

ORDINANCE NO. G-1174

AN ORDINANCE AMENDING TITLE IV. LAND USE; CHAPTER 440 – ZONING - GENERAL PROVISIONS, SECTION 400.280 – PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; CHAPTER 410 – ACCESSORY USES, TEMPORARY USES AND HOME OCCUPATIONS, SECTION 410.030 – PERMITTED ACCESSORY USES; AND CHAPTER 440 – ADMINISTRATION - ARTICLE VII – SPECIAL EXCEPTIONS; OF THE MUNICIPAL CODE OF THE CITY OF JUNCTION CITY, KANSAS.

WHEREAS, the Junction City City Commission established a moratorium on the issuance of permits for new fencing within the City of Junction City by Ordinance S-3160 and directed staff and the Metropolitan Planning Commission to develop new standards and requirements for fencing within the City of Junction City; and,

WHEREAS, the Junction City/Milford/Geary County Metropolitan Planning Commission did on October 8, 2015, conducted a public hearing on the proposed amendments to the Junction City Zoning Regulations pertaining to amending certain sections of said Zoning Regulations regarding fencing standards and requirements; and, by a 6 to 0 vote, with one absence, recommended certain amendments to the Zoning Regulations of the City of Junction City pertaining thereto; and,

WHEREAS, this City Commission has reviewed the record of said Junction City/Milford/Geary County Metropolitan Planning Commission meeting and thoroughly discussed the recommendation made therein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

Section 1. Section 400.280, PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, existing sections A. and B. shall be repealed and new sections A. and B. shall be adopted to read as follows:

SECTION 400.280: PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

A. The following shall not be considered to be obstructions when located in a required yard:

1. ***In all yards.*** Open terraces, decks and/or a porch not over thirty (30) inches above the average level of the adjoining ground; provided however, no terrace, deck or porch shall be permitted to be permanently roofed; steps thirty (30) inches or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley; ramps and/or landings required for handicapped access to a building or structure; fences when authorized by and constructed in conformance with the provisions of Section 410.030 of this Code; and signs, when permitted by Chapter 650 of this Code.

NOTE: For the purposes of determining height as noted above, the measurement is to the surface of the terrace, deck, porch or landing for the top step and does not include the additional height mandated by

Building Codes calling for the installation of hand railing protection for said terrace, deck, porch or steps.

2. ***In any yard except a front yard.*** Accessory uses permitted by Chapter 410.

- B. Permits and payment of all applicable fees are required for all proposed structures covered by this section. A permit is required for all fence construction. Fees shall be set by Resolution of the City Commission.

Section 2. Section 410.030, PERMITTED ACCESSORY USES, existing sections B. and C. shall be repealed; and, new sections B. and C. shall be adopted to read as follows:

SECTION 410.030: PERMITTED ACCESSORY USES

B. *Residential Districts:*

1. Storage structures.
2. A child's playhouse, provided it shall not be more than one hundred (100) square feet in floor area and shall be in keeping with principal structure.
3. A detached garage.
4. A private swimming pool and bathhouse.
5. A guest house (without kitchen facilities) or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building, and not as rental units for permanent occupancy as housekeeping units.
6. Statuary, arbors, trellises, barbecue stoves, flagpoles, hedges subject to the restrictions of Section 220.855 of this Code, laundry drying equipment not exceeding six (6) feet in height.
7. Fallout shelters, provided they shall not be used for any principal or accessory use not permitted in the Zoning District.
8. Satellite dish-antennas, provided the total height is less than twelve (12) feet and the antenna is securely fastened to the ground.
9. Wind-powered generating systems, provided the following standards are met:
 - a. No tower or propeller shall be located so as to be within a distance equal to its height of any structure, power line or antenna located on any other piece of property.
 - b. The height of the tower and propeller shall not exceed by more than fifty percent (50%) the height limitation of the district in which

it is located and the bottom tip of any propeller shall be at least ten (10) feet above any accessible pedestrian area.

