SECTION 39
SCREENING AND FENCING

(As amended by Ordinance No. 480-HH)
(As amended by Ordinance No. 480-LL)
(As amended by Ordinance No. 480-UU)
(As amended by Ordinance No. 480-UUU)
(As amended by Ordinance No. 480-KKKK)
(As amended by Ordinance No. 480-UUUU)

39.1 GENERAL - Except as otherwise provided in this ordinance, fences, walls, and hedges may be permitted in any zoning district, in any required yard, or along the edge of any yard as a screening, decorative or containment element not to exceed eight (8) feet in height, provided the following shall be observed:

a. At Intersections - On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow except in accordance with the site triangle provision as defined in the Subdivision Ordinance No. 483 as now existing or hereafter amended.

b. At Interior Lots - On an interior lot in any district nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision or in any way create a traffic hazard to motorists, whether the impediment includes entering or exiting any public highway, street, alley, or private street or driveway from or to adjacent private property.

39.2 FENCING STANDARDS

a. Fencing, as herein referred, shall mean any construction or hedge greater than thirty (30) inches in height and of any material, the purpose of which is to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence. Dikes and restraining walls for the purpose of retaining soil are not classified as a fence.

b. Acceptable materials for fencing and decorative posts include but are not limited to brick, stone, masonry; synthetic materials; natural and treated woods; ornamental metal or wrought iron; decorative aluminum or metal having a factory applied non-metallic matte finish.

(1) PVC and other synthetic materials used for both residential and commercial fencing applications shall meet the minimum quality standards set forth in the ordinance.
(2) Accept as otherwise required by this ordinance, chain link shall only be permitted in AG, SF-1A, SF-1B, SF-2, SF-20A, SF-20B, SF-30, RE-5, RE-7, CS, I-1, I-2, and B-2 zoning districts. (As amended by Ordinance No. 480-UUUU)
(3) Corrugated metal panels or materials having similar properties shall not be permitted.

c. Barbed wire fences may be used without restrictions when in conjunction with agricultural and related activities; provided, however, no barbed wire fence shall

be located on any platted property which is zoned for single family residential use.

d. Electric fences and fence charging devices (UL approved only) are allowed only in conjunction with agricultural and related activities for the purposes of containing horses and livestock, or for the security of crops grown on the premises, and shall be plainly labeled for ease of identification.

39.3 SCREENING STANDARDS

a. Screening, as herein referred, shall mean a fence, wall, dense evergreen hedge or other device which is opaque, made of durable material, and without holes, penetrations, or other openings other than those required for passage, and which is designed to prevent persons from seeing through.

b. A screening device may be constructed solely of masonry, wood, or concrete, in combination with each other or with a metal frame.

c. Any dense hedge or plant material may be used as screening provided it is landscaped and is properly maintained in a healthy growing condition.

d. Landscaped earth berms may be used as screening when approved by the Administrative Official.

e. A screening device shall be eight (8) feet in height unless otherwise specifically permitted or required by this ordinance, or unless approved as a variance by the City Council in its consideration of a concept plan, development plan, site plan or a specific use permit or unless otherwise approved by the Board of Adjustment. The height of a screening device shall be the vertical distance between the ground and the top of the device. (As amended by Ordinance No. 480-HH.)

f. All mandatory or permissive screening shall be erected and maintained so as not to interfere with or obstruct the view of traffic or constitute a traffic hazard on any public or private street, alley or driveway.

g. A chain link fence with slat inserts shall constitute an acceptable screening device only for properties zoned B-2, I-1 and I-2 which are not located adjacent to a residentially zoned lot, tract or lot having an occupied residential dwelling, and are not located adjacent to street rights-of-way. (As amended by Ordinance No. 480-HH.)

h. Where the screening requirements prescribed by this section are in conflict with screening requirements which have been established by other provisions of this ordinance, the more stringent requirements shall apply. (As amended by Ordinance No. 480-HH).

39.4 BUFFERYARDS

a. Walls and Fences within Bufferyards – Whenever a wall or fence is required within a bufferyard, it shall be eight feet (8') in height and constructed in accordance with the specifications and designs set forth in Section 42.7a. A "finished" side of a wall or fence shall face the residential or less intense use.

