

## **ORDINANCE NO. 19-21**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE (ZONING) TO UPDATE AND ESTABLISH NEW DEVELOPMENT STANDARDS FOR FENCES AND WALLS**

#### **SECTION I:**

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with CEQA Section 21065 and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The Ordinance involves general policy and procedure making that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Furthermore, the action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Such is the case with the Ordinance. No new development is proposed and the regulations for fences and walls would not result in a significant impact on the environment. Furthermore, any development applications subject to these provisions will be reviewed for CEQA compliance under a separate entitlement. On a case-by-case review of each project, the appropriate environmental document will be prepared to address any project-specific impacts. Therefore, the Ordinance will not have a significant effect on the environment.

#### **SECTION II:**

Section 17.04.025 of the Orange Municipal Code, “Zoning - Definitions – ‘F’ Definitions,” is hereby amended to add the following definitions:

FENCE – A substantial solid barrier intended to enclose, separate or surround. Landscaping that forms a substantial solid barrier within a front yard setback will be considered a fence.

FENCE, OPEN – A barrier intended to enclose, separate or surround which is constructed in such a way that no more than 20% of the surface area of the fence obstructs a view through the fence from a position perpendicular to the fence.

#### **SECTION III:**

Section 17.04.042 of the Orange Municipal Code, “Zoning - Definitions – ‘W’ Definitions,” is hereby amended to revise the following definition to read as follows:

WALL - A substantial solid barrier intended to enclose, separate or surround. Landscaping that forms a substantial solid barrier within a front yard setback will be considered a wall.

**SECTION IV:**

Section 17.04.042 of the Orange Municipal Code, “Zoning - Definitions – ‘W’ Definitions,” is hereby amended to add the following definition:

WALL, SOUND – A substantial solid barrier intended to separate land uses and designed with sound-dampening material to absorb sound waves.

**SECTION V:**

Section 17.10.050.D of the Orange Municipal Code, “Zoning - Specific Administrative Procedures – Administrative Adjustments – Actions Considered to be Administrative Adjustments,” is hereby amended to add the following subsection, with the remaining subsections renumbered accordingly:

2. Adjustment of Wall Height Requirements. The Zoning Administrator may approve wall heights greater than permitted subject to the provisions of Section 17.12.070, up to a maximum of two additional feet.

**SECTION VI:**

Section 17.12.070, “Zoning – General Regulations Applicable to All Districts – Fences and Walls,” is hereby added to the Orange Municipal Code to read as follows:

**17.12.070 – Fences and Walls.**

Fences and walls shall be permitted in all zoning districts subject to the following regulations:

A. All zoning districts.

1. Location.

a. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director, or unless otherwise specified by applicable design standards.

b. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

2. Corner cut off shall be required per Section 17.14.150.

3. Materials are allowed per Table 17.12.070.A.3.

**Table 17.12.070.A.3**

<b>Material</b>	<b>R and MH Zones</b>	<b>OP and C Zones</b>	<b>M and SG Zones</b>	<b>MU Zones</b>	<b>PI, A1, RO, and SH Zones</b>
Wood, masonry, vinyl, composite	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
Decorative metals	P <sup>1,2</sup>	P <sup>1,2</sup>	P <sup>1,2</sup>	P <sup>1,2</sup>	P <sup>1,2</sup>
Chain link	- <sup>3</sup>	- <sup>3</sup>	P <sup>1, 3</sup>	- <sup>3</sup>	P <sup>1</sup>
Coated vinyl mini-mesh chain link	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	-	P <sup>1</sup>
Barbed wire, concertina wire	- <sup>4</sup>	-	P <sup>1,6</sup>	-	P <sup>1,6</sup>
Electrified fences	P <sup>5</sup>	-	P <sup>1,6</sup>	-	P <sup>1,6</sup>

P = Permitted

- = Not permitted

Notes:

