

# **Embassy Park Architectural Control Committee, ACC**

## **Memo on fencing procedures and requirements**

Due to the high number of inquiries on fencing requirements and request, the following memo of understanding is being published for help and direction. There are two authorities which governs the installation of home fencing within the city limits of Kansas City Mo.

The first being Kansas City's building requirements:

### **Code of Ordinances 27**

Fences and Walls  
Chapter 27. Code of Ordinances  
City of Kansas City, Mo.

#### ***ARTICLE I. IN***

#### ***; GENERAL***

**Sec. [27-1](#).** Title of Chapter delegation of duties by the Building Official.

**Sec. [27-2](#).** Purpose and scope of chapter.

**Sec. [27-3](#).** Enforcement of chapter.

**Sec. [27-4](#).** Definitions.

**Sec. [27-5 - 27-9](#).** Reserved

#### ***ARTICLE II. LOCATION***

**Sec. [27-10](#).** Fences and walls.

**Sec. [27-11](#).** Special exceptions.

**Sec. [27-12](#).** Electric fences.

#### **ARTICLE I. IN GENERAL**

**Sec. 27-1. Title of chapter; delegation of duties by Building Official.**

(a) This chapter shall be known as the fence and wall code of the city, and may be cited as such.

(b) Responsibilities of the Building Official under this chapter may be

performed by authorized representatives.

(Ord. No. 000138, 3-9-2000)

**Sec. 27-2. Purpose and scope of chapter.**

(a) The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the construction of fences and walls within the city.

(b) The regulations of this chapter are not intended to permit any violations of the zoning ordinance, property maintenance code or any other applicable ordinances.

(Ord. No. 000138, 3-9-2000)

**Sec. 27-3. Enforcement of chapter.**

(a) Violations; penalty. It shall be unlawful for any owner to construct, enlarge, repair, improve, use, occupy or maintain any fence or wall, partial or whole, in the city, or cause such work to be done, contrary to or in violation of any of the provisions of this chapter, or rules or regulations promulgated under this chapter. Upon conviction thereof, such person shall be punished by a fine of not more than \$500.00, imprisonment for not more than six months, or both such fine and imprisonment. Each day a fence or wall is maintained in violation of this chapter or any provision thereof shall constitute a separate offense.

(b) Appeals. Any decision of the Building Official in the enforcement of this chapter shall be subject to appeal to the board of zoning adjustment.

(c) Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Building Official has reasonable cause to believe that there exists any condition which makes the fence or wall unsafe, dangerous or hazardous or there exists a violation of this chapter, the director of codes administration may enter upon the premises at all reasonable times to inspect or to perform any duty imposed upon the director, provided that the director shall first request entry to inspect any area not properly open to the director.

(Ord. No. 000138, 3-9-2000)

**Sec. 27-4. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context

clearly indicates a different meaning:

Fence or wall means an enclosure, wall or partition constructed of chain link, split rail, wood, plastic or vinyl (fabricated primarily as fencing materials), masonry, brick, stone, cinder block, ornamental iron or other building material which encloses or divides a lot or parcel of land.

Owner means any person, employee, firm or corporation, partnership, association, organization or governmental agency properly regulated by the city who, alone or jointly or severally with others:

(1) Shall have legal title to any structure with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any structure, or part thereof, as agent or personal representative of the person having legal title to the structure, or part thereof.

(Ord. No. 000138, 3-9-2000)

**Sec. 27-5 - 27-9. Reserved.**

## **ARTICLE II. LOCATION**

### **Sec. 27-10. Fences and walls.**

(a) Fences and walls, generally. No fence or wall over six feet high shall be erected on a residential lot, provided that this height restriction is further limited in subsections (b), (c), (d) and (e) of this section.

(b) Front yard fences and walls. No fence or wall in the front yard of a residential lot may be over 48 inches high. For the purposes of this subsection, front yard is defined as the open space on the same lot with a building used as a residence, between the front wall of the building and the line of that wall extended, the side property lines of the lot, and the front property line of the lot nearest the street on which the building fronts.

(c) Front yard fences and walls on vacant lots. No fence or wall in the front yard of a vacant residential lot may be over 48 inches high. For the purposes of this subsection, the front yard is defined as the open space between the platted or established front building line, the side property lines of the lot, and the front property line of the lot nearest the street. The depth of a front yard of any vacant residential lot shall not be less than the least depth of the front yard of any existing improved residential property on the same side of the street within the same block.

(d) Fences and walls on corner lots. No fence or wall in the front or side yard of a residential property may be over 48 inches high. For the purposes of this

subsection, side yard is defined as the open space on the same lot with a building used as a residence, situated between the side wall of the building or structure and the side property line of the lot nearest the street and extending through from the front yard to the rear yard. For purposes of this subsection, the rear yard is defined as the open space on the same lot with a building used as a residence between the rear line of the building and that line extended the side property lines of the lot and the rear property line of the lot.

