

ORDINANCE NO. 105 (as amended)

AN ORDINANCE REGULATING FENCES, HEDGES, AND OTHER PLANTINGS
AND PROVIDING PENALTIES

SECTION:

- 1 PERMIT REQUIREMENTS
- 2 FENCE AND HEDGE LOCATION AND HEIGHT REQUIREMENTS
- 3 FENCES REQUIRED
- 4 BARBED WIRE AND ELECTRIC FENCES PROSCRIBED
- 5 APPEALS AND VARIANCES - BOARD OF ADJUSTMENT
- 6 PENALTIES
- 7 REPEALER AND MISC.

1: **PERMIT REQUIREMENTS:**

It shall be unlawful to install or construct or cause to be installed or constructed any fence over six feet (6') in height without obtaining a permit from the University Heights Building Official. All applications for fence permits shall be submitted to the Building Official and shall be accompanied by a sketch or design of the proposed fence and a plot showing the location of the proposed fence.

2: **FENCE AND HEDGE LOCATION AND HEIGHT REQUIREMENTS:**

- A. No portion of a fence more than ten percent (10%) solid shall exceed eight feet (8') in height.
- B. Fences, retaining walls, hedges or other plantings shall be located so no part thereof is within two feet (2') of any alley or a street right-of-way line.
- C. At street intersections, no fence, retaining wall, hedge, or other planting more than three feet (3') in height above the curb level shall be located within a triangular area, two (2) of its sides twenty-five feet (25') in length and measured along the right-of-way lines from the point of intersection. Any fence,

retaining wall, hedge, or other planting in existence upon adoption of this ordinance or any respective amendment to this ordinance and not in compliance with this subsection (2(c)) shall be brought into conformance within thirty (30) days of publication of the ordinance or respective amendment. Provided, however, that this subsection 2(c) shall not apply to the following:

1. Fences, retaining walls, hedges, or other plantings that presently are situated upon or near the lot lines of properties abutting the west right-of-way line of Sunset Street south of Melrose Avenue provided such structures are parallel to the right-of-way line or approximately so.
2. Fences or retaining walls erected or hedges or other plantings planted to replace those existing upon enactment of the ordinance as identified in subsection 2(c)(1) herein.

Provided further that a fence otherwise subject to this subsection 2(c) is not in violation so long as it is no more than ten percent (10%) solid.

- D. At street intersections, all trees shall be trimmed such to a height not less than eight feet (8') within a triangular area, two (2) of its sides twenty-five feet (25') in length and measured along the right-of-way lines from the point of intersection.
- E. Fences within the front yard shall not exceed four feet (4') in height, unless the University Heights City Council authorizes a fence exceeding four feet (4') in writing at the request of the property owner or party in possession.

3: **FENCES REQUIRED:**

Except as otherwise provided, fenced enclosures shall be provided for swimming pools with a depth of eighteen inches (18") or more and for dog runs and shall be subject to the following requirements.

- A. An outdoor swimming pool, the edge of which is less than four feet (4') above grade, shall be completely enclosed by a fence not less than four feet (4') in height. The fence shall be so constructed as not to allow a five inch (5") diameter sphere to pass through

the fence. A principal or an accessory building may be used as a part of such enclosure.

- B. All gates or doors opening through an enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except the door of any building which forms a part of the enclosure need not be so equipped. The Building Official may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute device or structure is not less than the protection afforded herein.
- C. Dog runs shall be enclosed by a fence of sufficient height and construction to contain the dog at all times.

4: BARBED WIRE AND ELECTRIC FENCES PROSCRIBED:

Barbed wire and electric fences are prohibited and no barbed wire fence or electric fence shall be constructed or erected within the City of University Heights.

5: APPEALS AND VARIANCES - BOARD OF ADJUSTMENT:

The University Heights Board of Adjustment is authorized to hear appeals from decisions of the Building Official and requests for variances from the terms of this ordinance.

- A. Appeals to the Board may be taken by any person aggrieved by a decision of the Building Official based on the provisions of this ordinance. Such appeal shall be taken within a reasonable time by filing a notice of appeal with the City Clerk, specifying the grounds thereof. The City Clerk shall transmit a copy of the notice to the Building Official and to the Board of Adjustment. The Building Official shall promptly transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
- B. Any person may make application to the Board of Adjustment for a variance to this ordinance by filing a written application with the City Clerk, who shall promptly notify the Board of Adjustment of the application.
- C. The concurring vote of three members of the Board of Adjustment shall be necessary to affirm, reverse,

revise, or modify any decision of the Building Official, or to decide in favor of an applicant seeking a variance.

- D. A filing fee of \$50.00 shall be paid to the City of University Heights with the filing of any appeal or application provided for herein.
- E. The Board of Adjustment shall have the authority to affirm, reverse, revise, or modify any decision of the Building Official and to authorize a variance from the terms of this ordinance that will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of this ordinance will result in an unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

6: PENALTIES:

Any violation of this Ordinance shall constitute a simple misdemeanor, and any person convicted of violating this Ordinance shall be subject to confinement for up to thirty (30) days in jail or a \$100.00 fine or both such confinement and fine.

7: REPEALER AND MISC:

All Ordinances or parts of Ordinances not specifically provided for and in conflict herewith are hereby repealed. If any section, provision, or part of this Ordinance shall be adjudged to be invalid or unconstitutional, this determination shall not affect the validity of the Ordinance as a whole or any section, provision, or part of the Ordinance not determined to be invalid or constitutional.

EFFECTIVE DATE:

This Ordinance shall be in full force and effect upon its passage and publication in accordance with law.

Adopted this 10th day of March, 1998 and approved this 10th day of March, 1998.

Donald S. Swanson, Mayor,
City of University Heights

Attest: _____
Pat Birk, City Clerk

*The original ordinance is on file with the University Heights City Attorney.

Ordinance No. 164, adding Section 5 regarding Appeals and Variances - Board of Adjustment, and subsequently renumbering the following sections, was passed and approved the 11th day of September, 2007, and published in the Iowa City Press Citizen September 15, 2007. The amendment authorized the Board of Adjustment to hear appeals from decisions of the Building Official and requests for variances.

Ordinance No. 184, amending Section 2, concerning location, height, and composition of fences, hedges, and other plantings, was passed and approved the 14th day of May, 2013, and published in the Iowa City Press Citizen July 22, 2014. The amendment added "retaining walls" to the structures governed by Ordinance No. 105.