



## City Council Special Meeting Agenda

**Date:** 3/31/16  
**Time:** 4:15 p.m.  
**Location:** City Hall Council Chambers

- Mayor Nancy Tia Brown
- Donny Anderson
- Karen Ballinger
- Jerry Fritz
- Landon Greer
- Steve Miller
- Stan Wolz
- City Administrator, Barry Cook
- Administrative Services Officer, Cindy Baker
- City Attorney, Scott Kolpitcke

- Discuss Ordinance Revisions pertaining to fences
- Update – Old Trail Town Sign
- Discuss Liability Insurance Requirement for Taxicabs
- Discuss Nichol Mall Vacant Office Space
- Discuss Municipal Court
- Review Tuesday, April 5<sup>th</sup> Agenda

Meeting Reminders:

- Tuesday, April 5, 2016** - Regular Council Meeting 7:00 p.m. City Council Chambers
- Thursday, April 14, 2016** – Council Budget Work Session 4:15 p.m. City Council Chambers

Time Adjourned: \_\_\_\_\_

MEETING DATE:	APRIL 5, 2016
DEPARTMENT:	COMMUNITY DEVELOPMENT
PREPARED BY:	TODD STOWELL
CITY ADM. APPROVAL:	_____
PRESENTED BY:	TODD STOWELL

**AGENDA ITEM SUMMARY REPORT**  
**Ordinances to Repeal Title 10, Chapter 12, Fencing Permits**  
**of the City of Cody Code, and Adopt a new Chapter as**  
**Title 9, Chapter 4, Fence Regulations**

**ACTION:**

First Reading of Ordinance 2016-05 to adopt Title 9, Chapter 4, Fence Regulations; and First Reading of Ordinance 2016-06 to repeal Title 10, Chapter 12, Fencing Permits.

**BACKGROUND:**

The primary purpose of ordinances 2016-05 and 2016-06 is to modify the fence height regulations within the City of Cody. Currently the City code allows fences up to six feet tall. The proposal is to allow fences up to seven feet tall in the side and back yards of lots in residential zoning districts, and in all non-residential zoning districts. Fences within the front yards in residential zoning districts would be limited to three feet if view-obscuring and four feet if at least 40% open. Fences in non-residential zones would need to be at least 40% open if within fifteen feet of an arterial or collector street, otherwise the fence could be solid. Proposed fences that did not meet these standards would require review by the Planning and Zoning Board after notice to adjoining property owners.

The option for higher side and rear fences in residential areas is anticipated to address many of the requests for deer fences. In non-residential areas, the seven foot height would allow the common barbed wire security option on a six-foot fence without special permission.

The limit on height in residential front yards is intended to help maintain the open and inviting character of the city's neighborhoods, which also provides a measure of traffic safety (e.g. sight distance while backing out of driveways and approaching intersections).

Another new section specifies what materials may be used in fence construction, essentially limiting them to traditional fence materials and precluding pallets, tarps, scrap metal, tires, signs, and similar materials.

The relocation of the fence regulations from the zoning ordinance (Title 10) to Title 9 (Building Regulations) is primarily because the Building Official administers the fence permitting process.

**FISCAL IMPACT**

No fiscal impacts to the City budget are anticipated. The City already has a fence permitting process that it administers.

**ALTERNATIVES**

Approve, deny, or amend Ordinances 2016-05 and 2016-06.

**ATTACHMENTS** Ordinances 2016-05 and 2016-06.

**AGENDA ITEM NO. \_\_\_\_\_**

**ORDINANCE NO. 2016-05**

**AN ORDINANCE AMENDING TITLE 9 OF THE CITY OF CODY  
CODE, BY ADDING A CHAPTER 4, "FENCE REGULATIONS"**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY,  
PARK COUNTY, WYOMING:**

Title 9, Chapter 4 of the City of Cody Code is hereby established to provide as follows:

**Chapter 4, FENCE REGULATIONS**

**10-12-1: GENERAL PROVISIONS:**

A. Fence Defined: "Fence" means a constructed vertical structure, barrier or partition of any material or combination of materials erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering.

B. Permit Required: No person shall build, rebuild, replace, construct or erect, or cause to be built, rebuilt, replaced, constructed or erected anywhere within the city, any boundary or division fence or wall of any kind, without first having secured a permit therefor from the building official or his or her designee. For purposes of this section, a fence is considered to be rebuilt or replaced if thirty feet (30') or more of an existing fence is removed and rebuilt or replaced within a twelve (12) month period from the time work on the fence begins.

