

Article V.

Fences.

40.400. Chain Link Fences. No person, firm, association or corporation owning or occupying any residential property within the City of Olivette shall erect, construct or maintain thereon any chain link fence from which any sharp metal parts protrude at any point of such fence. It shall be the duty of any person, firm, association or corporation maintaining a fence of the type herein prohibited as of the date of adoption hereof to eliminate such sharp metal protrusions from such fence within twenty (20) days from September 20, 1966 (Ord. 754).

40.410. Penalty for Violation. Any person, firm, association or corporation violating the terms of Section 40.400 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) (Ord. 754).

40.420. Reserved.

Editors Note: Ord. No. 1906, § 1, adopted Dec. 10, 1996, repealed § 40.420 prohibiting fences in industrial areas except by special permit. Such section was derived from Ord. No. 943.

40.430. Fence Requirements for Parking Areas. It shall be unlawful for any person, firm, association or corporation to own, operate, maintain, use or otherwise conduct a vehicular parking lot, vehicular parking area or other tract of land used primarily for the parking, storage, loading, unloading or movement of motor vehicles, whether in conjunction with the operation of a commercial or industrial business or otherwise, without compliance with the provisions of this Section (Ord. 387).

(a) Every person, firm, association or corporation owning, operating, maintaining, using or otherwise conducting a vehicular parking lot, vehicular parking area or other tract of land used primarily for the parking, storage or movement of motor vehicles which consists of fifteen hundred (1500) square feet or more, whether in conjunction with the operation of a commercial or industrial business or otherwise, which is adjacent to, abuts upon or is situated within a distance of ten (10) feet from land in the City of Olivette zoned for residential use, shall erect and maintain a fence along each boundary line of such vehicular parking lot, vehicular parking area or other such tract of land so used for the parking, storage, or movement of motor vehicles, which is adjacent to, abuts upon or is within ten (10) feet of such residential area (Ord. 387).

(b) No person, firm, association or corporation shall own, operate, maintain, use or otherwise conduct a vehicular parking lot, vehicular parking area or other tract of land used primarily for the parking, storage or movement of motor vehicles which consists of fifteen hundred (1500) square feet or more and any portion of which is situated within one hundred (100) feet from land zoned for residential use unless a fence is in existence or is erected pursuant to the requirements, terms and provisions of this ordinance and in full compliance with all terms and provisions hereof, along the boundary line of the area zoned for residential use for the full width of the lot or area of land upon which said parking lot, parking area or other tract of land so

used for the parking, storage or movement of motor vehicles, all as described above, and the structures or buildings served by it are situated or located (Ord. 409).

(c) Every fence required to be erected under the provisions herein shall be:(i) at least six (6) feet in height from the highest level of the ground at the boundary line and if there is a wall, parapet, or other construction at such boundary line, than at least six (6) feet above such wall, parapet or other construction and (ii) shall be solid, except that there may be vertical openings in such fence substantially perpendicular to the ground level, which opening shall not comprise more than twenty (20) per cent of any two (2) foot length of such fence (Ord. 387).

(d) No occupancy permit, special permit, liquor license or any other license or permit required by law or ordinance shall be issued by any licensing authority of the City of Olivette or permitted to remain in effect as to any person, firm, association or corporation owning, operating, maintaining, using or otherwise conducting such vehicular parking lot, vehicular parking area or other tract of land used primarily for the parking, storage, or movement of motor vehicles or owning, operating, maintaining, using or otherwise conducting a commercial or industrial business, the patrons, customers, guests, visitors or employees of which normally use or employ such vehicular parking lot, area or above described tract of land unless the provisions of this article are first complied with; provided, however, that the Building Commissioner of the City of Olivette may by written permit authorize and approve the erection and maintenance of a fence not meeting the requirements of subsection (c) hereinabove as a substitute for such fence if he finds that such substitute fence (a) will adequately shield and protect the adjoining residential area from fumes, noise and lights normally attendant on the operation of such vehicular parking lot, vehicular parking area or other such described tract of land; and (b) will substantially prevent children from gaining access to such vehicular parking lot, vehicular parking area or other such described tract of land from such adjacent or adjoining residential area (Ord. 387).

(e) Any person, firm, company or corporation required to erect a fence hereunder shall first procure a permit therefor from the Building Commissioner and shall pay a fee therefor at the rate of five dollars (\$5.00) per one hundred (100) linear feet or fraction thereof said fence. Applications for said permits shall be on forms provided by the Building Commissioner and shall be accompanied by plans and specifications showing such details concerning the position and construction of said fence as will reflect that same complies with the requirements of this article (Ord. 387).

(f) Any person, firm, association or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) and each day of violation shall be deemed a separate offense (Ord. 387).

