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TO: City Planning Commission

FROM: Eric Fazzini, Staff

RE: Proposed text amendment to Chapter 50 of the 2019 Detroit City Code, Zoning (Zoning Ordinance), that would delete existing miscellaneous provisions for fences contained in Article XIV, Division 2, Subdivision D, to be replaced with updated and expanded fence and wall requirements within a new Subdivision E of Article XIV, Division 2, and to update existing fence provision references for traffic safety site area and features allowed within required setbacks. **(PUBLIC HEARING)**

DATE: September 28, 2022

On September 29, 2022, the City Planning Commission (CPC) will hold a 6:30 P.M. public hearing on the subject text amendment request. Please see the attached copy of the public hearing notice containing a summary of the ordinance amendment as published for this public hearing.

BACKGROUND

Planning and Development Department Request

Over the past several months, Planning and Development Department (P&DD) staff have been working towards improving numerous parts of the 2019 Detroit City Code related to desired commercial corridor design principles, in part, for the design and physical appearance of sites. Many of the topics intended to be addressed by the principles are zoning-related and would need to be achieved through amendments to Chapter 50, Zoning, of the City Code. Given the wide-ranging impact of these design principles, and that the refinement and development of the principles is ongoing, CPC staff has grouped amendments to the Zoning Ordinance (ZO) that would be required into the below three categories that we believe would make discussion and engagement practical:

1. Fences and Walls (introduced Sept. 29)
2. Required Landscaping and Screening (desired to be introduced Oct. 20)
3. Corridor Design Principles (future Nov./Dec. introduction)

The timing of this amendment discussion is beneficial as the CPC recently provided a positive recommendation to City Council to amend how the ZO treats automobile-related uses: junkyards, auto repair facilities, used auto sales lots, towing yards, used tire sales, scrap tire processing, etc., which was also initiated by the Administration- [link to CPC report](#). The focus of the auto amendment is to change or restrict the permissibility of these uses as far as if auto uses are By-right, Conditional, or prohibited in certain non-residential zoning districts. The amendment also adds spacing requirements for auto uses, revises use definitions, and updates use regulations.

By amending the permissibility of auto-related uses, the auto amendment intends to address the primary issue of the citywide proliferation of all types of auto-related uses through restricting the zoning districts where auto uses are allowed and adding spacing requirements that reduce eligible areas for auto uses within permissible districts. The rationale for this amendment is that many of these auto uses are continually non-compliant with zoning regulations, property standards, and licensing requirements, resulting in a blighting influence on the City.

Amendment items one and two on the previous page seek to further address these blighting or aesthetic impacts on the City through amending ZO site improvement development standards contained in Article XIV, Division 2, which are standards that are referred to once use permissibility has been determined. While an auto use may be permitted on a site, development standards ensure that a use does not have a blighting influence, especially along public streets or adjoining residential property. A blighting influence could result from multiple factors, all of which are currently addressed in Article XIV, Division 2, of the ZO:

- inappropriate fence or wall materials used as required or desired screening,
- excessive or ineffective fence or wall height,
- a lack of landscaped or natural ground cover at the perimeter of a site,
- insufficient or minimal landscape buffer width along the perimeter,
- a lack of landscape plantings along perimeter.

From a zoning standpoint, the above factors work together as screening is typically desired by the property owner and required by cities at the perimeter boundary of sites as this is where the blighting or aesthetic impact to the public occurs and can be minimized through ZO standards. Below are examples of auto sites with inadequate comprehensive perimeter screening:



While this amendment seeks to address the screening of auto-related uses, the fence standards that would

be impacted by part 1 of this amendment discussion, fences and walls, contained in Article XIV, Division 2, Subdivision D, of the ZO apply more broadly than to just auto uses. For auto-related uses, there are screening standards contained in Article XIV, Division 2, Subdivision D, and Article XII, Division 3, that apply specifically and only to a limited set of auto uses. We intend to introduce amendments to required landscaping and screening standards, which include these specific auto screening standards, as part 2 of this amendment, which we desire to introduce at the October 20 meeting.