39.5 RESIDENTIAL DISTRICTS

a. Multi-family dwelling uses shall be screened from view of any adjacent single family residential lot or use by a screening device located along the side and rear property lines of such multi-family use to a height of eight (8) feet.

b. Non-residential uses in a residential district shall be screened from view of any adjacent residentially zoned lot or tract or lot having an occupied residential dwelling by a screening device located along the side and rear property lines of such non-residential use to a height of eight (8) feet. (As amended by Ordinance No. 480-HH.)

c. Where a perimeter screening wall or fence is erected between any residential subdivision and any public right-of-way, the following requirements shall apply (As amended by Ordinance No. 480-HH.):

(1) No new fence or screening wall (which is parallel to, perpendicular to, approximately parallel to, or approximately perpendicular to an existing subdivision screening wall or fence) erected after the effective date of this ordinance shall be erected to a height which exceed the height of the subdivision screening wall or fence.

(2) Where a developer or homeowners' association of an existing subdivision constructs a wrought iron or other similar non-opaque fence adjacent to any thoroughfare, no screening wall or fence shall be erected after the effective date of this ordinance within the required side or rear yard which is parallel to such wrought iron or similar non-opaque fence.

(3) No existing screening wall or fence shall be repaired, extended or modified unless such repairs, extensions, or modifications are done in a manner consistent with the color, material, or character of the existing screening wall or fence, and any such extension occurs along the entire length of such screening wall or fence, including where such screening walls or fences may be interrupted by streets, alleys, or other access ways.

(4) Where fences are provided or required along S.H. 114, F.M. 1709, F.M. 1938 (Davis Boulevard and Randol Mill Avenue designated as future F.M. 1938 per approved Master Thoroughfare Plan) and portions of Carroll Avenue subject to the Corridor Overlay District shall comply with the Architectural Fencing requirements of the Corridor Overlay District (Section 43.9(c)1(f). All other fences provided or required along arterials or collectors as designated on the Master Thoroughfare Plan shall meet the following requirements: (As amended by Ordinance No. 480-UUU)

i) The fence shall be constructed of one of the following:

- masonry,
- ornamental metal or wrought iron,

- stained cedar board-on-board with cap and masonry columns with a maximum of 14 feet from column center to column center, or
- some combination of the above, if approved by the Administrative Official.

ii) For platted subdivisions, the fence shall be consistent in material and color for the entire length of the fence that is adjacent to the subdivision.

39.6 NON-RESIDENTIAL DISTRICTS

a. Where a non-residential use abuts a residentially zoned lot or tract or lot having an occupied residential dwelling, a solid fence meeting the material standards of Section 39.2(b) shall be erected along the side and rear property lines abutting said residential lot or dwelling to a height of eight (8) feet. Where the district boundary dividing a non-residential district from a residential district is along a street or alley, and an automobile parking lot or parking area is located in the front yard of the non-residential use, the said parking lot or parking area facing the residential lot shall be suitably screened to a height of not less than three and one-half (3 ½) feet. A variance to this section may be approved by the City Council during its review of any concept plan, development plan, or site plan requiring review by the Planning and Zoning Commission and approval by the City Council, or by the Board of Adjustment for all other concept plans, development plans, or site plans. (As amended by Ordinance No. 480-UUU.)

b. All screening devices shall be properly maintained in perpetuity by the owner of property with non-residential uses. Failure of the owner to maintain the screening device shall constitute a violation of this ordinance. (As amended by Ordinance No. 480-HH.)

c. Outside storage of trash/recycling receptacles or any garbage, refuse and trash/recycling collection and storage areas shall be at the side or rear of the building, shall be totally encircled or screened by fence, planting or other suitable visual barrier six feet (6') in height and shall have a metal door which shall remain closed at all times. These areas or receptacles shall not encroach into any required bufferyard. (As amended by Ordinance No. 480-HH.)

d. Where a non-residential use abuts an existing residential screening wall or fence and a written agreement is executed between the developer and residential property owner, it shall be deemed the intent of this ordinance to allow the residential screening wall or fence to satisfy that portion of Section 39.6.b. above (relating to side and rear yard screening) as long as said screening device is maintained in good repair. Should the screening device be destroyed by more than 50% of its fair market value at the time of destruction, then the owner of the nonresidential property shall construct a new solid fence meeting the material standards of Section 39.2(b), which meets the requirements of Section 39.6b. (As amended by Ordinance No. 480-HH.)

e. Off-street loading areas shall be adequately screened from view of any residentially zoned lot or tract or lot having an occupied residential dwelling or of any other adjacent land use. (As amended by Ordinance No. 480-HH.)

f. Where fences are provided or required along S.H. 114, F.M. 1709, F.M. 1938 (Davis Boulevard and Randol Mill Avenue designated as future F.M. 1938 per approved Master Thoroughfare Plan) and the portions of Carroll Avenue subject to the Corridor Overlay District shall comply with the Architectural Fencing requirements of the Corridor Overlay District (Section 43.9(c)1(f)). All other fences provided or required along arterials or collectors as designated on the Master Thoroughfare Plan shall meet the following requirements: (As amended by Ordinance No. 480-UUU)

(1) The fence shall be constructed of one of the following:

- masonry,
- ornamental metal or wrought iron,
- stained cedar board-on-board with cap and masonry columns with a maximum of 14 feet from column center to column center, or
- some combination of the above, if approved by the Administrative Official.