- (1) If within a historically or architecturally significant district, additional material restrictions may apply. Refer to the corresponding design standards for the appropriate district.
- (2) Sheet metal and corrugated steel are permitted with Community Development Director approval when integrated into the overall design and architecture of the project.
- (3) Chain link fencing shall not be erected in any required yard setback facing a public or private street. Exception: Chain link fencing may be used for security purposes for public utility structures and for temporary fencing needs (construction sites, special events, vacant lots, etc.) and screening shall be required subject to the determination of the Community Development Director.
- (4) Exception for public utility structures.
- (5) Electrified fences are not allowed on any lots less than 20,000 square feet or as perimeter fencing. A lot 20,000 square feet or more may have electrified fences inside an enclosing perimeter fence.
- (6) Materials not allowed as perimeter fencing may be allowed as interior fencing, subject to Community Development Director approval.

#### 4. Greater Height of Fences and Walls in Side and Rear Yards.

a. A greater height than the height limit established, up to a maximum of two additional feet, may be considered by the Zoning Administrator through an Administrative Adjustment. Refer to Section 17.10.050.

b. A greater height than the height limit established may be considered by the Planning Commission through a Variance. Refer to Section 17.10.040.C.

**B. Residential.**

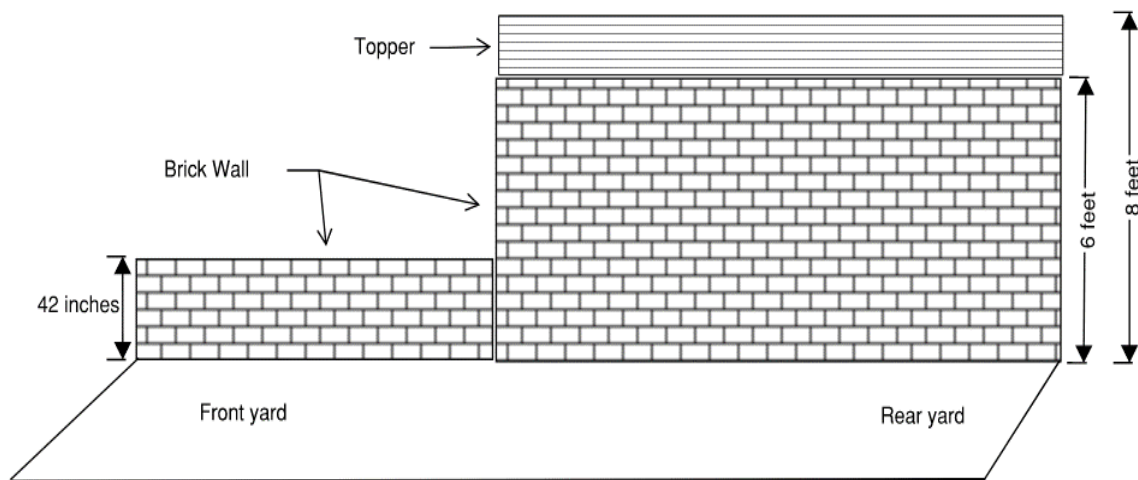
1. Side and Rear Yards—Standard Lot. Fence and wall heights shall be measured from adjacent grade to the top of the fence or wall structure. Any items connected to the fence or wall, such as, but not limited to decorative latticework, privacy toppers, and screens, shall be counted towards the overall height of the fence or wall, as referenced in Figure 17.12.070.B.1. Fences and walls located in the side and rear yards of standard lots shall be limited in height as follows:

a. Six feet, as measured from the highest elevation of land contiguous to the fence, and ten feet as measured from the lowest elevation contiguous to the fence.

b. For properties within 300 feet of freeways or railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to eight feet as measured from the highest elevation of land contiguous to the wall and ten feet as measured from the lowest elevation contiguous to the wall.

c. For properties abutting a non-residential zoning district the height may be up to eight feet as measured from the highest elevation of land contiguous to the fence or wall, and ten feet as measured from the lowest elevation contiguous to the fence or wall.

