



CITY of NOVI CITY COUNCIL

Agenda Item 4
July 18, 2011

SUBJECT: Approval of Zoning Ordinance Text Amendment 18.248 to amend the City of Novi Zoning Ordinance at Article 25, "General Provisions," Section 2515, "Fences (Residential and Non-Residential)" in order to add regulations regarding maintenance and materials, with certain exemptions. **SECOND READING**

SUBMITTING DEPARTMENT: Community Development Department - Planning *Paul*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

Attached is an ordinance amendment the City Attorney's office has prepared in response to the Ordinance Review Committee's concerns regarding the maintenance, composition and uniformity of fences. The amendment proposes a new subsection addressing prohibited materials, maintenance, uniformity and orientation of the finished face and appropriate exemptions. These new regulations would apply to both residential and non-residential properties.

Implementation of a permit application and approval process is not included or recommended. These amendments would not prevent application and enforcement of more stringent standards under neighborhood association bylaws and deed restrictions, but are intended to raise the minimum standard.

The Planning Commission held the required public hearing and recommended adoption of the amendment on June 15, 2011. At that meeting, the Planning Commission recommended language be added to insure that any non-uniform materials used on the interior of a fence will not be visible on the exterior side of a fence. This language has been added to the amendment. Relevant meeting minutes are attached.

The City Council considered the first reading of this text amendment on July 11, 2011 for approval. A draft excerpt from the minutes are attached.

At the City Council meeting, questions were raised regarding certain exemptions from the fence standards, including required safety barrier fencing at swimming pools, and short wire fences at least 10 feet from a property line. The swimming pool exemption was provided to allow for better flexibility in providing safety fencing around swimming pools, as required in the building code. The exemption to allow short wire fencing was to allow for fencing around garden areas. In doing a quick review of other ordinances, staff did not find similar standards. For the second reading, staff suggests alternate language for an exemption to allow fencing for garden areas, but exclude reference to distance of this fencing from property lines to allow better flexibility.

The City Council also asked for clarification in the language that all fences, including portions of fence sections, be maintained in good repairs. Staff proposes a modification to the second reading to clarify the intent that sections of fences, as well as portions of sections of fences, be maintained in reasonable repair, as now provided in Section 3.b.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.248 to amend the City of Novi Zoning Ordinance at Article 25, "General Provisions," Section 2515, "Fences (Residential and Non-Residential)" in order to add regulations regarding maintenance and materials, with certain exemptions. **SECOND READING**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

**DRAFT EXCERPT
CITY COUNCIL MINUTES
JULY 11, 2011**

Draft Excerpt
REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 11, 2011 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD

ROLL CALL: Mayor Landry, Mayor Pro Tem Gatt, Council Members Fischer, Margolis, Mutch, Staudt, Wrobel

MATTERS FOR COUNCIL ACTION – Part I

Consideration of Zoning Ordinance Text Amendment 18.248 to amend the City of Novi Zoning Ordinance at Article 25, “General Provisions,” Section 2515, “Fences (Residential and Non-Residential)” in order to add regulations regarding maintenance and materials, with certain exemptions. First Reading

Mr. Pearson said this idea started at Council and was referred to the Planning Commission; it had a positive recommendation.

CM-11-07-097 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve the Zoning Ordinance Text Amendment 18.248 to amend the City of Novi Zoning Ordinance at Article 25, “General Provisions,” Section 2515, “Fences (Residential and Non-Residential)” in order to add regulations regarding maintenance and materials, with certain exemptions. First Reading

Member Mutch had a question about subsection D, exemptions from the standards. He said it referred to fences required as a safety barrier at a swimming pool or constructed to identify the entryway of a neighborhood or development, and wire fences two feet of less in height and located at least ten feet from a property line. He wanted additional information on how the height and distance setback with wire fences was determined. He said he was asking because he had wire fencing around his garden to keep out the animals which fell within the standards, but other's might not.

Ms. McBeth said the distance from the property line reflected the distance of an accessory structure from the property line. She said the height of two feet was assumed to keep the animals out.

Member Mutch said some people in the City were on fairly small lots and a ten foot setback from all sides of the property line could be a little excessive. He asked staff to compare the setback to some other communities before it came back for a second reading.

Member Fischer asked for explanation on the intent of the exemption for fences required as a safety barrier at a swimming pool.

Ms. McBeth said there was a building code standard that required fences around swimming pools; they tried not to override the requirement of a fence being required around a swimming pool.

Member Fischer requested a clarification on disrepair including noticeable leaning fences or missing sections to include portions of section as well. He said the actual pickets falling off of a section should be included as something not being promoted in the City.

Roll call vote on CM-11-07-097

**Yeas: Staudt, Wrobel, Landry, Gatt, Fischer,
Margolis, Mutch**

Nays: None

PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 11-18.248
(Fence Maintenance and Materials)

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 25, "GENERAL PROVISIONS," SECTION 2515, "FENCES (RESIDENTIAL AND NON-RESIDENTIAL)," TO ADD REGULATIONS REGARDING MAINTENANCE AND MATERIALS, WITH CERTAIN EXEMPTIONS.