We are breaking the discussion up this way as the part 1 feedback from the Commission and public will inform the details of the part 2 discussion as the proposed general fence and wall requirements would work alongside and support specific screening requirements for auto-related and other uses.

Zoning Ordinance

Section 50-14-381 (Article XIV, Division 2, Subdivision D) contains the general citywide requirements for fences. These standards apply where the ZO does not provide specific fence standards in other sections, such as for height or materials, that are more restrictive and would override this section. Part 1 of this amendment would delete this entire section to be replaced by a new proposed Subdivision E (not currently used in Division 2) intended to comprehensively address fence and wall requirements. Below is a summary of Section 50-14-381 standards ([link](#)) with CPC staff comments below each standard in italics.

Section 50-14-381 Summary:

- (1) Owners of all lots in the city are required to construct and maintain “partition fences” between their own lot and adjoining lots, except when not desired by both property owners.
 - **CPC staff:** *This seems to be an unusual requirement that also may be unenforceable. We do not propose to maintain this requirement with Subdivision E.*
- (2) Materials. All fences shall be supported by iron pipe or angle irons embedded in concrete in the ground, or wood posts or reinforced concrete posts embedded in the ground at least three feet with an average height above grade of at least two feet. Materials permitted to be attached to posts: woven wire (chain link), boards, metal, or other approved materials, with the junction of the posts and materials being considered the lot line.
 - **CPC staff:** *A primary concern here is that the permitted materials of “boards or metal” is very generic language that permits boards or metal of any quality or design to be used as fence screening in residential and non-residential districts, such as shown on the bottom right image on the previous page. This generic language permits corrugated or smooth metal panels, wood sheets or panels, other types of manufactured boards, and salvaged or repurposed building materials that could be considered “boards”. In our review of zoning ordinances from other communities, material standards could be more specific and based on zoning district to achieve higher quality fencing materials.*
- (3) Posts of all fences shall be placed (face) on the side of the fence leading to the higher address number between the adjoining lots as assigned by the city, except for East and West Grand Boulevard and Outer Drive. Additional requirements for which lot owner is required to construct and maintain portions of fencing based on address.
 - **CPC staff:** *This relates to (1) and seems to be an unusual requirement that also may be unenforceable. We propose to replace this requirement with a clearer standard that is based on the zoning lot being fenced, not the city address system.*
- (4) Fence height.
 - a. In general (does not include single- and two-family). Fences between adjoining lots and on streets, alleys, and easements shall not be less than two feet in height or more than eight feet in height,

except fences enclosing industrial or commercial properties may be 12 feet in height.

- **CPC staff:** *In our review of zoning ordinances from other communities, permitting fencing up to eight feet in height for multi-family properties, and between eight feet and 12 feet in height for industrial or commercial properties is excessive, especially along public streets (see the below examples). Additionally, model zoning ordinances typically base fence height on location, such that shorter fences are desired in front yards along streets, and taller fences are permitted in side or rear yards. This is not something the current standards do for multi-family, commercial, or industrial properties.*



b. Single- and two-family dwellings – Front yard. The height of any fence that abuts the front yard of a single-family dwelling or two-family dwelling shall not exceed four feet in height, except that opaque fences shall not exceed three feet in height.

Single- and two-family dwellings – Side/rear yards. The height of any fence that abuts the side or rear yards of a single-family dwelling or two-family dwelling shall not exceed six feet. Uses on a lot adjoining the lot of a single-family dwelling or two-family dwelling shall observe this height limit for any fence separating said use from the dwelling lot.

