SUMMARY OF AGENDA ITEM

DATE: **May 1, 2008**

TO: **Mayor and Council**

FROM: **Ray Erlandsen**
Zoning Administrator

THROUGH: **Jerry Owen**
Community Development Director

SUBJECT: **Ordinance 737, Resolution 2372**
Proposed Addition of "Fences" to the Unified Development Code (UDC)

PURPOSE:
Historically, requirements for fences were included in the original Zoning Code of Payson. When the Unified Development Code (UDC) was adopted in 1996, these fence requirements were inadvertently left out. This request would update and re-establish development standards for fences in the current UDC.

SUMMARY:
On December 13, 2007, the Council held the First Reading of Ordinance 730 and Resolution 2346 – Fences and requested staff make revisions and bring the ordinance and resolution back to Council. In order to maintain a current numbering sequence, new ordinance and resolution numbers have been assigned - Ordinance #737 and Resolution #2372.

Staff has made the following revisions to Resolution #2372 as shown by strikeout and bold italics:

1. A definition for Street Side Yard has been included.
2. Allowed colors have been more clearly explained.
3. Exhibits to Section 15-03-006 have been expanded to more clearly depict definitions and requirements.
4. Language clarification for the clear view sight triangle.

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ORDINANCE NO. 737

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-03-006 AND AMENDING SECTIONS 15-03-002 AND 15-11-002 OF CHAPTER 154 (THE UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE TOWN OF PAYSON. (REGULATING FENCES)

WHEREAS, the Town of Payson desires to regulate the type and placement of fences to assure safety on its roadways and to protect the public's health and safety; and

WHEREAS, the Town additionally desires to regulate the type and placement of fences to maintain the aesthetic quality of the Town and to maintain and increase property values of the citizens of the Town,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That Section 15-03-006 (Fences) and the amendment to Section 15-11-002 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2372 were heretofore declared to be a public record by such Resolution, and that Section 15-03-006 (Fences) and the amendment to Section 15-11-002 are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 737.

Section 2. That at least three copies of Section 15-03-006 (Fences) and the amendment to Section 15-11-002 of Chapter 154, as adopted by this Ordinance Number 737 shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 3. All references to the number eight (8) in Section 15-03-002(C)(1) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson are hereby amended to the number six (6).

Section 4. Section 15-03-002(C)(4) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson is hereby deleted.

Section 5. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 737 are hereby repealed to the extent of such conflict.

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Section 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 737 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance Number 737. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 737 and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

RESOLUTION NO. 2372 IS
PROVIDED FOR INFORMATION
ONLY
AT THE 5/1/08 COUNCIL MEETING.

RESOLUTION NO. 2372 WILL
BE AGENDIZED AS AN ACTION ITEM
AT THE 5/15/08 COUNCIL MEETING.

RESOLUTION NO. 2372

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-03-06 AND AMENDING SECTION 15-11-02 OF CHAPTER 154 (THE UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE TOWN OF PAYSON, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD. (REGULATING FENCES)

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to add Section 15-03-006 and amend Section 15-11-002 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson related to Fences; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. Section 15-03-006 of Chapter 154 of the Code of the Town of Payson is hereby added, is declared to be a public record, and as added shall read as set forth in Exhibit A attached hereto.

Section 2. Section 15-11-002 of Chapter 154 of the Code of the Town of Payson is hereby amended, is declared to be a public record, and the definitions set forth in Exhibit B attached hereto are hereby added.

Section 3. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2372 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Resolution Number 2372 The Town Council of Payson declares that it would have adopted Resolution Number 2372 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

EXHIBIT A TO RESOLUTION 2372

15-03-006 Fences ***REVISED 5-1-08***

A. Applicability
The provisions of this section shall apply to all zoning districts.

B. Permit Required
1. A fence permit shall be required before a property line fence may be constructed, reconstructed or altered within the Town of Payson. A permit is not required for maintenance or repairs that do not alter or change the original fence. The Building Official may waive the permit requirement if the fence is part of a project where plans will include fencing.
2. A fence permit application shall be submitted including a scale drawing site plan showing all fence dimensions, gates, lot lines, setbacks, ***colors,*** and any information that may be required by the building and construction codes adopted by the Town.
3. The property owner shall locate affected property corners prior to constructing a fence.
4. Fence permit fees shall be listed on the Town of Payson List of Fees.

C. Fence Materials
~~1. All fences shall be constructed of new materials only.~~
1.~~2.~~ Only the following fence materials may be used.
   a. In all zoning districts - vinyl, plastic, chain link, wood board, wood picket, wood rail, masonry, stone, block, concrete or other materials simulating any allowable material.
   b. In commercial and industrial zoning districts – the top 12 to 24 inches may be barbed wire, if such barbed wire is not adjacent to a residential use.
   c. In all zoning districts – pipe fences may be allowed for ~~the~~ maintaining ***of*** livestock.
2.~~3.~~ No fence in any zoning district***, unless otherwise provided for in this section,*** shall:
   a. contain or be constructed of razor, ***concertina*** or similar wire, or
   b. have an electrical current or an electrical charge.