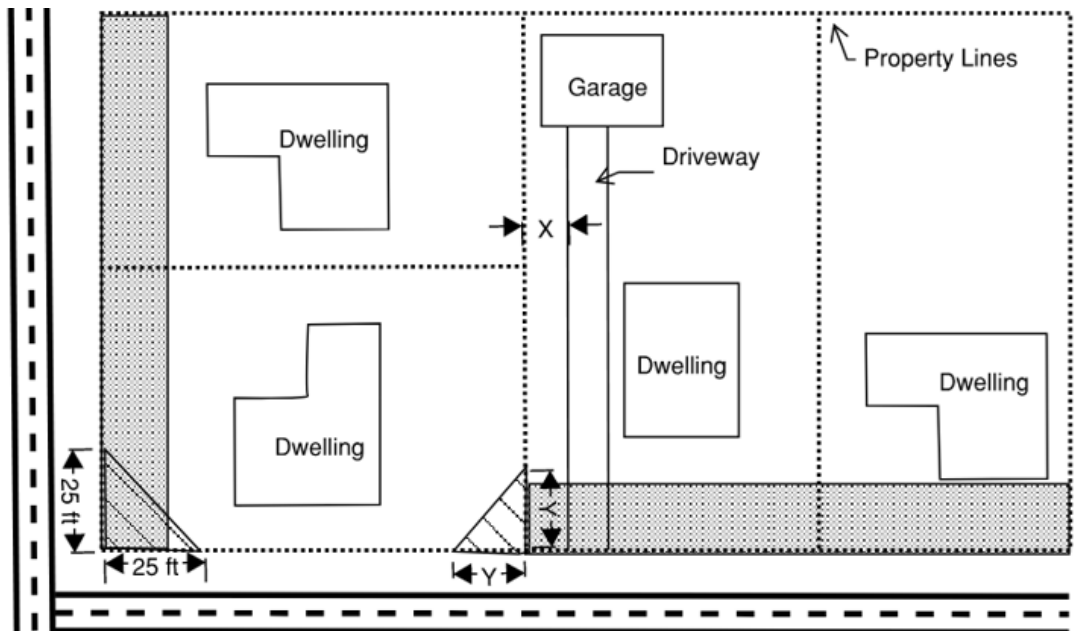
**Figure 17.12.070.B.1**



2. Front Yard—Standard Lot. In the required front yard area, the height shall be limited to three and one-half feet.

3. Corner, Reverse Corner and Key Lots. For corner, reverse corner, and key lots, fence and wall heights shall be limited as indicated on Figure 17.12.070.B.3.

**Figure 17.12.070.B.3**



Required front yard setback where fence height 42 inches maximum



Corner Cut Off provision where fence height 42 inches maximum

Distance X in feet	Distance Y in feet
0	10
1	9
2	8
3	7
4	6
5	5
6	4
7	3
8	2
9	1
10	0

4. Tract Fencing. Fences and walls adjacent to public streets, surrounding residential tracts, shall be constructed by the developer and maintained in a safe structural condition by the homeowner's association, or by each individual home owner on whose property the fence or wall is located if no homeowner's association exists. Periodic repair or maintenance of any section of the fence or wall shall be done in a manner that matches the original design and appearance. The intent of this section is to ensure that the fence or wall maintains a consistent appearance around the entire perimeter of the tract, and is not intended to preclude repainting, replastering or such other maintenance as may be required, provided such treatment is applied to the entire contiguous fence or wall, including fence or wall area beyond the individual property.

C. Mobile Home.

1. Perimeter Screening. In order to provide a buffer between mobile home parks and abutting uses, an eight-foot high solid, masonry wall shall be installed and maintained along, but no closer than, ten feet from the ultimate or future right-of-way from any public street and three feet from any mobile home. Where there is a difference in elevation on opposite sides of such screen, the height shall be measured from the highest grade level.