(2) For platted subdivisions, the fence shall be consistent in material and color for the entire length of the fence that is adjacent to the subdivision.

39.7 OUTSIDE STORAGE SCREENING

a. All areas used for primary and ancillary outdoor storage and the associated method of screening shall be indicated on an approved site plan, development plan or concept plan along with scaled elevation drawings indicating the type of screening and materials proposed to be utilized.

b. The primary outdoor storage of living plant material stored on the ground is not subject to the screening requirements in Section 39. All equipment, tools, vehicles, etc. associated with the upkeep and maintenance of the living plant material that are stored outdoors are subject to the screening regulations of Section 39 and Section 43.9.c.4, if applicable.

c. A periodic market held in an open area, such as a farmers' or flea market, where groups of individual sellers offer goods for sale are not subject to the outdoor storage regulations in Section 39.

d. General construction activities are not subject to the outside storage regulations in Section 39.

e. Outdoor storage areas shall not be located forward of the principal building and when possible, shall be located at the side of the building not facing a public street. (See Exhibit 43-F)

f. Outdoor commercial displays as permitted by Section 34 are exempted from the requirements herein.

g. Primary Outdoor Storage shall be screened with a Type III screening device unless the items stored are otherwise exempted from screening requirements of this Section.

39.8 FENCE MAINTENANCE REQUIREMENTS - A fence or fences shall be maintained by the owner of the property in compliance with the requirements of the currently adopted Property Maintenance Code and with the requirement of this section including but not limited to the following maintenance standards: (As amended by Ordinance 480-UUU.)

a. A fence more than four (4) feet in height shall not be out of vertical alignment more than one (1) foot from the vertical measured at the top of the fence. A fence four (4) feet or less in height shall not be more than six (6) inches from the vertical measured at the top of the fence.

b. The owner shall replace broken, damaged, removed or missing parts of a fence within ten (10) days upon receipt of notice from the City with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made. The Administrative Official may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time as required. The Administrative Official shall not extend the replacement time longer than reasonably necessary. The owner requesting a replacement time extension shall provide the Administrative Official a written scope and schedule detailing materials and estimated time period of the completed replacement for approval.

c. A fence not required by a specific order of the city council, by city ordinance, or by building code, may be completely removed within the 10 day period rather than repaired.

d. A fence shall be maintained in sound structural condition.

e. The property owner shall maintain fences, including those existing prior to the adoption of this section, at all times in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frame and fastenings free from deterioration, termite infestation, rot, rust or loosening, and able to withstand at all times the wind pressure for which they were designed.

f. Property owners shall regularly paint fence supports, gates, structural members and exterior surfaces that are covered with paint to prevent rusting, peeling or blistering surfaces.

g. Property owners shall not maintain graffiti, writings and other symbols on a fence except for those which are permitted as signs under Sign Ordinance 704, as amended.

h. Existing fences that were constructed prior to the adoption of this section that were constructed with materials not currently permitted by this section may be maintained as long as no part of the fence is or becomes unsafe, dilapidated, or a public nuisance. If the Administrative Official determines the existing fence is unsafe, dilapidated, or a public nuisance the fence must be repaired with materials approved by this section or removed. The repairs must be made in complete sections extending a minimum of support post to support post. If the Administrative Official determines the extent of repair on any existing fence (materials in non-compliance) is in excess of fifty (50) percent of the linear

length of the total fence or more than a combined 100 linear feet then the entire fence must be replaced with materials approved by this section.

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i. The construction of a fence or wall on the property line shall not preclude the property owner's responsibility to maintain and keep the area defined between the property line to the back of curb or edge of the pavement free and clear of debris and high weeds.

j. Existing fences removed, damaged or destroyed due to land or right-of-way acquisition by a public agency with the power of eminent domain, shall be permitted to be relocated or reconstructed using the same or similar materials and in the same or similar configuration as existed prior to the land or right-of-way acquisition such that the fence is not in conflict with the real estate interest of any public agency and otherwise conforms to the regulations of this Ordinance. (As amended by Ord. No. 480-KKKK)