(e) Fences and walls on vacant corner lots. No fence or wall in the front or side yard of a residential corner lot may be over 48 inches high. For the purposes of this subsection, side yard is defined as the open space situated between the platted or established side yard setback line and the side property line of the lot nearest the street and extending through from the front yard to the platted or established rear yard setback line.

(f) Applicability. The requirements of this section do not apply to walls of buildings, portions of retaining walls below grade on one or both sides, or to any fence or wall constructed prior to March 20, 2000.

(Ord. No. 000138, 3-9-2000)

#### **Sec. 27-11. Special exceptions.**

(a) The board of zoning adjustment is hereby authorized to grant special exceptions to the requirements set forth in section 27-10.

(b) Special exceptions may be granted by the board provided that it is demonstrated that:

(1) There is good and sufficient cause to grant the exception commensurate with the degree and nature of the exception requested;

(2) The grant of a special exception will not adversely affect the appearance of the neighborhood or adjacent properties; and

(3) The wall or fence is compatible with the existing residence/building in terms of materials, color and design.

(c) Upon consideration of the factors set forth in subsection (b) of this section, the board may attach such conditions to the granting of the special exception as it deems necessary.

(d) The board of zoning adjustment is hereby authorized to establish rules and regulations for the method of requesting special exceptions, nature of hearing, and such other matters it deems appropriate.

(e) The filing fee for requesting of a special exception shall be \$174.00.

(f) A simple majority of the board shall be required to approve any special

exception.

(g) The requirements of sections 80-330 and 80-335 as to public hearing and notice shall not apply to this section; provided, however, that all adjacent or contiguous property owners to the subject property shall be sent mailed notice thirteen days in advance of any hearing before the board requesting a special exception to section 27-10. The notice shall set forth the general purpose of the hearing and the time and place thereof. The names of property owners shall be determined as the owners of record according to the records of the city assessor. For all hearings before the board of zoning adjustment, the director of city development or his/her designee shall certify by affidavit that the mailing has occurred and such affidavit shall become part of the record as proof of such mailing.

(h) Any person or persons jointly or severally aggrieved by any decision of the board or any office, department, board or bureau of the municipality may present to the circuit court of the county in which the property is situated a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days of the date of the decision of the board. (Ord. No. 000138, 3-9-2000; Ord. No. 080766, § 1, 8-14-08)

The second authority is the Embassy Park Architectural Control Committee, ACC, which can be found on the Embassy Park web site:

<http://embassypark.com/> The authority and definition is found in the Convenience Article IV, Section 1 – Right to Approve Plans and Variance Request. No building, fence, wall or other structure or other improvement, or any exterior addition or change or alteration therein shall be commenced, constructed or maintained upon the properties until the plans and specifications showing the nature, kind, shape height, materials and location of the same shall have been submitted to and approved in writing by the ACC. The ACC may take into consideration as part of the approval process the harmony of external design and location in relation to surrounding structures and topography. The ACC shall have the right to review and approve any restriction variance request requiring approval of the ACC as provided for in Article VII Restrictions. Upon any such submittal or request for approval the party requesting such approval shall submit simultaneously with said request the following documentations:

- a) Four exterior elevations delineating front elevation, back elevation, and both side elevations.
- b) A site plan of the house as it will sit on the lot. Such site plan will

include a description or drawing of the proposed grading, and drainage plan.

- c) Floor plan
- d) A list of all exterior materials to be used which will include roof, masonry, siding and windows.
- e) A schedule of exterior colors to be used. To include color samples, manufacture name, and product number
- f) Documentation in the case of a request for a restriction allowed variance.

The documentation listed above is intended only as a minimum requirement and the ACC shall be free to request and all other documentation that said Committee in its sole discretion deems necessary.

The following guidelines for fencing and walls are currently being used by the ACC.

- Six foot wood fence request are only being authorized along a busy street, with a green setback zone adjacent to the rear property's boundary. An example would be the east side of St Clair from Barry Rd. to 79<sup>th</sup> Street.
- All corner lots must comply with the 48" City ordinance rule.
- Four foot fencing on interim lots located within the block or Cul-de-sac may use wood or metal depending on the owner's preference. Spacing between wood pickets should be ½ of the width of the pickets. The no privacy fence (solid pickets) rule applies to all four foot wooden fences.
- All fencing must be located from the rear of the home to within the back property boundary line and within the property side boundary lines.
- Note all wooden fences must be maintained to the same standard as the existing home (painting and repair). Note all fence installation must be located on the owner's property and not on or over the property lines. If you are not sure of your property's boundary lines a survey should be taken marking your corner and side boundaries. Fences that are built over existing easements are subject to being removed to gain easement access at owner/s' cost.