2. For properties within 300 feet of freeways or railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to ten feet as measured from the highest elevation of land contiguous to the wall and twelve feet as measured from the lowest elevation contiguous to the wall

D. Commercial.

1. Division Wall Required.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence, and not greater than ten feet in height as measured from the lowest elevation contiguous to the fence, shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. Division wall height taller than ten feet as measured from the lowest elevation contiguous to the wall may be considered by the Community Development Director.

b. Properties with an outdoor use component that is integral to the principal use of the subject site and located adjacent to any freeway or railroad may have fences and walls taller than the limits set forth herein. Refer to Section 17.12.070.A.4.

c. Commercial properties not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038.

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following regulations:

a. Front Yard. In the required front yard area, the height shall be limited to forty-two (42) inches.

b. Side Yard. In required street side yard areas, the height shall be limited to forty-two (42) inches.

c. All Other Areas. In all other areas, the height shall be limited to six feet as measured from the highest elevation of land contiguous to the fence or wall, and ten feet as measured from the lowest elevation contiguous to the fence or wall.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director, or unless otherwise specified by applicable design standards. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

E. Industrial.

1. Division Wall Required.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence, and not greater than ten feet in height as measured from the lowest elevation contiguous to the fence, shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. Division wall height taller than ten feet as measured from the lowest elevation contiguous to the wall may be considered by the Community Development Director.

b. In industrial properties where a stationary noise source produces exterior noise greater than 65 dBA, the division wall shall be at least eight feet as measured from the highest elevation of land contiguous to the fence, and twelve feet as measured from the lowest elevation contiguous to the fence.

c. Industrial properties are not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following height regulations:

a. Front Yard. In the required front yard area:

i. Solid fences and walls are limited to 42 inches in height.

ii. Along non-arterial streets, open fences may be up to six feet in height.

b. All Other Areas. In all other areas, fences and walls may exceed eight feet in height provided that a site assessment is submitted for review by the Community Development Director. The assessment must address the following as a minimum:

i. A discussion evaluating the operational capacity of the existing land use and its impacts on the immediate vicinity.

ii. An analysis demonstrating that the additional height does not negatively impact the surrounding property or public streets.

iii. Scaled and dimensioned plans providing an adequate basis of evaluation.

iv. A concluding statement containing evidence that the proposed fence or wall will benefit the community and will not adversely impact any residential areas or any public streets.

The Community Development Director shall approve such fences and walls if it is found that the applicant's site assessment contains the requisite evidence and analysis.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director, or unless otherwise specified by applicable design standards. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

F. Mixed Use.

1. Division Wall Required.

a. A masonry division wall up to eight feet in height as measured from the highest elevation of land contiguous to the fence shall be constructed on all property lines adjacent to any single-family residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. In the OTMU-15S zone, a wood fence may also provide separation between properties.

b. Pedestrian access points are encouraged and may be allowed subject to approval of the Community Development Director.

c. Properties not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following:



- a. Front Yard. In the front yard area, the height shall be limited to forty-two (42) inches.
- b. Street Side Yard. In street side yard areas, the height shall be limited to forty-two (42) inches.
- c. All Other Areas. In all other areas, the height shall be limited to six feet, as measured from the side of the fence or wall with the highest grade.
- d. For properties within 300 feet of freeways, railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to eight feet as measured from the highest elevation of land contiguous to the wall and ten feet as measured from the lowest elevation contiguous to the wall, except in a street-facing, front, side, or rear yard setback, where the wall shall be limited to forty-two (42) inches in height.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director, or unless otherwise specified by applicable design standards. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

#### G. Public Institutions.

1. Division Wall Required. A masonry division wall shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to 42 inches in height.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height.

b. In properties where a stationary noise source produces exterior noise greater than 65 dBA, the division wall shall be at least eight feet as measured from the highest elevation of land contiguous to the fence, and twelve feet as measured from the lowest elevation contiguous to the fence.

c. Properties which are not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following height regulations:

a. Front Yard. In the required front yard area, the height shall be limited to 42 inches.

b. All Other Areas. In all other areas, fences and walls may exceed six feet in height with a determination by the Community Development Director.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director, or unless otherwise specified by applicable design standards. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

H. Agriculture, Open Space, and Slope and Hazard. Fences and walls shall be permitted in accordance to commercial regulations contained in 17.12.070.C.