- c. The system and its component parts shall be totally surrounded by a fence at least six (6) feet and not more than eight (8) feet in height.
 - d. The system shall not cause interference to radio or television reception on adjacent property.
 - e. The system shall contain a braking device for winds in excess of forty (40) miles per hour.
10. Storage of boats, boat trailers, camping trailers and travel house trailers; provided, no part of such storage area is located in the front yard setback and that no truck or bus having a manufacturer's rating of more than one (1) ton shall be permitted; provided, further, the location for the storage of the vehicles permitted herein shall comply with all other provision of this Code including the requirement the area for such storage shall be paved. (Section 220.870 and Section 420.020)
11. Fences or walls, subject to the following:
- a. Fences or walls may be constructed to a maximum height of six (6) feet above the average grade; **EXCEPT** concerning the height restriction for fencing in front yards and on corner lots as established in this Section. In determining the height of a fence, the material used in the fence posts shall not be considered; provided said post does not exceed the height of the fence by more than one (1) foot, unless determined by the Codes Administrator as being an integral part of the overall design of a decorative fence.
 - b. A Fence Permit, and payment of all applicable fees, shall be required for all fences or walls.
 - c. Construction of fences exceeding six (6) feet in height require a Building Permit and shall comply with the requirements established by the Codes Administrator.
 - d. Fences or walls (including retaining walls) in any "PDD" Planned Development District shall be approved by the Planning Commission as part of the development plan prior to the issuance of any fence permit.
 - e. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained, unless otherwise permitted by the Codes Administrator.

- f. On all properties residentially used, irrespective of the underlying zoning classification, the following restrictions and standards shall apply to all fences and walls:

(1) Location.

- (a) *Front yard.* Fences erected in a front yard, as defined in Section 400.030, shall not exceed four (4) feet in height. Fencing in front yards shall not have an opacity level exceeding twenty five percent (25%) irrespective of the permitted material used for the construction of the fence.
- (b) *Any corner lot.* Fences erected along the street frontage of a corner lot that is considered the "front yard", shall not exceed four (4) feet in height. Fences erected along the street frontage of a corner lot that is not considered the "front yard" shall not exceed six (6) feet in height; provided, however, if that frontage abuts a lot whose front yard is the same street frontage, the provisions of fencing shall comply with the "front yard" restrictions listed herein (i.e. height is limited to four (4) feet and must comply with the opacity requirements). The requirements for protecting the vision triangle at intersections established within the City Code shall apply and may override the construction of a fence of any height.
- (c) *Rear yard.* A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. Fencing over a platted or recorded easement shall be subject to the restrictions outlined in Section 505.050 of the City Code. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed, except the provisions for a front yard as stated above shall apply for both frontages.

A fence or wall in the rear yard whose property abuts a public alley shall be setback from the rear property line a minimum of three (3) feet, and shall provide at least one (1) gate sufficient for access for maintenance and mowing purposes.

- (d) *Side yard.* A fence or wall may be constructed on the side property line. Fencing over a platted or recorded easement shall be subject to the

restrictions outlined in Section 505.050 of the City Code.

(2) Design Standards.

(a) All fences shall be constructed with materials that are decorative in nature. Generally acceptable materials include, but are not limited to, the following:

- (1) Wrought iron
- (2) Picket
- (3) Split rail
- (4) Chain link
- (5) Masonry
- (6) Wood
- (7) Composite and/or Vinyl
- (8) Other decorative materials approved by the Codes Administrator.

Specifically prohibited are fences constructed with materials commonly defined as "chicken wire" or similar nature.

(b) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside of the fence, unless the Codes Administrator determines said posts and support beams are designed as an integral part of the finished surface.

(c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed any spikes or sharp pointed cresting on fencing, or any barbed wire fencing anywhere within the City. This restriction shall not apply to public infrastructure, private utility infrastructure or other public facilities which are fenced with these amenities on the fencing for security purposes only.

(d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

g. Modifications to any of the standards established herein shall only be allowed upon the approval of a Special Exception by the Board of Zoning Appeals as authorized by Chapter 440, Article VII, of this Code.

C. *Commercial and Industrial:*

1. Signs, when permitted by Chapter 650 of this Code.
2. Off-street parking and loading spaces, as regulated by Chapter 420 of this Title.
3. Storage of equipment and supplies, but not including outdoor storage unless specifically permitted in the district regulations.
4. Restaurants, drug stores, gift shops, clubs and lounges and newsstands, when located in a permitted hotel, motel or office building.
5. Employee restaurants and cafeterias, when located in a permitted business or manufacturing or industrial building.
6. Satellite dish antennas.
7. Sea-land containers with the following restrictions:
 - a. No sea-land container shall be placed or maintained on real estate zoned residential or used residentially.
 - b. A sea-land container shall be considered a "structure", subject to all the restrictions, requirements and other provisions of the Building Code of Junction City, Kansas, as in effect and amended from time to time.
 - c. A sea-land container shall be placed on a concrete pad. No anchoring shall be required.
 - d. The restrictions set forth in Subparagraphs (a) and (b), above shall not apply to:
 - (1) Sea-land containers offered for sale or rent from real estate which is zoned for commercial or industrial use; or
 - (2) Sea-land containers which are utilized in connection with construction or other work for which a current permit, if required, has been issued by the City of Junction City, Kansas.
 - e. No sea-land container shall be used for or adapted for use as a residence, office or other use involving human occupancy.
 - f. The placement of any and all sea-land containers for any purpose shall be subject to the setback requirements applicable to buildings under the applicable provisions of the Junction City zoning regulations.
 - g. Sea-land containers shall not be stacked.

requirements for protecting the vision triangle at intersections established within the City Code shall apply and may override the construction of a fence of any height.

