowed to be increased, however, there could still be cases where it does not completely address the issue. Therefore, staff does not support this alternative.
3. Provide alternative direction to staff.

Fence and Wall Materials

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance No. CC-2019-01
2. Exhibit "A"