

ORDINANCE NO. NS-225

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO AMENDING SECTION 10.06.130 OF THE MONTE SERENO MUNICIPAL CODE, HEIGHT OF FENCES, AND SECTION 10.08.040, SITE DEVELOPMENT PERMIT, TO MODIFY SITE DEVELOPMENT PERMIT REQUIREMENTS FOR PEDESTRIAN ARBORS

WHEREAS, on February 18, 2020, June 2, 2020, and October 6, 2020, City staff brought forward an item to the City Council of the City of Monte Sereno for the Council to discuss and consider whether modifications to the existing fence height regulations were desirable and the City Council directed that staff explore modifications to the City's height regulations, and

WHEREAS, the City Council directed the creation of an ad hoc committee for review and providing policy direction on revisions to the City's fence regulations, which were considered by the Council on March 2, 2021, and

WHEREAS, on April 7, 2021 the Site and Architecture Commission considered the proposed modifications to the Monte Sereno Municipal Code, and

WHEREAS, allowing for increase fence heights in certain locations is appropriate to protect the security and privacy of Monte Sereno's residents, provided that those increases are subject to reasonable regulatory requirements as might be necessary to protect Monte Sereno's unique character and encourage newly constructed fences to maintain the City's aesthetics,

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTE SERENO
DOES ORDAIN AS FOLLOWS:**

SECTION1. AMENDED. Section 10.06.130 of the Monte Sereno Municipal Code is amended to read in its entirety as follows:

10.06.130 - Height of fences.

- A. Front Yard and Side Corner Height Limits. No portion of any fence shall exceed a height of three feet in any part of any front yard, within ten feet of any side corner property line of a lot in the R-1-8 zoning district, or within fifteen feet of any side corner property line of a lot in the R-1-20 and R-1 44 zoning district unless a site development permit has been approved in accordance with Chapter 8 of this Title, provided however, no site development permit shall be issued to authorize an increase in fence height over six feet in such areas. Any fence not more than six feet in height in existence on August 19, 1977, in any front yard is exempted from the

provisions of this section; provided, however, that said fence is not located within a right-of-way and shall not block the sight distance at a street intersection.

- B. Fence Arbor Height Limits. A pedestrian arbor may be added to a fence the overall height of the pedestrian arbor does not exceed twelve feet. Construction of any pedestrian arbor in excess of 7 feet shall be subject to obtaining a site development permit in accordance with Chapter 8 of this Title, and subject to obtaining all required permits under Title 9 of this Code and the California Building Standards Code.
- C. Side Interior and Rear Yard Fence Height Limits.
 - 1. A fence height of up to six feet, or a solid wooden fence not exceeding 6 feet with up to one foot of additional lattice, shall be permitted in the side interior yard and rear yard in each zoning district.
 - 2. A fence height up to eight feet in any side interior or rear yard shall be permitted, subject to obtaining all required permits under Title 9 of this Code and the California Building Standards Code, and the approval of fence design permit by the Site and Architectural Commission under this section.
- D. Fence Design Permit Requirements. A fence design permit shall be approved by the Site and Architectural Commission upon satisfaction of the following requirements:
 - 1. The applicant shall have submitted a complete application and paid the applicable application fee, which may be set and adjusted by resolution of the City Council. If no fee is specifically set for a fence design permit application, the fee for a site development permit under section A shall apply. Applications shall include a property map, cross sections of the proposed fence, description of materials, fasteners, and finishes, and any other information as may be specified on forms provided by the City planning department.
 - 2. The applicant shall submit a landscape plan, demonstrating proposed screening for the fence by means of berms, plantings of suitable shrubs and trees, of native species, to be placed at regular intervals on the side of the fence closest to the public right of way, in a manner that will not cause obstructions on any public sidewalks or rights of way. A landscape plan shall not be required to demonstrate planting for those portions of a fence that are on a shared property line.
 - 3. The proposed fence shall not obscure a scenic view or vista from any public right of way, nor create a safety hazard for vehicular, pedestrian or bicycle traffic by creating a line of sight obstacle from a public right of way. For the purposes of this provision, the proposed fence shall be required to not create an impediment or a line of sight obstacle greater than that of a six foot fence that would be permitted as of right at the same location.
 - 4. Fence materials, fasteners, and finishes shall comply with all construction material standards and any administrative guidelines kept on file with the City planning department.
 - 5. The property for the proposed fence satisfies one of the following requirements:

- a. A shared property line with a property within the jurisdiction of the County of Santa Clara where a fence height of eight (8) feet is permitted under the applicable regulations of the County of Santa Clara,
- b. A shared property line with a school, church, or community center.
- c. Adjacent to, or across the street from, a commercial property.
- d. Adjacent to the following streets: Los Gatos-Saratoga Road, Daves Avenue, or Winchester Boulevard.
- e. Construction of any accessory building, accessory dwelling unit, or main building within 13 feet of either side of the proposed fence.
- f. Existence of an average slope of 10% or more adjacent to the proposed fence location, measured over the 10 feet from the proposed fence location.