- **CPC staff:** *In our review of zoning ordinances from other communities, found that height limitations are not typically based on if a fence is abutting a single-family or two-family dwelling. This is an impact-based standard that could create confusion depending on whether the dwelling lot is installing the fence, or the non-dwelling lot is installing the fence.*
- *Additionally, limiting fence height for commercial or industrial properties to four feet when abutting the front yard of a single-family dwelling and six feet when abutting the side/rear yards may be overly restrictive and impractical. Height standards could be more specific and based on zoning district to improve administration of height requirements.*
- *However, we request feedback on if it would be appropriate to base fence height on the zoning lot (district) installing the fence, or if the current standard should remain that is based on adjacency or impact to single- or two-family dwelling yards. We note that the draft Zone Detroit “transition buffers” would use a zoning district-based approach that aligns with the proposed amendment, not the current dwelling impact-based approach.*

(5) In business or industrial districts, barbed wire is permitted to be attached to fences that are six feet in height or greater. Barbed wire is prohibited for single-family or two-family dwellings (lots). No use (lot) adjoining a single-family or two-family dwelling may attach barbed wire to any fence separating the dwelling use.

- **CPC staff:** *As part of the proposed Subdivision E, the districts where barbed wire fencing would be permitted would be aligned with razor wire fencing given they have a similar purpose. This means that barbed wire fencing would no longer be permitted in business districts (that are not adjacent to dwellings). Discouraging the use of barbed wire fencing is a specific request of P&DD as there are other types of security fencing available for use that are higher quality design and appearance, such as spear top ornamental security fencing and anti-climbing fencing.*
 - *We request feedback on whether, or not, barbed wire is an appropriate material to be attached to the top of fences and walls located within business districts, which includes along public streets.*
- (6) Razor wire and electrified fencing is prohibited in any residential, business, or special zoning district classification. Where permitted (includes industrial districts), razor wire shall not be placed at any point closer to the ground than six feet.
- **CPC staff:** *This permission is proposed to remain with additional supporting standards, but we are proposing that razor wire or barbed wire be prohibited adjoining lots containing a single-family or two-family dwelling as this is a current requirement for barbed wire fencing and may be inappropriate from the perspective of the residential occupant or property owner.*

Lastly, provided below is the section that indicates when the landscaping and screening standards of Division 2 apply, which includes the above standards in Section 50-14-381 summarized. This means that when any of the below scenarios occur, any existing fencing and all proposed fencing shall be reviewed for compliance with Section 50-14-381, and any existing noncompliant fencing should be required to be removed or replaced with compliant fencing. Under this section, existing noncompliant fencing does not have any nonconforming protection status that would allow it to remain when the below scenarios occur.

Section 50-14-302 Applicability (of 50-14-381 standards):

- (1) The construction of any principal building.
- (2) The addition to, or enlargement of, any principal building by more than 10 percent.
- (3) The addition to, or enlargement of, any principal building by more than 2,000 square feet.
- (4) The construction or installation of any surface parking area that contains five or more off-street parking spaces or the addition of five or more off-street parking spaces to any existing surface parking lot or parking area.
- (5) Alterations to any structure or improvements to the land for which a building permit is required, where the cost of such work exceeds 60 percent of the assessed valuation.
- (6) Change of use of the property to a more intensive use.

SUMMARY OF DRAFT TEXT AMENDMENT ORDINANCE

1. ZO Cross-reference Updates Required

Section 50-14-381 is currently referenced in Sections 50-13-22 and 50-13-226. These references to 50-14-381 would need to be replaced with a reference to Article XIV, Division 2, Subdivision E, to reflect the proposed location within the ZO no longer being within Subdivision D. The goal of amending Subdivision D and adding a Subdivision E is so that required landscaping and screening, such as for auto uses, would be in Subdivision D, and Subdivision E would contain the general fence and wall standards that would inform the entire ZO, not just required screening. We believe separating these two parts into different subdivisions would allow for clearer improved standards and administration. We will be consulting with BSEED staff on this for feedback.

