

ORDINANCE 20-30

WHEREAS, the City Council of Smithfield City, Cache County, Utah, passed and adopted the Smithfield Municipal Code on November 11, 2015; and

WHEREAS, the City Council has determined there is a need to update, repeal, amend and/or modify certain provisions contained in the referenced Municipal Code;

NOW, THEREFORE, the City Council of Smithfield City, Utah hereby adopts, passes and publishes the following:

AN ORDINANCE AMENDING THE SMITHFIELD CITY MUNICIPAL CODE TITLE 17 “ZONING REGULATIONS”, SECTION 17.16.040 “NONCONFORMING USES; SUBSTITUTION; EXTENSION; DISCONTINUANCE” AND SECTION 17.12.080 “WALL, FENCE OR HEDGE”.

BE IT ORDAINED BY THE CITY COUNCIL OF SMITHFIELD CITY, CACHE COUNTY, UTAH, AS FOLLOWS:

1. The following sections shall be amended as indicated. Those portions which are struck out shall be deleted and those that are highlighted in yellow shall be added.

17.16.040 NONCONFORMING USES; SUBSTITUTION; EXTENSION; DISCONTINUANCE

A nonconforming use shall not be enlarged, extended, or changed unless the use is changed to a use permitted in the district in which it is located, and a nonconforming structure shall not be reconstructed or structurally altered unless such alteration shall result in removing those conditions of the building which render it nonconforming except as follows:

A. Substitution Or Extension:

1. When authorized by the planning commission in accordance with this title, a nonconforming use which is determined to be of a more desirable nature may be substituted for another nonconforming use.
2. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
3. Buildings and structures which are determined to be nonconforming in respect to setbacks or height may be continued. Additions or structural alterations may be made to the extent that they are required by law. ~~In addition the planning commission may allow an enlargement or structural alteration provided such change is in harmony with the surrounding neighborhood and meets the intent of the general plan and this title. Reasonable conditions may be attached to the approval in order to ensure neighborhood compatibility.~~
4. Repairs and structural alterations may be made to a nonconforming building provided that the floor space of such building is not increased.

5. A nonconforming use may be expanded to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.
6. A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction, may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.

17.12.080 WALL, FENCE OR HEDGE

A. Height Of Fences, Hedges Or Walls: ~~No fence or wall or other similar structure shall be erected in any required front, rear or side yard to a height in excess of six feet (6') or in the case of R-1 single family or RM multiple family residential front yards, to a height in excess of forty eight inches (48"), except for accessory buildings and structures permitted therein. The height of a security fence in a commercial or manufacturing zone may be increased to seven feet (7') after obtaining a conditional use permit and a building permit. Where there is a difference in the grade of the properties on either side of a fence or wall, the height of the fence or wall shall be measured from the average elevation of finished grades of the adjoining properties in question at the fence line.~~

No fence or wall or other similar structure shall be erected in any required front, rear or side yard to a height in excess of six feet (6').

In the case of R-1 (Residential) single-family zone or RM (Multiple Family) zone to a height not to exceed four feet (4') in the front yard.

Commercial zones or development adjacent to Main Street (State Road 91) to a height not to exceed four feet (4') in the front and side yard setbacks.

Commercial zones or development adjacent to 100 North (State Road 218) to a height not to exceed four feet (4') in the front and side yard setbacks.

The height of a security fence in a commercial or manufacturing zone may be increased to seven feet (7') after obtaining a conditional use permit and a building permit. Where there is a difference in the grade of the properties on either side of a fence or wall, the height of the fence or wall shall be measured from the average elevation of finished grades of the adjoining properties in question at the fence line.

B. Retaining Wall: Where a retaining wall protects a cut below the natural grade and is located on the line separating lots, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed. Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a fence, solid wall or hedge, providing

that in any event a protective fence or wall not more than forty eight inches (48") in height may be erected at the top of the retaining wall.

C. Fence Or Obstruction Required: Where the subdivision or lot line is adjacent to any public, commercial, manufacturing or private enterprise or business, a fence or obstruction may be required to be constructed by the subdivider or builder when in the judgment of the city council such fence or obstruction is needed to prevent a hazard, nuisance or to otherwise protect the best interest of the citizens of Smithfield City. Said fences shall be required to separate residential areas from areas of public high and private schools, or any other similar type use. Said fences or obstructions shall be six feet (6') or more in height and subject to approval by the city council.

2. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the Ordinance as whole, or any other part thereof.
3. All ordinances, and the chapter, clauses, sections, or parts thereof in conflict with provisions of this ordinance are hereby repealed, but only insofar as is specifically provided for herein.
4. This ordinance shall become effective after the required public hearing and upon its posting as required by law.

THIS ORDINANCE shall be attached as an amendment to the Smithfield Municipal Code above referred to.

Approved and signed this 4th day of November, 2020

SMITHFIELD CITY CORPORATION

Mayor Jeffrey H. Barnes

ATTEST:

Justin B. Lewis, City Recorder