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KANAB CITY COUNCIL STAFF REPORT- March 3, 2015

I. REQUEST: Land Use Ordinance amendment regarding fences, walls and hedges: Chapter 1, 4, 9

II. BACKGROUND

While working with applicants, it has come to the attention of Staff that regulations in the *Kanab City Land Use Ordinance* which govern the construction of fences, walls, and hedges create unnecessary burdens upon applicants and City resources and are in need of revision. In Staff's review, the International Residential Code (IRC) and several fence regulations from surrounding cities were consulted.

III. STAFF ANALYSIS

Section 4-16 of the *Kanab City Land Use Ordinance* includes regulations which govern the construction and placement of fences, walls, and hedges. Currently, unnecessary processes are mandated, including the need to obtain a building permit and/or conditional use permit when constructing all fences, walls, and hedges. Specifically, Section 4-16 states:

A building permit is required for construction of all fences, walls and hedge in order to insure that the construction meets the current building codes for safety and suitability.

The Kanab City Building Official has expressed that this is an unusual requirement. *International Residential Code (IRC)* Section 105.2 states that fences over 6 feet high are exempt from permit requirements of the IRC. Staff believes that in order to be in harmony with this code and reduce unnecessary burdens and city resources, a building permit need only be required when fences or walls exceed 6 feet.

In addition to removing the need to obtain a building permit for fences that are 6 feet in height or less, Staff believes that the City should remove provisions that require the applicant to obtain a conditional use permit (CUP). The following notations within Section 4-16 require a CUP for fences and walls:

A. Fences and walls may be erected to a height of, but may not exceed, except by Conditional Use Permit, eight (8) feet when located within the buildable area.

E. Fences and walls may be erected to a height of, but may not exceed, 8 feet when located within the setback area and by conditional use permit on the side and rear property lines.

– A Western Classic –

F. Commercial and manufacturing fence regulations. . . . When property fronts on Highway 89 and/or Highway 89A, a fence that exceeds forty eight (48) inches in height shall be approved by conditional use permit. A fence up to ninety six (96) Inches in height in the side and rear property lines shall be by conditional use permit.

As provided in Section 8-1, “a conditional use is a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.” In the opinion of Staff, the requirement for conditional use permit for the fence types described in the ordinance is not necessary to impose. There are limited, if any, conditions, that would mitigate the placement of a fence. Rather than requiring a conditional use permit for fences that are between six and eight feet, staff believes that simply allowing for fences, walls, and hedges in side and rear yards up to eight feet, acknowledging that fences over 6 feet in height must obtain a building permit to ensure they are structurally sound, etc. A provision allowing for an additional three feet should also be added, provided that the additional three feet has a high “visibility factor,” to provide for instances in which a slightly higher fence is necessary.

Provided that the above recommendation is applied, several of the Commercial and manufacturing fence regulations, provided in Section 4-16, sub-section F, are unnecessary and should be removed, with the exception of the provision that a 6 feet tall fence be constructed between commercial/manufacturing and residential uses and the allowance for 8 feet tall fences on all sides of the property within the M-2 and M-3 zones.

Section 4-16, sub-section C states:

Side and rear interior yard fences shall be 48 inches in height from the front property line to a point 25 feet back along the side property line and then allowed to be 72 inches in height on the remainder of the interior side and rear property line.

It is necessary to limit the height of fences in front yard areas to provide for visibility. However, it is more practical to limit the height within the front yard, which may vary depending upon the zone and building setback then to limit taller to fences to be at least 25 feet setback. For example, if a building is setback 15 feet, a 6 feet fence would be allowed to be set back at an area which is even with the front of the building. This would have a negligible impact upon sight distances, as all buildings are constructed at a height of greater than six feet.

Section 4-16, sub-section G stipulates the fencing materials that are permitted, but is unclear about if this relates to all zones or to residential zones only. To reduce confusion, Staff believes that the list of approved materials including post and rail, chain link, wood plank, diminished lumber, block or masonry wall on foundation, vinyl fencing, picket fencing, and wrought iron, be specific to single-family, multi-family, C-1, and C-2 zones. This provision is primarily related to visual impact and is in harmony with Chapter 3 of the General Plan, related to city beautification. Other materials, such as barbed wire or welded wire mesh would be appropriate in many settings in agricultural, rural-residential, and manufacturing zones and should be allowed for in such zones.

