

Proposed **ORDINANCE NO. 24-2**

AN ORDINANCE AMENDING THE CITY OF ELK RIDGE DEVELOPMENT CODE REGARDING **10-2-13D FENCING AND RETAINING WALL REQUIREMENTS**, CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Elk Ridge has adopted the Elk Ridge City Development Code Title 10 – Development Code, Chapter 12 - Supplementary Regulations Within Zones, Section 13 – Fences Walls and Hedges describing the requirements for placement and construction of fences and retaining walls within the jurisdiction of the City of Elk Ridge; and

WHEREAS, the City of Elk Ridge desires to amend the retaining wall requirements to amend the requirements of when a building permit is required; and

WHEREAS, the Elk Ridge Planning Commission held a public hearing on January 5, 2024 at 7:00pm, for the purpose of receiving public input on the proposed fencing and retaining wall amendments; and

WHEREAS, the public hearing was preceded by the posting of a notice of public , a newspaper of general circulation within the city, the Utah Public Access and the city website, at least 10 days prior to the Public Hearing; and

WHEREAS, the notice of hearing, which was posted and published, by the Planning Commission contains specific advance notice that the proposed ordinance amendment, as set forth herein, would be considered and that copies thereof were available for inspection in the city offices; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ELK RIDGE CITY, UTAH, AS FOLLOWS:
(Underlined text is added text, ~~Strikeout~~ text is deleted text)

SECTION 1 AMENDMENTS

10-12-13: FENCES, WALLS AND HEDGES:

A. No fence or wall shall be placed in a manner that would deter the fire department from immediately discerning and gaining access to any fire hydrant or other fire protection device. Fences and walls shall be located to maintain a minimum of three feet of clearance around the circumference of any fire hydrant.

B. Retaining Walls Not Included: For the purpose of this section, the term "wall" shall not include retaining walls.

C. Height: The maximum height for fencing, walls, hedges, and similarly enclosing planting, whether or not sight obscuring, shall be eight feet (8') above finished grade level. Fences may be permitted in excess of eight feet (8') in accordance with **any subsection listed here after 2-2-7** of this Code. A building permit is required for any fence over seven (7) feet in height, as required by Utah State Code, or as required by the currently adopted Building Code. Fences in excess of eight (8') feet may require Engineer approval. No fence, wall, hedge or similarly enclosing planting or structure shall be permitted in the front setback and/or clear view area of a lot at a height greater than thirty-six inches (36") above the finished grade level.

D. Retaining Walls: ~~Retaining walls greater than ten feet (10') in height shall be terraced. Such terracing shall be designed and constructed so that each vertical segment of terracing~~

~~is the same height with each segment being no greater than ten feet (10') in height. Terracing shall not be required when in the case of retaining walls constructed for the purpose of providing support for external basement stairways. The height of retaining walls shall be determined as measured from the bottom of the footing to the top of the wall. Fencing atop retaining walls shall not exceed eight feet (8') above the finished grade of earth being retained. For any retaining wall above thirty inches (30"), a fence or guardrail must be installed, as per International Building Code (IBC) or its successor. Retaining walls over four feet (4') in height as measured from the bottom of the footing to the top of the wall, or having an exposed face height greater than thirty inches (30"), or supporting a surcharge shall require a building permit and shall be properly engineered with the plans stamped by a certified engineer.~~

All retaining walls shall be designed in accordance with accepted engineering and building practices as per the applicable International Building Code (IBC), the International Residential Code (IRC), state code, and current city building code. Walls retaining over four (4) feet of material shall require a building permit. Retaining walls with an exposed face of greater than ten (10) feet in height shall be terraced with each segment being no greater than ten(10) feet in height. Terracing shall not be required when in the case of retaining walls constructed for the purpose of providing support for external basement stairways. Fencing atop retaining walls shall adhere to the fencing section of this code.

E. Corner Lots: On corner lots, a sight obscuring fence, wall, hedge and similarly enclosing planting or structure having a height of more than thirty six inches (36") may not extend into the front setback area and clear vision area of the lot as defined under section [10-12-9](#) of this chapter. Placement of a fence, wall or hedge in the location proposed shall not result in the establishment of a hazardous condition as determined by the Zoning Administrator.

