

# *City of Brisbane*

## *Agenda Report*

**TO:** Honorable Mayor and City Council

**FROM:** Community Development Director via City Manager

**SUBJECT:** Ordinance No. 557, Zoning Text Amendment RZ-4-10 to Amend Brisbane Municipal Code Title 17 Regarding Fences, Hedges and Walls

**DATE:** Meeting of March 21, 2011

### **City Council Goals:**

To preserve and enhance livability and diversity of neighborhoods (Goal #14).  
To preserve the unique current character of Brisbane (Goal #16).

### **Purpose:**

To amend the Municipal Code's fence regulations by increasing the height limit for specified types of fences in specified zoning districts to allow for increased privacy and security, while restricting the use of chain-link, razor-wire and similar types of fencing materials.

### **Recommendation:**

Introduce Ordinance No. 557.

### **Background:**

Over the past 6-8 months, several issues pertaining to the City's fence regulations have come to the City's attention. These include concerns regarding sufficient fence heights to secure outdoor storage/parking, inquiries regarding the use of lattice atop 6 ft. tall solid wood fences to provide increased privacy in residential neighborhoods. The Planning Commission held study sessions on November 18, 2010, and January 27, 2011, regarding possible revisions to the fence regulations.

At the Commission's request, an on-line public survey was conducted (see attached), which received 51 responses. Almost 70% responded that they were in favor of allowing lattice to be used to extend the height of 6 ft. tall fences in residential areas. While only 61% of the respondents expressed a preference, 55% of those were in favor of allowing 2 ft. of lattice to be used to extend the height of fences to 8 ft. Of those who responded to the question, 57% would

Ord. No. 557

only allow the taller fences in the side and rear yards, not in the front yards. Approximately 53% of the total respondents opposed the use of chain-link in residential areas, and even among those who did not oppose its use, 58% would not allow chain-link fences over 6 ft. and 74% would only allow chain-link fences in the side and rear yards.

**Discussion:**

On February 10, 2011, the Planning Commission considered and unanimously recommended the ordinance be amended to allow 8 ft. tall fences within the required side and rear setbacks in the R and NCRO-2 Districts, as long as the upper 2 ft. consists of wooden lattice. In the C-1, TC-1 and M-1 Districts, the Planning Commission recommended an increase in permitted height for metal rail-and-picket fences and black or dark green vinyl-coated chain-link fences from 6 to 8 feet. without the current requirement for Planning Commission approval of a Fence Exception. Per the recommended ordinance, razor wire, barbed wire and similar materials could only be permitted through a public hearing before the Planning Commission.

In addition, the ordinance would clarify that the Planning Commission may restrict the height, location and/or design of fencing, as a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, so as to maintain sufficient openness, particularly in the vicinity of potential butterfly flight corridors, while remaining consistent with Building Code requirements.

The Commission also wanted to regulate other types of “non-standard” fencing materials (such as plastic k-rail) through guidelines to be approved later. In lieu of this somewhat vague and subjective standard, the City Attorney has revised the draft ordinance to specify that K-rail and similar barriers shall not be used as a wall in or adjoining any R Residential District or NCRO Neighborhood Commercial District, except through a Fence Exception approved by the Planning Commission. Other minor refinements in the language recommended by the Planning Commission have been incorporated into the draft ordinance per the City Attorney.

**Fiscal Impact:**

None.

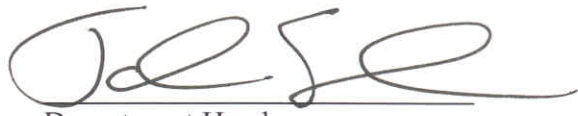
**Measure of Success:**

Results satisfactory to the community in terms of increased security and privacy with minimum adverse impacts to neighbors and the general public.


**Attachments:**

- Redline Version of Planning Commission Recommended Changes to BMC Section 17.32.050 as Revised by the City Attorney
- Draft Ordinance No. 557 as Revised by the City Attorney
- Planning Commission Resolution RZ-4-10
- Planning Commission Minutes for 2/10/11 Meeting (excerpt)

Agenda Report for 2/10/11 Planning Commission Meeting



Department Head



City Manager



REDLINE VERSION OF PLANNING COMMISSION RECOMMENDED CHANGES TO  
BRISBANE MUNICIPAL CODE SECTION 17.32.050  
AS REVISED BY THE CITY ATTORNEY

(additions to the current regulations shown in *italics* and deletions shown in ~~strikethrough~~)

A. General Regulations. Fences, hedges and walls may be erected subject to the following conditions:

1. Unless otherwise provided elsewhere in this title, fences, hedges and walls not exceeding six (6) feet in height may be constructed in any district within any required setback area; ~~provided, however, that, except as follows:~~

a. ~~on corner lots w~~*Where the director of public works determines that visibility would be affected, the height of fences, hedges and walls shall be reduced to a maximum height determined by the director to assure adequate sight distance not exceed three (3) feet in height.*

b. *Chain-link fences shall not be constructed in or adjoining any R Residential District, except as provided in subsections B.4 and B.5. K-rail and similar barriers shall not be used as a wall in or adjoining any R Residential District or NCRO Neighborhood Commercial District, except as provided in subsection B.5.*

c. *Razor wire, barbed wire and similar materials with sharp edges or points shall not be used for fencing in any district, except as provided in subsection B.5.*

d. *As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the Planning Commission may restrict the height, location and/or design of fencing to maintain sufficient openness [with openings more than three (3) inches in the smallest dimension] while remaining consistent with Building Code requirements.*

2. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.

3. When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer.

B. Exceptions.

1. The community development director may approve retaining walls located in any required setback area having a height (as defined in Section 17.02.400) in excess of six (6) feet and falling within any one of the following categories:

a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.

b. Water-conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.

c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.

2. *Fence heights may exceed six (6) feet through the addition of up to two (2) feet of wooden lattice on top within the required side and rear setbacks in the R-1, R-2,*