Section 4-16, sub-section L includes an explanation for the “visibility factor,” which is relatively confusing. Staff believes that this should be clarified and moved to the definitions section in Chapter 1.

Section 4-16, sub-section N provides regulations for fence type enclosures, including tennis courts, batting cages, etc. Upon review, staff has determined that these regulations should be simplified and, simply stating that such enclosures are permitted at a height of no greater than 18 feet and be located within the buildable area, within a rear or side yard.

Section 9-8, subsection L provides that “the maximum height of any berm, fences, signs or vegetative

ground cover at maturity within the view triangle is two feet (2').” Section 4-16 limits this height to four feet. To be in harmony with Section 4-16, Section 9-8 should be amended to a maximum height of four feet.

III. FINDINGS

- 1. Requiring a building permit for fences below six feet is an unnecessary burden upon residents and City resources.**
- 2. The International Residential Code provides that fences that are six feet or lower do not need a building permit.**
- 3. Requiring a conditional use permit for fences is not appropriately applied.**
- 4. Allowing eight feet fences within the rear and side yards would not have any significant negative affects related to health, safety and welfare of the community.**
- 5. Section 4-16 is in need of revisions to simplify and clarify the ordinance.**
- 6. The suggested changes are in harmony with the intent of the Kanab City General Plan.**

IV. STAFF RECOMMENDATION:

That the Kanab City Planning Commission recommends to the Kanab City Council an amendment to the *Kanab City Land Use Ordinance*, with the changes described in the attached documents.

KANAB

Land Use Ordinance

Chapter 1

GENERAL PROVISIONS

The Uniform Zoning Ordinance is designed to promote the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City of Kanab, Utah.

Adopted January 22, 2008
Revised Feb 11, 2014

Vicinity Plan - A map or drawing, to scale, showing the physical relationships of the proposed development to existing or proposed streets, buildings, and utilities; other relevant information such as special terrain or surface drainage, and existing zoning classifications of all land within three hundred (300) feet of the property proposed for development.

Visibility Factor - For fences and other flat surfaces, the portion of open area to its installed surface, when viewed perpendicular to its installed surface. For example, a picket fence which has one square feet of open area for every four square feet of installed surface has a visibility factor of 25%.

Yard - A required open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this Ordinance.

Yard, Front - A space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building.

Yard, Rear - A space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

Yard, Side - A space on the same lot with a building, between the side line of the building, and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

Zone - (See "District")

Zoning Ordinance - The Kanab City Zoning Ordinance.

Zoning Administrator - The local official designated by the Kanab City Council to enforce the regulations of this Ordinance; the Kanab City Zoning Administrator may also be the Kanab City Building Inspector.

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Land Use Ordinance

Chapter 4

SUPPLEMENTARY REGULATIONS

This ordinance provides various development regulations that impact most uses and zones.

Adopted January 22, 2008
Revised Sept 10, 2013

Sections

- 4-1 Substandard Lots at Time of Ordinance Passage
- 4-2 Lot Standards
- 4-3 Cul-de-Sac Lots Frontage Requirements
- 4-4 Every dwelling to be on a Lot – Exceptions
- 4-5 Yard Space for One Building Only
- 4-6 Residential Occupancy Regulations
- 4-7 Sale or Lease of Required Space
- 4-8 Minimum Lot Size Required for Subdivision⁵
- 4-9 Yards to be Unobstructed – Exceptions
- 4-10 Area of Accessory Buildings – Guest Houses
- 4-11 Building Height Calculation
- 4-12 Exceptions to Building Height Limitations
- 4-13 Minimum Height of Main Buildings
- 4-14 Maximum Height of Accessory Buildings
- 4-15 Clear View of Intersecting Street
- 4-16 ~~Maximum Height of~~ Fences, Walls, and Hedges
- 4-17 Water and Sewer Requirements
- 4-18 Curbs, Gutters and Sidewalks
- 4-19 Effect of Official Map
- 4-20 Flag Lots - Special Provisions
- 4-21 Private Lanes - Special Provisions
- 4-22 Temporary Lodging
- 4-23 Handicapped Residential Facilities
- 4-24 Elderly Residential Facilities
- 4-26 Residential Zones Design Standards
- 4-27 American National Standard Manufactured Home Installations
- 4-28 Home Occupations
- 4-29 Underground Utilities
- 4-30 Streets and Trails Connectivity
- 4-31 Residential Facilities for Persons with Disability
- 4-32 Leasing Property in Residential Zones