C. Property Owner Requirements: Prior to installing any part of the fence, including posts, the property owner shall:

1. Application: Submit an application, signed by the property owner, which shall include a site plan showing the dimensions and location of the proposed fence. The application shall be on a form prescribed and approved by the building official;
2. Meet with the Building Official: Meet with the building official, or his or her designee, to show where the fence will be located; and
3. Identification of Lines and Boundaries: Demonstrate to the building official, or his or her designee, that the fence will not cross, interfere with, or encroach into or upon any neighboring property or city rights of way. It shall be the responsibility of the property owner to accurately identify the property lines and boundaries of his or her property where the fence will stand. The building official, or his or her designee, may require the property owner to survey the property boundaries to ensure that the fence will not encroach into or upon a neighboring property or city rights of way. "Rights of way", as used herein, shall be defined as public streets, public sidewalks and public alleys.

D. Materials: Fencing materials are limited to wood, vinyl, masonry, wrought iron, decorative metal, wire mesh (e.g. chain link), bamboo, and similar materials. Pallets, tarps, scrap metal, tires, signs, and similar materials are not permitted for fencing purposes.

E. Height: Fences are subject to the following height limits. Fence height is measured from the finished grade of the property upon which the fence is located.

1. Within all of the residential zoning districts:
  - a. Fences are limited to a maximum of four feet in height in any front yard setback area; and, fences taller than three feet in the front yard setback area must be at least forty percent open—as in the measurement of the spaces and voids between the fence components.

- b. Fences may be a maximum of seven feet in height in any portion of a lot that is outside of the front yard setback area.
2. Within the non-residential zoning districts (e.g. industrial, light industrial, commercial, business), fences up to seven feet tall are permitted within the property; provided, no view-obscuring fence over four feet tall shall be less than fifteen feet from the edge of an arterial or collector street (measured from face of curb). For purposes of this section, view-obscuring shall mean a fence that is less than forty percent open—as in the measurement of the spaces and voids between the fence components.

Notwithstanding the above, the Planning and Zoning Board may approve a fence taller than that specified when the additional height will not have any adverse impacts to neighboring properties or the public health and safety. Before making such a determination, the applicant shall notify the owners of all adjacent lots of the request in writing and allow them up to ten days to provide comments to the Board. The Board may take action on the request at any time after all neighbor responses are received, or after the ten day comment period, whichever occurs sooner.

Regardless of the above-permitted fence heights, all fences shall be located so that required intersection sight triangles are maintained at all street intersections.

F. Encroachments, Easements After March 1, 2010: In subdivisions approved or built on or after March 1, 2010, nobody shall build a fence within a city easement. Fences which are built on or nearly on a property line, and which encroach into a city easement by twelve inches (12") or less shall not be considered a violation of this subsection. For subdivisions approved or built after March 1, 2010, the property lines separating the lots within the subdivision and the property boundaries of the subdivision shall, as nearly as feasible, not fall within the city utility easements, and shall be located outside the city utility easements. Fences may cross an easement so that the fence is nearly perpendicular to the easement. If a fence crosses an easement, the property owner shall do one of the following:

1. The property owner must include a removable panel or gate which is the same width as the easement, and must allow the city to access the easement quickly and easily, and which must be approved by the building inspector; or
2. The property owner must provide to the city a separate easement for ingress and egress to the utility easement. The easement must run with the land in perpetuity, and the width, form and route of the ingress and egress easement must be approved by the building inspector, and must be recorded with the Park County clerk's office.

G. Encroachments, Easements Before March 1, 2010: Owners of subdivisions, homes and fences approved or built prior to March 1, 2010, may build, rebuild, replace, construct or erect fences within or across a city utility easement under the following conditions:

1. The fences shall not be built directly over, under or within one foot (1') of any existing utility lines, pipes or conduit, including, but not limited to, water, electrical, wastewater, gas and telecommunications lines;
2. The property owner shall obtain a fence permit as described in subsection A of this section, and shall arrange for a utility line locate prior to beginning any construction or excavation, to ensure compliance with this section; and
3. Such fence shall remain in the easement at the property owner's risk, subject to the conditions in subsection J of this section.

H. Final Inspection: The property owner or the contractor building the fence shall call for a final inspection upon completion of the fence.

I. Removal for Violation: Any fence which is built in violation of any of the provisions of this section is subject to removal at the expense of the property owner. If the city finds that a property owner has built, or caused to be built, any fence or portion of a fence which violates any of the provisions of this code, the city may order the property owner to remove the fence at his or her expense. The city shall notify the property owner in writing of the alleged violation, and shall order the property owner to remove the fence within thirty (30) days of the written notice, which may be delivered in person, by mail or by posting a copy of the notice on the door of the residence where the fence has been built. The building official may give the property owner an extension or allow a longer period of time if the building official determines there is just cause for such extension. Such extensions shall be in writing.

J. Refusal to Comply; Removal by City: If the property owner refuses or fails to remove the fence within the required time, the city may remove the fence at the property owner's expense, and the property owner may be cited as described in subsection I of this section.