D. Height ***and Setbacks***
1. Residential Uses
   a. Six-foot high fences are allowed on the side and rear yard property lines up to the required front yard setback.
   b. Fences shall not exceed four (4) feet in height on the front property line or within the required front yard setback.
   c. Street side yard fences shall not exceed ***a height of*** four (4) feet ***above finished grade*** at the property line. A maximum height of six feet above ~~ground level~~ ***finished grade*** is allowed when placed at the street side setback line.

2. Commercial/Industrial Uses
   a. Fences up to six (6) feet in height are permitted
3. Height of fences shall be measured at ~~the existing~~ ***finished*** grade from the ~~inside~~ ***property owners side*** of the fence.
4. Fences encroaching into any sight triangle shall not exceed three (3) feet in height ***above street grade.***
5. ***Fences may not be constructed within three feet of the edge of the paved portion of the roadway.***

~~5.~~***6.*** For visual depiction, see Exhibit***s*** 1 ***and 2*** to this Section.

E. Fence Design

~~1. Colors and design shall be consistent with the Town of Payson "The Mountain Town with a Western Heritage" theme.~~

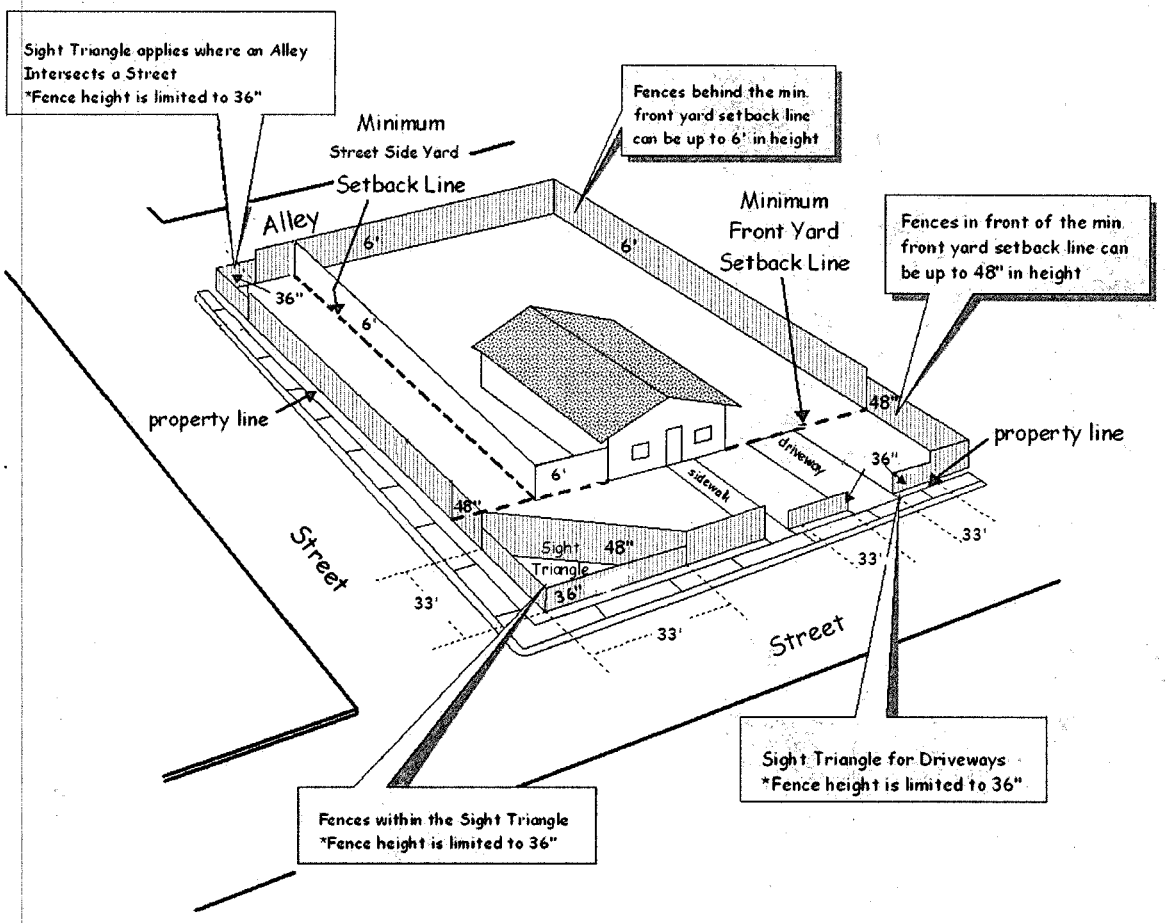
1. ***Colors shall conform to the color requirements of the Town of Payson Design Review Overlay District.***
2. The finished or decorative side of any front yard or street side yard fence shall face the public right of way.