Chapter 4

SUPPLEMENTARY REGULATIONS

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Adopted January 22, 2008
Revised Sept 10, 2013

Section 4-16 ~~Maximum Height of Fences, Walls, and Hedges~~

- ~~A. A building permit is required for construction of all fences and walls over six feet (6') in height and hedges in order to insure that the construction meets the current building codes for safety and suitability.~~
- ~~B. Fences, walls and hedges may not exceed eight feet (8') in height within any required rear yard or side yard.~~
- ~~1. An additional three feet (3') of fence material with a visibility factor of 70% or greater, may be added to the top of any wall or fence along the side and rear interior yard.~~
- ~~C. Fences walls and hedges may not exceed four feet (4') within the front yard. Within the clear view triangle, as required in Section 4-15, fences shall have a 70% visibility factor.~~
- ~~A.D. Fences and walls Interior yard enclosures (i.e. tennis courts or batting cages) may be erected to a height of eighteen feet (18') and must be located in the side or rear yard within the buildable area of a lot, but may not exceed, except by Conditional Use Permit, eight (8) feet when located within the buildable area.~~
- ~~B.E. Within the triangle formed as required in Paragraph 4-15, fences shall be limited to 48 inches in height and have a 70% visibility factor. Front and side street fences outside the triangle shall be limited to 48 inches in height and may be a complete barrier to view: e.g. a 0 % visibility factor.~~
- ~~C. Side and rear interior yard fences shall be 48 inches in height from the front property line to a point 25 feet back along the side property line and then allowed to be 72 inches in height on the remainder of the interior side and rear property line.~~
- ~~D.F. On Along the side street of a corner lot, a fence can~~

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Chapter 4

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Adopted January 22, 2008
Revised Sept 10, 2013

be ~~72 inches~~ six feet (6') in height from the point in line with the front plain of the primary residence (~~minimum of 25 ft back from the front property line~~) and continue on the interior side and rear property lines if the street side fence is set back from the sidewalk or street property line a minimum of 6 feet (6').

~~E. Fences and walls may be erected to a height of, but may not exceed, 8 feet when located within the setback area and by conditional use permit on the side and rear property lines.~~

~~G. Commercial and manufacturing fence regulations. In C-2, C-3 & M-1 zones, a fence up to seventy two (72) inches in height shall be permitted on the rear, side and front property lines. When property fronts on Highway 89 and/or Highway 89A, a fence that exceeds forty eight (48) inches in height shall be approved by conditional use permit. A fence up to ninety six (96) Inches in height in the side and rear property lines shall be by conditional use permit. Razor or barbed wire is not allowed as fence material in the above zones. Fences in M-2 and M-3 zones shall not exceed ~~ninety six (96) inches~~ eight feet (8') in height and shall be allowed in the rear, side and front property lines. ~~Razor or barbed wire is permitted and shall be included in the maximum fence height. When a side yard fence in a commercial or manufacturing zone is adjacent to a private or commercial driveway, the fence shall meet clear view requirements above thirty six (36) inch height and ten (10) feet from the front property line.~~~~

~~F.H. When a fence on commercial and/or manufacturing property abuts a residential lot, the a fence is required and shall be at least ~~seventy two (72)~~ six feet (6') inches in height in the side and rear yard and ~~be constructed of privacy material~~ have a visibility factor of 0%.~~

~~G.I. Fencing material used in the construction of fences or barriers in C-1, C-2, single-family and multi-family residential zones shall be submitted to the building inspector prior to commencement of construction so that he may determine the visibility~~

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Land Use Ordinance

Chapter 4

SUPPLEMENTARY REGULATIONS

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Adopted January 22, 2008
Revised Sept 10, 2013