K. Violation: Any violation of this section shall be a misdemeanor, and punishable by a fine to be determined by the municipal court of the city.

L. Emergency, Nonemergency Removal: If at any time, the city, through its officers, employees or agents, must access a city easement, right of way or property, and a fence or other structure, prevents or in any way interferes with access to the city easement, right of way or property, including, but not limited to, fences lawfully built within easements pursuant to subsection D of this section, the city may, in emergency situations, immediately remove such fence or wall at the expense of the property owner. "Emergency situations" shall include, but not be limited to, locates of utility lines, unplanned power outages, and leaks, breaks or ruptures in water, sewer or other utility lines. If the city needs to access an easement in a nonemergency situation, and the easement is blocked or obstructed by a fence or other structure, the city shall give notice to the property at least two (2) business days in advance by mailing or posting written notice to the last known address of the owner of the property or to the subject property. The notice shall inform the property owner of the date and reason the city needs to access the easement, and that if the owner does not remove the fence or structure prior to that date, that the city will remove the fence or structure, or such portions of the fence or structure, as are necessary to access the utility. The notice shall also include a copy of the ordinance codified herein. In any situation, whether emergency or nonemergency, where the city must access an easement requiring the removal of a fence or other structure, such removal shall be at the expense of the property owner, and the city shall not be responsible for damage to the property caused by the removal of the fence or other structure or the use of the property, and shall not be responsible for replacement of the fence or other structure.

M. Compliance Required: Nothing in this section shall be construed to relieve the property owner of his or her responsibility to comply with state and federal laws governing locates of utility lines prior to digging, excavating or otherwise beginning any work on a fence. Nothing in this section shall be construed to relieve the property owner of their responsibility to ensure that they do not damage or destroy any utility lines and equipment.

This Ordinance shall become effective at the final passage and publication in the Cody Enterprise as required by law.

PASSED ON FIRST READING:                   —  
PASSED ON SECOND READING:               —  
PASSED ON THIRD READING:               —

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Nancy Tia Brown, Mayor

Attest:

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Cynthia Baker  
Administrative Services Director

**ORDINANCE NO. 2016-06**

**AN ORDINANCE REPEALING TITLE 10, CHAPTER 12, FENCING PERMITS, OF THE CITY OF CODY MUNICIPAL CODE**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, PARK COUNTY, WYOMING:**

Title 10, Chapter 12, FENCING PERMITS, is repealed in its entirety.

This Ordinance shall become effective at the final passage and publication in the Cody Enterprise as required by law.

PASSED ON FIRST READING: \_\_\_\_\_

PASSED ON SECOND READING: \_\_\_\_\_

PASSED ON THIRD READING: \_\_\_\_\_

\_\_\_\_\_  
Nancy Tia Brown, Mayor

Attest:

\_\_\_\_\_  
Cynthia Baker  
Administrative Services Director

# MEMORANDUM

March 30, 2016

**TO: City of Cody Council Members**  
**FROM: Cindy Baker, Administrative Services Officer**  
**RE: Liability Insurance Requirement for Taxicabs**

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In 2010 the ordinance pertaining to taxicabs was identified as an ordinance in need of revisions and several major changes were adopted. These included:

1. Added language requiring all taxicabs that fall within the Wyoming Department of Transportation or United States Department of Transportation rules and regulations and governed by those rules and regulations must also comply with the rules and regulations of this ordinance as well. This was a provision that was implied in the previous ordinance, or intended, but not specific in nature.
2. Added language identifying and outlining requirements for drivers hired by the taxicab applicant and/or operator. These were added to ensure the health, safety and welfare of the citizens who use the taxicab service. In addition, the language requires the applicant to comply with the requirements for each new driver they hire and report the information to the City of Cody within 10 days.
3. New language that includes the requirement for applicants to perform criminal history checks on their drivers and themselves, and complete a driver history on each driver from all states they were licensed within the previous ten years.
4. Added provisions for signage required by the City of Cody to create a professional and identifiable image for each taxicab in operation.
5. Added language to include the condition and seating capacity requirements for all taxicab vehicles.

The ordinance also changed the liability insurance requirement from \$500,000 to \$1,000,000. Though I cannot confirm the reasons for this change it may have been to maintain the same level of insurance that is required for Contractors and companies/individuals issued an Encroachment Permit.

Recently one of the taxicab owners visited with the City Administrator in reference to the amount of liability insurance the City requires, noting a variety of other municipalities within the State of Wyoming that only require this insurance to be at the \$500,000 level. In researching the premium difference for the level of insurance it was found that there could be a difference of 20%-30% lower premiums if the level was dropped to \$500,000.

Staff was asked to bring this issue forward to the Council and if the Council is so inclined to consider reducing the level of the liability insurance for taxicabs, staff would proceed with a revision to the ordinance for consideration at a regular council meeting.