- (c) *Rear yard.* A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. Fencing over a platted or recorded easement shall be subject to the restrictions outlined in Section 505.050 of the City Code. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed, except the provisions for a front yard as stated above shall apply for both frontages.

A fence or wall in the rear yard whose property abuts a public alley shall be setback from the rear property line a minimum of three (3) feet, and shall provide at least one (1) gate sufficient for access for maintenance and mowing purposes.

- (d) *Side yard.* A fence or wall may be constructed on the side property line. Fencing over a platted or recorded easement shall be subject to the restrictions outlined in Section 505.050 of the City Code.

(2) Design Standards.

- (a) All fences shall be constructed with materials that are decorative in nature. Generally acceptable materials include, but are not limited to, the following:

- (1) Wrought iron
- (2) Picket
- (3) Split rail
- (4) Chain link
- (5) Masonry
- (6) Wood
- (7) Composite and/or Vinyl
- (8) Other decorative materials approved by the Codes Administrator.

Specifically prohibited are fences constructed with materials commonly defined as "chicken wire" or similar nature.

- (b) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside of

the fence, unless the Codes Administrator determines said posts and support beams are designed as an integral part of the finished surface.

(c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed any spikes or sharp pointed cresting on fencing, or any barbed wire fencing anywhere within the City. This restriction shall not apply to public infrastructure, private utility infrastructure or other public facilities which are fenced with these amenities on the fencing for security purposes only.

(d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.

g. Modifications to any of the standards established herein shall only be allowed upon the approval of a Special Exception by the Board of Zoning Appeals as authorized by Chapter 440, Article VII, of this Code.

Section 3. CHAPTER 440 – ADMINISTRATION is hereby amended by adding new ARTICLE VII – SPECIAL EXCEPTIONS, to read as follows:

CHAPTER 440: - ADMINISTRATION -- ARTICLE VII – SPECIAL EXCEPTIONS

SECTION 440.440: AUTHORIZATION

In order to provide for adjustment in standards and/or requirements for buildings or structures permitted by these Regulations, and to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation; special exceptions are hereby permitted by the terms of this Article. The following buildings, structures and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not adversely affect the uses of adjacent and neighboring property permitted by these Regulations:

A. An exception to the height limitations or any standard for a fence or wall on any property.

SECTION 440.450: APPLICATION FOR SPECIAL EXCEPTION

An application for a Special Exception shall be filed with the office of the Zoning Administrator on forms provided by the Zoning Administrator. The application shall contain the following information, as well as such additional information as may be prescribed by rule of the Board of Zoning Appeals.

A. A diagram and pictures showing the specifics of the proposal for which the Special Exception is requested.

- B. A statement as to why, in the opinion of the applicant, the proposed Special Exception will not adversely affect the uses of adjacent and neighboring property.

SECTION 440.460: HEARING ON SPECIAL EXCEPTION

A hearing on the application shall be held and notice thereof given as specified under Section 440.300 of this Chapter.

SECTION 440.470: GUIDELINES FOR SPECIAL EXCEPTION

The Board of Zoning Appeals may approve the Special Exception, provided, such approval shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

- A. Limitations of as to size, type, color, or location of the proposed structure.
- B. Construction design and type of construction materials to be used.
- C. Maintenance requirements including cleaning and painting.
- D. Such other conditions and/or limitations that are deemed necessary.

SECTION 440.480: DECISIONS AND RECORDS

The Board of Zoning Appeals shall render a written decision containing specific findings of fact on an application for a Special Exception without unreasonable delay after the close of the hearing, and in all cases, within ninety (90) days after the close of the hearing. The office of the Zoning Administrator shall maintain complete records of all actions of the Board of Zoning Appeals with respect to applications for Special Exceptions.

SECTION 440.490: REVOCATION

A Special Exception may be revoked by the Board of Zoning Appeals upon finding that one (1) or more of the conditions under which the Special Exception was granted have not been complied with. Such action shall not be taken until after a hearing has been held in accordance with Section 440.200.

Section 4. This Ordinance shall be in full force and effect from and after its publication once in the Junction City Daily Union.

PASSED AND ADOPTED THIS 20th DAY OF October, 2015.



Mick McCallister

 MICK McCALLISTER, MAYOR

ATTEST:

G-1174



TYLER FICKEN, CITY CLERK