F. Double Frontage Lots: On double frontage lots, a sight obscuring fence, wall, hedge and similarly enclosing planting or structure may be placed along the rear property line with the exception of the clear vision area provided that the placement will not result in the establishment of a hazardous condition to adjacent properties, as determined by the Zoning Administrator.

G. Material, Design And Construction: All fences and walls shall be of appropriate design and construction and the design and construction should be consistent with the nature, type, and aesthetics of other such improvements within the surrounding area.

H. Nonconforming; Referral; Appeal: Where, in the opinion of the Zoning Administrator, a proposed or existing fence, wall, hedge and similarly enclosing planting or structure does not conform to the above criteria, he or she shall immediately pursue the removal of the planting or structure or the correction of issues that may exist causing violation of the provisions herein or refer the application back to the applicant for correction, as applicable. Any person aggrieved by a decision of the Zoning Administrator may appeal said decision to the Appeal Authority, who shall have the authority, as an appeal under the terms of the Utah State Code, to reverse or affirm any decision of the Zoning Administrator.

I. Tennis Courts, Sport Courts, Batting Cages, Etc.: Fence type enclosures for uses such as tennis courts, sport courts, swimming pools, ball diamond backstops, batting cages, etc., may be erected to a height not greater than twelve feet (12'), including any retaining walls, provided:

1. Any enclosure or part of an enclosure over seven feet (7') in height will require engineering and a building permit as defined by Utah State Code, or as required by the currently adopted Building Code, and may require Engineer approval.

2. Portions of the enclosure may be located within the rear and/or side area of the lot.

3. No part of the enclosure shall be placed in the front yard setback area of a lot.

4. All portions of the enclosure above a height of eight feet (8') shall be non-sight obscuring.

5. On corner lots, the enclosure shall not be located in the front setback area and clear vision area of the lot as defined under section 10-12-9 of this chapter. (Ord. 18-6, 5-8-2018; amd. Ord. 22-01, 3-8-2022; Ord. 22-08, 10-11-2022)

SECTION II. Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filling a corrected or re-codified copy of the same with the City Recorder.

SECTION III. Severability. If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. Posting. A copy of this Ordinance shall be deposited in the office of the Elk Ridge City Recorder, the Elk Ridge City Recorder shall certify that this Ordinance has been posted in three public places within the municipality on that date, as provided in Utah State Code Annotated § 10-3-711(1).

SECTION V. EFFECTIVE DATE. This ordinance shall become effective immediately upon passage.

Passed and duly adopted this _____ day of _____, 2024.

Robert Haddock, MAYOR

Councilmember Jared Peterson	Voted _____
Councilmember Cory Thomspen	Voted _____
Councilmember Tany Willis	Voted _____
Councilmember Melanie Paxton	Voted _____
Councilmember Charles Wixom	Voted _____

ATTEST:

Royce Swensen
Elk Ridge City Recorder

STATE OF UTAH)

ss.

COUNTY OF UTAH)

I, ROYCE SWENSEN, City Deputy Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of Ordinance # 24-2, passed by the City Council of the City of Elk Ridge, Utah, on the
____ day of _____, 2024, entitled

**“AN ORDINANCE AMENDING THE CITY OF ELK RIDGE DEVELOPMENT CODE REGARDING 10-12-13D
RETAINING WALL REQUIREMENTS, CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER’S
ERRORS, SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Elk Ridge City Utah this
____ day of _____, 2024.

ROYCE SWENSEN
Elk Ridge City Recorder

AFFIDAVIT OF POSTING

STATE OF UTAH)

ss.

COUNTY OF UTAH)

I, ROYCE SWENSEN , City Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that I posted in three (3) public places Ordinance # 24-2, which is attached hereto on the _____ day of _____, 2024.

The three places are as follows:

1. The Elk Ridge City Office, 80 E Park Drive
2. The Utah Public Notice Website
3. The Elk Ridge City Website

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

ROYCE SWENSEN
Elk Ridge City Recorder

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by ROYCE SWENSEN.

My Commission Expires:

Notary Public

Residing at: Utah County