~~rating, suitability and safety of the materials limited to the following:-~~

~~Permitted fencing materials include:~~

1. Post and rail
2. Chain link
3. Wood plank, diminished lumber
4. Block or masonry wall on foundation
5. Vinyl fencing
6. Picket fencing
7. Wrought iron

~~Fence materials not permitted on residential lots include:~~

- ~~1.—Barbed wire~~
- ~~2.—Cedar or other poles with bark~~
- ~~3.—Welded wire mesh~~
- ~~4.—Rough-sawn lumber (half rounds)~~
- ~~5.—Net fencing~~
- ~~6.—Chicken wire~~
- ~~7.—Pallets~~
- ~~8.—Any other materials not listed as permitted.~~

- H. Any fencing constructed must allow free and easy access to all utility meters located within the fenced area.
- I. For purpose of this Section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two (2) plants is and remains at least five (5) feet.
- J. Where a fence, wall, or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

KANAB

Land Use Ordinance

Chapter 4

SUPPLEMENTARY REGULATIONS

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Adopted January 22, 2008
Revised Sept 10, 2013

K. Fencing and walls six (6) feet in height, including protective gates, must be installed around swimming pools, Jacuzzi's, and similar structures.

~~L. To determine the "visibility factor" of fence material as that term is used in this Ordinance, one square foot of the fence material is viewed perpendicular to its installed surface. The square inches of solid fence material contained in the square foot of fence material is subtracted from 144 to determine the square inches of open area within that square foot of fence material. The "visibility factor" is the percentage obtained by dividing the square inches of open area by 144.~~

~~N. Tennis courts, sport courts, batting cages, etc.: Fence type enclosures for uses such as tennis courts, sport courts, swimming pools, ball diamond backstops, batting cages, etc., may be erected to a height greater than eight feet (8') but not more than eighteen feet (18'), including any retaining walls, provided:~~

- ~~1. Such enclosure does not constitute a part of a fence enclosing a property.~~
- ~~2. All portions of the enclosure shall be located within the rear/side enclosure area of the lot.~~
- ~~3. All portions of the enclosure above a height of eight feet (8') shall be non sight obscuring.~~
- ~~4. The enclosure shall be set back from the property line of adjoining properties and also the main building upon the lot to which it is appurtenant for a distance of not less than twenty feet (20').~~
- ~~5. On corner lots, the enclosure shall be set back not less than ten feet (10') from the street.~~

Section 4-17 Water and Sewer Requirements

All proposed building or proposed use shall be connected to a public water system within the city limits of Kanab. Sewer hookups are required in areas served by the Kanab City Sewer System.

Chapter 9

SITE PLAN REVIEW

This ordinance promotes the orderly and harmonious appearance of buildings and structures and the development of land

Adopted January 22, 2008
Revised June 25, 2013

- K. Xeriscaping is encouraged.
- L. Clear View Triangle, as described in Section 4-15, shall be observed in regard to all vegetation near streets and drives. No evergreen trees shall be planted within any sight triangle. The maximum height of any berm, fences, signs or vegetative ground cover at maturity within the view triangle is two-four feet (2'4'). The Clear View Triangle is the area of visibility required for the safe operation of vehicles, pedestrians and cyclists in proximity to intersecting streets and driveways. The clear view triangle shall be regulated by AASTHO standards for signs and landscaping.
- M. Trash Enclosures: Five foot (5') landscaping strips are required around all trash enclosures except the gate side.
- N. Monument Signs: Five foot (5') landscaping strips shall be provided at the base of all monument signs.
- O. Installation and Maintenance: Installation of required landscaping shall be the responsibility of the property owner.
 - 1. All plant materials shall be planted according to industry standards, using acceptable topsoil and automatically controlled permanent irrigation systems.
 - 2. All proposed plant material shall be in accord with the American association of nurserymen standards in terms of size, character and quality.
 - 3. All plant materials required within a landscaped area shall be planted to completion prior to the city's issuance of a certificate of occupancy.
 - 4. Maintenance and replacement of required landscaping and screening shall be the responsibility of the property owner.
 - 5. All plant materials shall be pruned, trimmed, watered and otherwise maintained to create an attractive appearance and a healthy growing condition. No trees shall be severely pruned or topped.