I. Sand and Gravel.

1. Perimeter Screening. In order to provide a buffer between Sand and Gravel operations and abutting uses, an eight-foot high solid, masonry wall shall be installed and maintained along, but no closer than, ten feet from the ultimate or future right-of-way from any public street. Where there is a difference in elevation on opposite sides of such screen, the height shall be measured from the highest grade level.

2. A required screen shall be installed prior to commencement of operations.

3. Fences and walls not conforming to Section 17.12.070.I are subject to review and approval by the Community Development Director.

#### **SECTION VII:**

Section 17.14.180 and Figure 17.14.180.C of the Orange Municipal Code, “Zoning – Residential Districts – Fences and Walls,” are hereby deleted in their entirety.

#### **SECTION VIII:**

Section 17.14.260.E of the Orange Municipal Code, “Zoning – Residential Districts – Additional Development Standards for Mobile Home Parks – Perimeter Screening,” is hereby amended in its entirety to read as follows:

E. Fences and Walls. For fence and wall requirements refer to Section 17.12.070.

#### **SECTION IX:**

Section 17.18.140 of the Orange Municipal Code, “Zoning – Commercial Districts – Fences and Walls,” is hereby deleted in its entirety.

**SECTION X:**

Section 17.19.140 of the Orange Municipal Code, “Zoning – Mixed Use Districts – Fences and Walls,” is hereby deleted in its entirety.

**SECTION XI:**

Section 17.20.100 of the Orange Municipal Code, “Zoning – Industrial Districts – Fences and Walls,” is hereby deleted in its entirety.

**SECTION XII:**

Section 17.22.095 of the Orange Municipal Code, “Zoning – Agricultural and Open Space Districts – Fences and Walls,” is hereby deleted in its entirety.

**SECTION XIII:**

Section 17.24.075 of the Orange Municipal Code, “Zoning – Public Institution District – Fences and Walls,” is hereby deleted in its entirety.

**SECTION XIV:**

Section 17.32.060.G.2 of the Orange Municipal Code, “Zoning – Sand and Gravel Extraction District – Operational Standards, Generally – Screening - Height,” is hereby amended in its entirety to read as follows:

2. Other Screening. See Section 17.12.070.I.

**SECTION XV:**

Section 17.34.130.B of the Orange Municipal Code, “Zoning – Off-Street Parking and Loading – Maintenance and Operation of Permanent Parking Areas – Border and Fencing,” is hereby amended in its entirety to read as follows:

B. Border and Fencing. Every parking area which abuts property located in any R (Residential) zone district shall be separated from such property by a view-obscuring masonry wall at least six feet in height but no greater than eight feet in height. An Administrative Adjustment may be considered per Section 17.10.050. Wall height shall be measured from the grade of the finished surface of the parking area closest to the contiguous R-zoned property or from the high grade side of the parking lot. However, the wall shall not exceed forty-two (42) inches in height in any required front yard area. Also, no wall is required where the elevation of the parking area along the property line immediately adjacent to the R-zoned property is six feet or more below the elevation of the R-zoned property.

**SECTION XVI:**

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

**SECTION XVII:**

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

**ADOPTED** this 11th day of January, 2021.

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Mark A. Murphy, Mayor, City of Orange

**ATTEST:**

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Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA   )  
COUNTY OF ORANGE    )  
CITY OF ORANGE         )

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 14<sup>th</sup> day of December, 2021, and thereafter at the regular meeting of said City Council duly held on the 11<sup>th</sup> day of January, 2022 was duly passed and adopted by the following vote, to wit:

AYES:           COUNCILMEMBERS: Murphy, Nichols, Monaco, Barrios, Tavoularis, Gutierrez  
NOES:           COUNCILMEMBERS: None  
ABSENT:        COUNCILMEMBERS: Dumitru  
ABSTAIN:       COUNCILMEMBERS: None

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Pamela Coleman, City Clerk, City of Orange