

SECTION 1102 FENCES, HEDGES AND RETAINING WALLS

Fences and Hedges: Notwithstanding other provisions of this ordinance, fences and hedges may be permitted in any required yard, provided that no fence or hedge along the sides or front edge of any front yard shall be over three- and one-half feet (42 inches) in height. Additionally, no fence or hedge shall exceed 2 ½ feet (30 inches) in height when located within the sight triangle of a corner lot.

Any real estate located outside the corporate limits of the City of Blair and which is included in the General Agricultural Zoning District (AGG) or the Rural Estate (RE) Zoning District shall be exempt regarding fences and hedges from the requirements set forth hereinabove in this Section.

A) The following regulations shall apply to the construction of fences.

- 1) No solid fence shall be constructed closer to the street than the front property line. If the sidewalk is located within the front yard, no fence shall enclose the sidewalk, nor shall a fence be constructed nearer than six inches (6") to the sidewalk.
- 2) No fence erected in a required front yard shall materially obstruct the public view. No component of a front yard fence shall exceed forty-two inches (42") in height, nor shall any structural member exceed thirty-six inches (36") in area, as measured using the horizontal cross section.
- 3) No fence shall be constructed which will constitute a traffic hazard as identified in the sight triangle of a corner lot (See Section 1101).
- 4) No fence constructed in the second-front yard (the side yard abutting the street) of a corner lot shall exceed forty-eight inches (48") in height. However, open fences in the second front yard may exceed forty-eight inches (48"), but no taller than seventy-two inches (72"), if the fence is built on or inside the property-line boundary. Examples of an open fence include decorative, picket or wrought iron where 50% of the surface is open and a person can see through the fence. For the purposes of this section, the "second-front yard" shall be deemed to be in the area extending from the front corner of the house to the rear lot line on the side of the lot immediately adjacent to the City Street.
- 5) No fence constructed in the reverse front yard (third front) of a lot shall exceed six feet (72") in height. On corner reverse lots, fences shall not exceed forty-eight inches (48") in the second front.
- 6) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance (examples of hazardous or dangerous fences shall be wire strand fences such as electrical conduit wire fences, barbed wire fences, chicken wire fences, etc.). Permitted types of fences shall include chain link fencing, wood fencing (including split rail and split rail with plastic coated wire backing), wrought iron, plastic, vinyl and other ornamental fencing or masonry (see Item #7).

- 7) Applicants for masonry fences must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines. The side of concrete fences facing any adjoining property or right of way must be brick or stone textured.
 - 8) No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet.
 - 9) All fences shall conform to the construction standards of the building code and other ordinances.
 - 10) In commercial and industrial districts, maximum height of fences shall be six (6) feet. Except, when industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his/her discretion may allow greater heights.
 - 11) All fences or parts thereof which are solid shall be constructed so that all posts, braces, stringers, and all other structural members faced to the interior or the lot or parcel being fenced.
 - 12) Effective from and after July 1, 1998, the Rules and Regulations of the International Building Code pertaining to confinement and fencing of outdoor pools shall be in effect and shall be enforced.
 - 13) All fence posts shall be made of wood, wrought iron, plastic, vinyl, ornamental fencing, and masonry or of similar material as the remainder of the fence.
- B) The following regulations shall apply to the construction of retaining walls.
- 1) PURPOSE AND INTENT.
 - a) To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;
 - b) To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and
 - c) To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.
 - 2) APPLICABILITY AND EXEMPTIONS: The regulations and requirements contained herein shall apply to all retaining walls erected in the City of Blair, except the following:
 - a) Retaining walls that are six (6) feet in height or less shall not require a building permit but must meet the requirements of this section.

- b) A terraced combination of walls, in which each separate wall is six (6) feet in height or less and in which each terrace is at least two times (2x) the height of the next lowest wall, shall not require a building permit but must meet the requirements of this section.
- 3) GENERAL REQUIREMENTS: Following are the general requirements for retaining walls, including walls six (6) feet in height or less that do not require a building permit. No retaining wall shall be constructed in excess of these General Requirements regarding maximum height or maximum slope without first obtaining a Conditional Use Permit (see Subsection B(4) below).
- a) Permit and Design - A building permit shall be required for all retaining walls that are over six (6) feet in height. All retaining walls requiring a permit must be designed by an engineer licensed in Nebraska.
 - b) Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if a successive wall is setback from the next lowest wall at least two times (2x) the height of the next lowest wall, the walls shall be considered as separate walls. If a successive wall is setback from the next lowest wall less than two times (2x) the height of the next lowest wall, the multiple walls shall be treated as a single wall and the height shall be measured as described in subsection 3(c) below.
 - c) Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the front of the wall to the grade at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall. Multiple walls treated as a single wall shall be measured from the grade at the front of the lowest wall to the grade at the back of the highest successive wall.
 - d) Setback and Maximum Height Requirements –
 - i. Applicants for retaining walls located within three (3) feet of a property line must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines.
 - ii. Retaining walls which discharge storm water at their base from downspout drains located on any structure shall be located at least three (3) feet from the property line. Such discharge locations shall be constructed and maintained to eliminate any erosion from the base of the wall or adjoining property.
 - iii. Front yard(s) – No retaining wall erected in a required front yard shall materially obstruct public view or constitute a traffic hazard as identified in the site triangle of a corner lot (See Section 1101). No retaining wall shall be constructed closer than six (6) inches from the front property line without an easement from the City. No retaining wall in a required front yard shall

exceed three and a half (3½) feet in height. No retaining wall bordering and facing the driveway or approved parking areas shall exceed ten (10) feet in height.

iv. Side and rear yard(s) - No retaining wall shall be constructed closer than six (6) inches from the side or rear property line. If the face of the retaining wall is towards the inside of the property, a permanent easement must exist for all areas outside the property requiring geogrid support and backfill, and such easements must be recorded against all effected properties. No retaining wall shall exceed ten (10) feet in height.

e) Wall Surcharge – Retaining walls shall have a maximum 1:4 (25%) slope in the soil surcharge uphill from the retaining wall for a minimum distance of two times (2x) the height of the wall.

f) Nonconforming Retaining Walls - Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.

4) CONDITIONAL USE PERMIT REQUESTS TO EXCEED GENERAL HEIGHT AND/OR SLOPE LIMITATIONS:

a) A Conditional Use Permit application may be submitted for the following exceptions only:

i. Retaining walls to exceed the maximum heights indicated in Subsection B(3)(d).

ii. Retaining walls to exceed the maximum 1:4 (25%) slope in the soil surcharge indicated in Subsection B(3)(e).

b) A Conditional Use Permit application must address, and will be evaluated on, the following criteria:

i. That the proposed retaining wall is otherwise in compliance with the provisions of this Section;

ii. That the proposed retaining wall will not adversely impact adjacent property, the public or public infrastructure;

iii. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.