40.440. Ornamental Fences on Residential Lots.

(a) Upon issuance of a building permit in accordance with this section, ornamental fences may be erected in front yards and, with respect to corner lots, in front and side yards, on residentially zoned property.

- (b) All fences permitted hereunder shall conform to the following requirements:
 - (i) Materials shall be compatible with the character of the residence located on the lot and in keeping with the general character of the surrounding neighborhood. Chain link fences, wire fences or other similar material are not permitted.
 - (ii) Fences shall be of durable and substantial construction and shall not contain any barbed wire, sharp or protruding edges, electric charging devices or other dangerous characteristics.
 - (iii) Fences shall be no less than eighteen (18) inches and no more than thirty-six (36) inches in height.
 - (iv) Fences eighteen (18) inches in height shall be set back at least one (1) foot from any sidewalk used by the public and for every six-inch increase in height of the fence over eighteen (18) inches of height, the fence shall be located one (1) additional foot away from any sidewalk used by the public. Where no sidewalks exist, the fence shall be located no less than five (5) feet from the street right-of-way abutting the lot. Additional setback distance may be required at street intersections to provide adequate traffic site distance.

(v) The open area of a fence not built entirely of stone, rock, concrete, masonry or brick, expressed as a percentage of total vertical surface area per side, shall be as follows:

Height	Minimum % Open Area
Up to 18"	None
Up to 30"	30%
Up to 36"	50%

Any fence built entirely of stone, rock, concrete, masonry or brick shall not be required to have a minimum percentage of open area.

- (vi) Where standards established by this subsection (b) conflict with requirements of section 623.9 of the Building Code of the City of Olivette governing enclosures around swimming pools or any similar applicable or successor provisions or standards, the requirements of the Building Code shall govern.

(c) Any person, firm or corporation desiring to erect a fence hereunder shall apply to the Building Commissioner for a building permit for the erection thereof on forms supplied by the Building Commissioner, and shall deliver with the application eight (8) copies of plans therefor, fully dimensioned, showing:

- (i) At a scale of no more than 1" = 20' the location, outline, and dimensions, both linear and angular, of the lot on which the fence is proposed to be erected, all structures, driveways, easements, and setback lines thereon, and all adjoining streets; and the proposed location and dimensions, both linear and angular, of the

fence.

- (ii) At a scale of not less than 1/8" = 1', the typical front view, typical side and rear views (if different from front view), and all dimensions thereof.
- (iii) A description of the materials to be used in the proposed fence and color thereof.

(d) Any person, firm or corporation violating any of the provisions of this Section 40.440 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to the penalties provided for violation of Olivette Ordinances.

(e) Notwithstanding anything in the Municipal Code to the contrary, any fence existing on March 1, 1989 in the front yard of a lot in a residential zone or in the front or side yard of a corner lot in a residential zone shall not be prohibited; provided that any substantial repair or replacement of any such fence shall conform with the requirements of this Section 40.440 (Ords. 1621, 1751, 1881, 1906).

40.450. Residential Fences on Rear and Side Yards. Except as otherwise provided in Section 40.440 of this chapter, fences erected on rear and side lots shall be subject to the following provisions:

- (1) Fences may not exceed six (6) feet in height, and may be located only within required rear or side yards. On corner lots, fences may not be located in required front and side yards.
- (2) All new or replacement fences shall be constructed with posts, framing, and other structural support within or toward the area to be enclosed.
- (3) No fences shall be constructed of light-weight materials such as chicken coop wire, barbed wire, or bamboo. Notwithstanding the preceding sentence, chicken coop wire may be used for vegetable gardens located within the perimeter of rear or side yards.
- (4) All fences shall be properly painted or preserved and shall at all times be kept in good repair.
- (5) Any person who desires to erect a fence on a residential lot within the City of Olivette shall file an application for a building permit with the Building Commissioner. Such application shall contain information concerning the proposed dimensions and location of such fence, and the materials from which it is to be constructed. If the proposed fence conforms to the provisions of this section, the Building Commissioner shall issue a permit.
- (6) Reserved.
- (7) Any person, firm or corporation violating the provisions of this Section 40.450

shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to the penalties provided for the violation of municipal ordinances (Ord. 1825).

40.460. Variances. Where the Planning and Community Design Commission determines upon written request of an applicant that compliance with any requirement of Section 40.440, Ornamental Fences on Residential Lots or of Section 40.450, Residential Fences on Rear and Side Yards will impose unnecessary hardship or practical difficulty upon a particular property, the Planning and Community Design Commission may vary the requirement. In exercising this authority, the Planning and Community Design Commission shall vary requirements only to the extent necessary to alleviate the unnecessary hardship or practical difficulty consistent with the aesthetic, health and safety objectives of Sections 40.440 and 40.450 of this article.