

For discussion of fence @ Gathering Place

#### 14.54.035 Fences and Retaining Walls.

(a) Retaining walls may be permitted on City property under the following conditions:

- (1) The wall is not higher than six inches above the land that it supports.
- (2) The wall shall comply with Chapter 14.44 [Obstructing View on Corner Lots- 30" maximum of obstruction, with 25' triangle of corner of property] of the Lincoln Municipal Code.
- (3) The wall shall be safe and aesthetically compatible with the neighborhood.

(b) Fences may be permitted on City property under the following conditions:

- (1) The fence shall comply with Chapters 20.10 [Lincoln Residential Building Code] and 27.71 [Zoning, additional height & area regulations, fences typically 76" tall] of the Lincoln Municipal Code.
- (2) The fence shall comply with Chapter 14.44 [Obstructing View on Corner Lots- 30" maximum of obstruction, with 25' triangle of corner of property] of the Lincoln Municipal Code.
- (3) Fences installed after August 1, 2008 shall be no closer than two feet to any existing or proposed sidewalk unless installed so as to not interfere with pedestrian and bike traffic.

(4) Fences shall not be allowed between a sidewalk and the street. If no sidewalk is present, the fence may be no closer than twelve feet from the curb.

~~(5) The fence shall be safe and aesthetically compatible with the neighborhood.~~

(c) After review of the application, the Director shall issue a permit if the application complies with the provisions of this chapter; provided however, any fence or retaining wall which does not comply with the provisions of this section may apply for a permit as a structure. The fence and retaining wall permit shall be subject to the following conditions, which shall be made a part of said permit:

(1) The use of public space shall be temporary. The owner shall not acquire any right, title or interest to such space.

(2) In the event that it becomes necessary to construct, maintain or repair utilities within the space occupied by the fence or retaining wall, the removal and replacement of said permitted item shall be done at the expense of the owner, and by the owner within 14 days after written notice is given by the City. In the event emergency maintenance or repairs must be made to utilities, the City may remove the fence or retaining wall with no liability or responsibility for damages thereto.

(3) The retaining wall or fence shall be located only in the exact location described in the approved application.

(4) The owner shall maintain the fence or retaining wall in good repair and in the form approved by the permit. Such maintenance shall solely be the responsibility of the owner, and shall be performed at the owner's expense. In case such owner refuses or neglects, after 14 days' written notice, to repair or maintain such fence or retaining wall, the City may repair or remove such fence or retaining wall and charge the cost thereof to the owner. In the event the fence or retaining wall endangers or is likely to endanger the life, limb, health, property, or safety of the public, the City may repair or remove such fence or retaining wall without notice and charge the cost thereof to the owner.

(5) The owner shall hold the City harmless from any and all liability resulting from the construction, maintenance, or existence of any of the allowed or permitted items.

(6) The City of Lincoln is released from any and all liability and responsibility for any damage to an allowed or permitted use which might occur during installation,

maintenance, or repair work performed by the City of Lincoln, its departments or utilities, or another quasi-public utility, or franchisee of the City of Lincoln including, but not limited to, street maintenance and repair, snow removal, street widening, utility project, street cleaning, sign replacement, maintenance and repair, or any other construction, or repair function of the City of Lincoln, its departments, agencies, utilities, or quasi-public utilities, or franchisees, or its successors or assigns. In no event will compensation be provided for use of the right-of-way by the City. If the owner desires to salvage material, it must be done before the project begins at the owner's expense.

(7) The owner shall be responsible for any damage or repairs to public property caused by the installation or removal of any fence or retaining wall.

(8) The owner assumes all risk in placing the permitted item on City property including damages, vandalism, and destruction.

(9) All terms and conditions shall be binding and obligatory on the owner and such owner's successors, personal representatives, heirs, and assigns. (Ord. 19115 §4; August 4, 2008).