F. Exceptions

1. Fences of other than approved material, conventional design or color, including historical fences may be allowed by the Design Review Board so long as such fences compliment~~s~~ the color and architecture of the surrounding neighborhood and any buildings.
2. Fences over six feet in height may be evaluated on a case by case basis and may be allowed subject to written approval of the Town Engineer, Zoning Administrator, and Building Official.
3. Interior fences not over the allowed height and of approved materials shall not require a fence permit.
4. Height regulations shall not apply when fences of greater height are required by the Planning & Zoning Commission or Design Review Board in order to provide adequate screening.
5. Construction Fences in compliance with Subsection (E)(1) shall be exempt from all other provisions of this Section.
6. ***Razor, concertina, barbed, or similar wire may be approved by the Community Development Director for certain applications where heighten security requires such materials.***

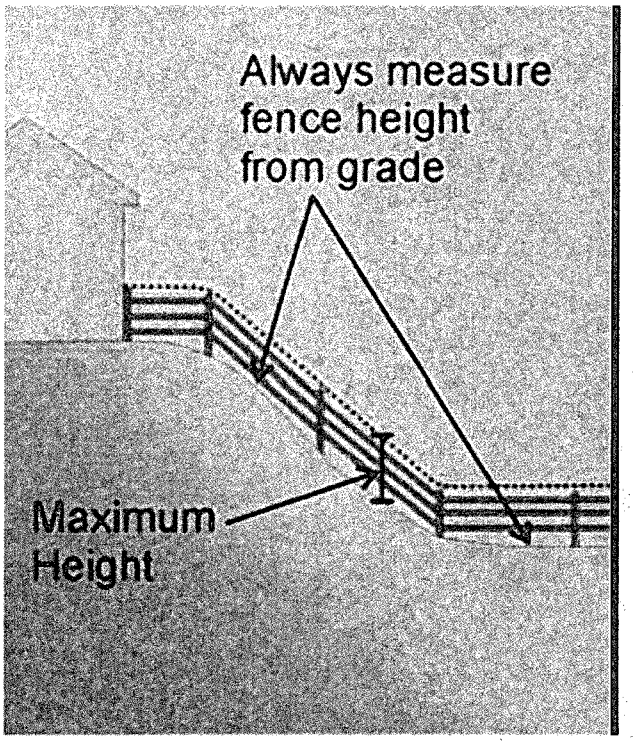
Exhibit 1 of Section 15-03-006

Fence Height Standards



*Not Drawn to Scale

Exhibit 2 of Section 15-03-006



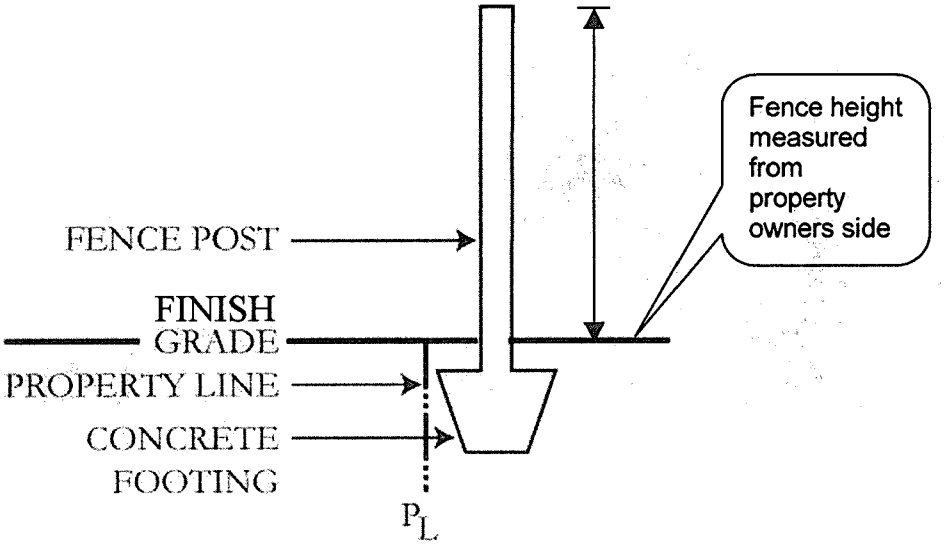


EXHIBIT B TO RESOLUTION 2372

15-11-002 Definitions

Fence(s): Any artificial barrier, not including plants, erected, constructed or placed on a lot, including masonry wall and ornamental construction.

Types of fences include:

A. Property line fence: A fence constructed parallel to and within 10 feet of a property line.

B. Interior fence: All fences that are not Property Line Fences.

C. Construction Fence: Any temporary fence placed on a construction site that has a current building permit and is actively being constructed. Construction Fences shall be of the type, kind, and size typically used during construction for the type project on which the Construction Fence is used.

Sight Triangle: The triangle bounded by the edge of the intersecting roadways and the diagonal connecting the two farthest points creating an isosceles triangle. The equal legs of the triangle shall be a minimum length of 33 feet. The equal legs of the triangle formed by a driveway shall be a minimum length of 15 feet.

Yard, street side: ***A side yard abutting a public roadway.***