THE CITY OF NOVI ORDAINS:

Part I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 25, General Provisions, Section 2515, Fences (residential and Non-Residential), is hereby amended as follows:

Section 2515 Fences (Residential and Non-Residential)

1. [Unchanged]

2. [Unchanged]

3. General Regulations applicable to residential and non-residential fences

a. Prohibited Materials. No fence shall be composed of scrap material, tires, canvas, cardboard, asphalt style shingles, chicken wire or similar fine wire mesh, corrugated metal or sheet metal. Fine wire fencing may be attached to the interior of, or made a part of any wooden, stone, brick, wrought-iron, or other such non-wire type fencing, where the other type fencing would not provide an adequate barrier to contain pets or animals. When so applied, the wire shall be vinyl coated or painted in a standard dark brown, dark green or black color. When used under these conditions, it shall not be considered a wire fence.

b. Maintenance. All fences shall be maintained in good condition, free of significant corrosion, peeling paint or finish and other damage. All fences shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections or portions of sections, broken supports, non-uniform height, and growing of noxious vegetation. All fences shall comply with applicable provisions of the current City of Novi Property Maintenance Code.

c. Uniformity. All fences shall be of uniform material(s), finish, and color along a property line of any parcel totaling less than 150 feet in length. Where a fence has a

finished and an unfinished side, the finished or more decorative side shall face outward toward the adjoining property or street. Except for those materials identified as permitted, materials attached to the inward facing side of a fence shall not be visible from any adjoining property or street.

d. **Exemptions from standards.** Those fences required as a safety barrier at a swimming pool or constructed to identify the entryway of a neighborhood or development, and fences two (2) feet or less in height around gardens are exempt from this subsection 3.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS ____ DAY OF _____, 2011.

DAVID LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing _____
2. Date of Adoption _____
3. Date of Publication of
Notice of Adoption _____

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the _____ meeting of the Novi City Council held on the _____ day of _____, 2011.

MARYANNE CORNELIUS – CITY CLERK

1619555

PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 11-18.248
(Fence Maintenance and Materials)

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 25, "GENERAL PROVISIONS," SECTION 2515, "FENCES (RESIDENTIAL AND NON-RESIDENTIAL)," TO ADD REGULATIONS REGARDING MAINTENANCE AND MATERIALS, WITH CERTAIN EXEMPTIONS.

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1. [Unchanged]
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MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS ____ DAY OF _____, 2011.

DAVID LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing _____
2. Date of Adoption _____
3. Date of Publication of
Notice of Adoption _____

CERTIFICATE OF ADOPTION

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MARYANNE CORNELIUS – CITY CLERK

1619555

**PLANNING COMMISSION MEETING
MINUTES EXCERPT – JUNE 15, 2011**



PLANNING COMMISSION MINUTES

DRAFT

CITY OF NOVI

Regular Meeting

June 15, 2011 | 7 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile
(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Member Baratta, Member Cassis, Member Greco, Member Gutman, Member Larson, Chair Pehrson, Member Prince

Absent: Member Lynch (excused); Member Meyer (excused)

Also Present: Barbara McBeth, Community Development Deputy Director; Kristen Kapelanski, Planner; Brian Coburn; Engineer; Nathan Bouvy, Engineer; David Beschke, Landscape Architect; Kristin Kolb, City Attorney; Rod Arroyo, Traffic Consultant

PLEDGE OF ALLEGIANCE

Member Larson led the meeting attendees in the recitation of the Pledge of Allegiance.

APPROVAL OF AGENDA

VOICE VOTE ON THE AGENDA APPROVAL MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER BARATTA:

Motion to approve the June 15, 2011 Planning Commission agenda. Motion carried 7-0

CONSENT AGENDA - REMOVALS AND APPROVAL

There were no items on the Consent Agenda.

PUBLIC HEARINGS

1. ZONING ORDINANCE TEXT AMENDMENT 18.248

Public hearing for Planning Commission's recommendation to the City Council to amend Zoning Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance at Article 25, General Provisions, Section 2515 Fences (Residential and Non-Residential); in order to add regulations regarding maintenance and materials with certain exemptions.

Planner Kapelanski stated that this ordinance amendment was prepared by the City Attorney's Office in response to the Ordinance Review Committee's concerns regarding the maintenance, composition and uniformity of fences. The amendment proposes a new subsection addressing prohibited materials, maintenance, uniformity and orientation of the finished face and appropriate exemptions. These new regulations would apply to both residential and non-residential properties.

Planner Kapelanski said that implementation of a permit application or approval process is not included or recommended. These amendments would not prevent application and enforcement of more stringent standards under neighborhood association bylaws and deed restrictions, but are intended to raise the minimum standard.

The Planning Commission is asked to hold a public hearing and forward a recommendation to the City Council for the proposed ordinance amendments.

Chair Pehrson opened the public hearing and invited anyone in the audience wishing to speak to come forward. Seeing no one, Chair Pehrson asked if there was any correspondence.

Member Greco indicated that there was no correspondence.

Chair Pehrson then closed the public hearing.

Member Baratta noted that the ordinance provides for uniform materials, but wondered how this would be applied if the fence did not extend all the way to the ground, and wire or some other material is used to bridge the gap. Member Baratta suggested additional language to indicate that wire, or other non-standard material should not be visible from the street-side or outside of the property.

Motion made by Member Gutman and seconded by Member Baratta:

ROLL CALL VOTE ON APPROVAL RECOMMENDATION MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER BARATTA:

In the matter of Zoning Ordinance Text Amendment 18.248, motion to recommend approval to the City Council with the addition of language to include the intent that any use of interior-facing fence material will not be visible from the outside of the property. *Motion carried 7-0.*