In conjunction with the approval of a fence design permit, the Site and Architectural Commission may impose conditions of approval as may be necessary in order to mitigate any specifically identified impacts of the proposed fence or ensure compliance with the requirements of this section.

- E. Fence and Fence Height Defined. The term "fence" shall include any open or solid barrier using, but not limited to, brick, stone, concrete, steel, iron, wood and/or plastic for its construction. Fence heights, for the purposes of this section, shall be determined by the measurement from the lowest point on the highest grade side of the fence to the tallest point, including posts, lattices, and any other features.

SECTION 2. AMENDED. Section 10.08.040 of the Monte Sereno Municipal Code is amended to read in its entirety as follows:

10.08.040 - Site development permit required.

The following proposed projects shall require a site development permit, which shall be issued prior to the issuance of a building permit or a demolition permit:

- A. Any new building exceeding one hundred twenty (120) square feet, except any accessory dwelling unit permitted in accordance with Section 10.06.140.
- B. Any addition that adds five hundred (500) square feet or more to an existing building or structure in the R-1-8 zoning district or seven hundred fifty (750) square feet or more to an existing building or structure in the R-1-20 or R-1-44 zoning district.
- C. Any modification to the roof that results in a new or modified roof design or that increases the roof height of an existing structure by more than twenty-four (24) inches.

- D. Any additions that add two hundred fifty (250) square feet or more to the second story of an existing two-story building in the R-1-8 zoning district or five hundred (500) square feet or more in the R-1-20 and R-1-44 zoning district.
- E. Any additions of a second story to an existing single-story building.
- F. The addition of an architectural element to a legally existing light post or entry column if such addition would cause the total height of the light post or entry column to exceed the height limitations outlined in Section 10.17.040. An architectural element may be added to an existing light post or entry column with a site development permit if the height of the architectural element does not exceed one-half of the height (up to nine (9) feet) of the legally existing light post or entry column. The proposed architectural element shall be setback one (1) foot from the property line for every two (2) feet in height of the architectural element and light post or entry column.
- G. The construction of a light post or entry column which includes an architectural element if the total height of the light posts or entry column with the architectural element exceeds the height limits outlined in Section 10.17.040. In no event shall the total height of the light post or entry column with the architectural element exceed eight (8) feet. In no event shall the architectural element be taller than one-half of the light post or entry column.
- H. The addition of a pedestrian arbor that exceeds seven (7) feet in height to any fence, or a fence greater in height than three (3) feet in any part of any front yard, within ten (10) feet of any side corner property line of a lot in the R-1-8 zoning district, or within fifteen (15) feet of any side corner property line of a lot in the R-1-20 and R-1 44 zoning district.

Issuance of a site development permit shall be reviewed and acted upon by the Commission at a regular or special meeting.”

SECTION 3. AMENDED. Every reference in Section 10.08.010, 10.08.050, 10.08.055, 10.08.060, 10.08.070, and 10.08.130 to “Committee” or “Site and Architectural Committee” as it may appears in such sections is hereby amended to refer to “Commission” and “Site and Architectural Commission,” respectively.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after the date of its passage, and the City Clerk is directed to publish and/or post this ordinance in the manner required by law.

SECTION 5. CEQA. The City Council finds and determines that the enactment of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code section 21065 and Section 15061 of the CEQA Guidelines, under the “common sense” exemption and also because it is not a “project” subject to CEQA because there is no possibility that enactment of this ordinance may cause either

a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. In the alternative, the City Council finds and determines that the adoption of this Ordinance is exempt pursuant to CEQA Guidelines section 15303(e), as a regulation of small accessory structures, specifically fences.


SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause, phrase 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 of such Ordinance and shall not affect the validity of the remaining portions thereof.


This Ordinance was introduced at a regular meeting of the City Council held this 20th day of April, 2021, and thereafter, was passed and adopted at a regular meeting of the City Council held this 4th day of May, 2021, by the following roll call vote:

AYES: LAWLER, MEKECHUK, TURNER, ELLAHIE, AND LEUTHOLD

NOES: NONE

ABSENT: NONE

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By: 
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Shawn Leuthold, Mayor

ATTEST:
DocuSigned by:

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Michelle Radcliffe, City Clerk