

State of Kansas, Montgomery County
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Marilyn Calhoun
Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4394

**An Ordinance Amending Current Ordinances
Which Address Fencing Requirements and
Adding a Permit Requirement for Fences**

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. City Code Sections 18-381 through 18-386 currently address fencing requirements. Certain of those sections are being amended by this ordinance. In addition, new sections are being added.

Section 2. City Code Section 18-381, Determination of Fences, is amended to read as follows in its entirety:

Sec. 18-381. – Determination of fences.

- (a) For purposes of this ordinance, the following shall be deemed acceptable fences/fencing materials:
- (1) Masonry walls;
 - (2) Ornamental iron;
 - (3) Woven wire;
 - (4) Wood picket; more than 50 percent open;
 - (5) Solid fences, wood or metal less than 50 percent open;
 - (6) Hedges;
 - (7) Synthetic or artificial fencing materials.
- (b) The following fences/fencing materials are prohibited:
- (1) Scrap materials, such as scrap lumber and/or scrap metal; and
 - (2) Materials not typically used or designed/manufactured for fencing, such as metal roofing panels, corrugated or sheet metal, tarps or plywood.

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 - (2) Materials not typically used or designed/manufactured for fencing, such as metal roofing panels, corrugated or sheet metal, tarps or plywood.

Section 3. City Code Section 18-384, Fence requirements, is amended to read as follows in its entirety:

Sec. 18-384. – Fence requirements.

- (a) *Residential.* In any location, fences enclosing plots used for residential or dwelling purposes shall conform to the following requirements:
 - (1) *Front yard fences.* Front yard fences erected in front of the front building line may be of any class, and the height shall not exceed four feet.
 - (2) *Side yard fences.* Side yard fences may be erected back of the front building line and within the required side yard of any plot, and may be of any class but shall not exceed four feet in height to the rear of the neighboring dwelling, or to the rear of a dwelling located on the same plot as the fence, whichever is the greater distance from the property line. Back of this point, such side yard fences may be built to a height of six feet.
 - (3) *Rear yard fences.* Rear yard fences may be erected along the rear property line and may be of any class, but shall not exceed six feet in height. The height of any rear yard fence may be increased 18 inches by placing plain or woven wire on the top thereof.
 - (4) *Barbed wire, etc., electric fences.* No barbed wire or other similar fence, and no electrically charged fence shall be erected or maintained, unless otherwise specifically permitted by other provisions of the City Code.
 - (5) *Fences on retaining walls.* The height of a fence erected on top of a retaining wall shall be measured from the grade of the low side of the retaining wall.

- (b) *Commercial.* In any location, fences located within an area zoned commercial shall conform to the following requirements:
 - (1) *Type.* Fences may be either of open or solid type construction.
 - (2) *Height.* Fences shall not be less than six feet in height nor more than eight feet in height.
 - (3) *Chain link.* Chain link fencing may be topped with barbed wire on slanted arms. Where slanted arms are installed, there should be an upward angle of not less than 45 degrees and shall be slanted to the interior of the fence when located within three feet of a sidewalk or pedestrian way.

- (c) *Agricultural.* In any location, fences located within an area zoned agricultural shall conform to the following requirements:

- (1) *Type.* Fences may be either of open or solid type construction.
 - (2) *Height.* Fences shall not exceed four feet in height above the natural contour of the ground.
 - (3) *Barbed wire.* The use of barbed wire shall be by special permit issued by the city building inspector. Such a permit shall not be issued if the fence forms a boundary with any property zoned residential.
- (d) *Fence on property line.* It shall be unlawful for any person to erect, install or cause to be erected or installed a fence located on the property line unless written permission is obtained from the adjacent property owner as to the fence location.

Section 4. A new section is hereby adopted as follows and is assigned the number as City Code Section 18-387:

Sec. 18-387. – Fence permit required.

Before any person begins construction to erect a new fence, extend an existing fence, or replace more than 50 percent of an existing fence, such person must apply for and receive a fence permit from the City of Independence. The application for a fence permit shall be on a form provided by the city. An application fee may be assessed as set forth in Appendix D. The fence permit will be issued by the city if the proposed construction activity complies with all applicable city ordinances.

Section 5. A new section is hereby adopted as follows and is assigned the number as City Code Section 18-388:

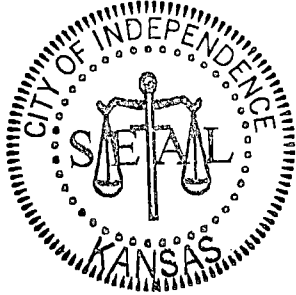
Sec. 18-388. – Penalty for no permit.

It shall be unlawful to begin construction for the erection of a new fence, extension of an existing fence, or replacement of more than 50 percent of an existing fence without having first obtained a fence permit as provided herein. Failure to obtain a fence permit as required by this ordinance shall constitute an unclassified violation. Upon conviction, the penalty for failure to obtain a permit shall be no less than \$50.00 nor more \$100.00 if the fencing activity giving rise to the violation was done in compliance with all applicable ordinances. Upon conviction, the penalty for failure to obtain a permit shall be no less than \$100.00 nor more than \$500.00 if the fencing activity giving rise to the violation does not comply with all applicable city ordinances. The municipal court may, in its

discretion, abate a portion of the fine if a compliance deadline is established by the court and met by the person convicted of the offense.

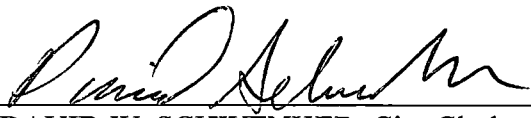
Section 6. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 23rd day of June, 2022.




DEAN A. HAYSE, Mayor

ATTEST:


DAVID W. SCHWENKER, City Clerk