2. Proposed Applicability (Sec. 50-14-381)

No changes are proposed to the current applicability of Section 50-14-302, which currently apply to

fence standards, described on the previous page. The following amendments are proposed:

- Clarify that fence and wall standards apply only to permanent fences and walls. Temporary fences are addressed in Article XII, Division 6.
- Clarify that any unique fence and wall standards that currently apply to off-street parking area screening, and required landscaping and screening in the to-be-amended Subdivision D, would supersede the requirements of Subdivision E when there are conflicts between standards, which we hope to minimize, if not eliminate with part two.
- Clarify that unique fence and wall standards currently provided in Article XII, Division 3, of the ZO, which are not proposed to be amended, would supersede the requirements of Subdivision E when there are conflicts between standards, which we plan to avoid.

3. Proposed General Standards (Sec. 50-14-382)

The following amendments are proposed, which generally would provide references from the proposed Subdivision E to other parts of the Code to support zoning administration.

- Provide a reference to the Chapter 8, Article XV Property Maintenance Code regarding maintaining fences and walls as “structurally sound, and in good repair and condition.”
- Provide cross-references to existing language regarding fences and walls located within required setbacks and clear line of sight standards that would remain.
- Provide a reference to unique fence and wall standards for Traditional Main Street Overlay Areas contained in Section 50-14-433.
- Provide a reference to existing language in Chapter 4 of the Code regarding signage and fencing (5). CPC staff will consult with the Law Department on if this reference is appropriate, or not, but we believe it would be beneficial to reference here in case a zoning administrator is not referring to Chapter 4 Signs when reviewing the details of fencing, or when an applicant is not being transparent about the intent or ultimate use of fencing.

4. Proposed Material Standards (Sec. 50-14-383)

Below are the proposed permitted or prohibited materials that would apply to all fences, walls, and gates. Again, we are requesting that the consideration of this amendment be continued to the October 20 meeting, in part, so that additional refinement of desired standards can occur between city staff in CPC, P&DD, BSEED, and Law, prior to presenting a recommended proposal to CPC.

Fence or Wall Material	Residential Districts	Business and Special Districts	Industrial Districts
Welded/Woven wire ¹ (e.g., chain link)	Permitted	Prohibited	Permitted
Barbed/Razor wire attached ² (see Section 50-14-383(4))	Prohibited	Prohibited	Permitted
Vinyl/PVC	Permitted	Prohibited	Prohibited
Wood boards/slats (e.g. cedar)	Permitted	Permitted	Prohibited
Wood-like composite materials	Permitted	Permitted	Prohibited
Ornamental metal (aluminum/steel/iron)	Permitted	Permitted only within side and rear yards	Permitted
Ornamental metal security (aluminum/steel/iron)	Prohibited	Permitted	Permitted
Brick/stone masonry	Permitted	Permitted	Permitted
Concrete pre-cast/masonry	Permitted	Permitted	Permitted

Table 50-14-383(1)			
Fence or Wall Material	Residential Districts	Business and Special Districts	Industrial Districts
Other prohibited	Prohibited: corrugated or smooth metal, fiberglass, polycarbonate, or wood sheets/panels; manufactured wood/board, (e.g., plywood, MDF, chipboard, hardboard); salvaged or repurposed building materials (e.g. residential doors); tires; motor vehicle doors; discarded or recycled materials; fabric or woven materials		
Other not listed/prohibited	See Section 50-14-383(2)		
Footnotes			
¹ Chain link fences are prohibited facing a Traditional Main Street in accordance with Section 50-14-433(b)(3) of this Code.			
² Permitted in all zoning districts with a bona fide agricultural use or operation			

The following additional amendments are proposed that would apply to materials:

- Other materials of similar construction, quality, and durability not listed in the above table may be permitted with approval by P&DD, excluding prohibited materials.
- Fabric, woven, or plastic materials, including mesh, tarpaulin, cloth, woven plastic, and similar non-solid screening materials are prohibited as fencing or from being attached to a fence or wall. Plastic, vinyl, or aluminum slats may be threaded through a permitted woven wire chain link fence to provide privacy.
- Permit barbed wire or razor wire to be attached to fences or walls of six feet or greater in height on land zoned industrial.
- Permit electrified fencing on land zoned industrial subject to approval by BSEED. Maintaining and expanding the existing standard (to include razor wire) that no use (lot) adjoining a single-family or two-family dwelling may attach barbed wire or razor wire to any fence separating the dwelling use.
- Require fence posts and supporting rails to face inward toward the zoning lot being fenced and the finished face of the fence to be oriented towards the adjacent zoning lot or street.
- Maintain the current post requirements as provided in the first sentence of 50-14-381(2) Materials.
- Require that existing fences and walls constructed of prohibited materials or materials that conflict with a screening requirement, be immediately reconstructed of approved materials or removed (subject to the applicability of 50-14-302).

5. Proposed Maximum Heights (Sec. 50-14-384)

Below are the proposed maximum heights that would apply to all fences, walls, and gates. This district-based approach is in line with model zoning ordinances and the draft Zone Detroit. For vacant land, where a principal building or structure is not existing or proposed that establishes front, side, and rear yards for a zoning lot, these maximum heights apply within the lot lines and corresponding required setbacks of the zoning district.

Table 50-14-384(1)						
Fence or Wall Material	Residential Districts		Business and Special Districts		Industrial Districts	
	Maximum heights within yards					
	Front ¹	Side/Rear	Front ¹	Side/Rear	Front ¹	Side/Rear
Welded/Woven wire (e.g., chain link)	4'	6'	Prohibited		6'	10'
Vinyl/PVC	4'	6'	Prohibited		Prohibited	
Wood boards/slats (e.g. cedar)	4'	6'	4'	6'	Prohibited	

Table 50-14-384(1)						
Fence or Wall Material	Residential Districts		Business and Special Districts		Industrial Districts	
	Maximum heights within yards					
	Front¹	Side/Rear	Front¹	Side/Rear	Front¹	Side/Rear
Composite materials (e.g., recycled wood or plastic)	4'	6'	4'	6'	Prohibited	
Ornamental metal (aluminum/steel/iron)	5'	6'	Prohibited	8'	8'	12'
Ornamental metal security (aluminum/steel/iron)	Prohibited		6'	8'	8'	12'
Brick/stone masonry	3'	6'	3'	6'	6'	8'
Concrete pre-cast/masonry	3'	6'	3'	6'	6'	8'
Other not listed/prohibited	3'	6'	3'	6'	6'	8'
Footnotes						
¹ No fence facing a Traditional Main Street shall exceed six feet in height. Opaque fences or walls facing a Traditional Main Street shall not exceed three feet in height, except as specified for screening purposes according to Section 50-14-372.						

6. Proposed Definitions (Sections TBD)

Additional definitions should be provided to inform the details provided above, specifically proposed materials, this could include the specific design details and types of fencing that qualify as “ornamental metal”, “ornamental metal security”, or “composite materials”. CPC staff will provide definitions as part of a revised draft ordinance based on the outcome of the public hearing if it is desired to use these types of material classifications that would need to be defined.

CONCLUSION

We respectfully request that this public hearing be continued to the October 20 meeting. This is to allow for continued discussion and engagement on fences and walls, and to present part two of the amendment discussion, required landscaping and screening, which should occur alongside the continued deliberation of part one fences and walls as these standards work together.

Also, additional sections would be required to be amended to achieve the objectives for required landscaping and screening that are not contained within the current draft ordinance advertised for this public hearing. Continuing the public hearing would allow for staff to present amendments to additional sections on the record without having to advertise an additional public hearing given that the standards for fences and walls are closely related to required landscaping and screening.

Attachment: Sub E – 2022 08 15 DRAFT Fences & Walls Text Amd Ordinance

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