

Town of Haxtun
Ordinance 2-2009

AN ORDINANCE TO REGULATE PLACEMENT, STYLE, HEIGHT, SETBACK, AND OTHER ASPECTS OF FENCES, HEDGES, AND WALLS, INCLUDING PERMITTING FOR CONSTRUCTION, AND FOR ENFORCEMENT, ABATEMENT, AND PENALTIES FOR VIOLATION THEREOF.

WHEREAS, Colorado Revised Statutes gives to the governing body of each municipality the power and authority to adopt building standards, and to regulate and restrict the height, location, and use of structures within the municipality, including the type, substance, height, and location of fences, hedges, and walls; and

WHEREAS, the Board of Trustees of the Town of Haxtun, has determined that safety and other factors mandate that the Town should adopt an Ordinance regulating the type, substance, height, and location of fences, hedges, and walls located or constructed within the Town, and that a permitting process should be adopted to insure compliance with the Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HAXTUN, COLORADO:

Section 1. Fences, Hedges, and Walls on Residential Properties.

Fences, hedges, and walls shall be allowed upon any residential property within the Town of Haxtun, subject to the following conditions and requirements:

- 1.1 Walls or fences may be made of rock, brick and mortar constructed under industry accepted standards of masonry. Fences may also be constructed of ornamental iron, chain link, wood picket, solid wood, and fence plastic, as generally used in the geographical area. No other style or material may be used without the written consent of the Town Superintendent, or designated officer or agent of the Town of Haxtun, including use of plywood, pressboard, wafer board, chipboard, cardboard, aluminum, wood pallets, tarp material, black plastic, or similar materials or styles. Further no fence shall be constructed of barbed wire or sharp pointed materials, be electrically charged, or be visibly displeasing or objectionable to the general public.
 - a.) Temporary electrical fences surrounding garden areas in back portions of private lots may be used, only during the growing months.
 - b.) Temporary fencing including the use of wood or plastic snow fence for the purposes of limiting snow drifting between November 1 and April 1, protection of excavation and construction sites, and the protection of plants during grading and construction and during special events is permitted for up to 60 consecutive days. Snow fences constructed of wood and wire, and/or plastic shall be permitted only as temporary fences.
- 1.2 Hedges may be grown of any plant, bush, or tree typically used as a hedge, provided that the hedge is trimmed and complies with all applicable Town Ordinances.

- 1.3 All fences, hedges, and walls shall be subject to the applicable sections of any Ordinance of code of the Town of Haxtun.
- 1.4 No fence, hedge, or wall shall be placed upon Town property, including any easement used by or granted to the Town of Haxtun, without the written consent of the Town through its designated officer or agent.
- 1.5 It shall be the responsibility of the property owner to locate all property lines prior to the placement of a fence, hedge, or wall.
- 1.6 Fences, hedges, or walls, shall not exceed four feet (4') in height when such fences are located within the front yard of the landowner's property or within twenty-five feet (25') of the Town streets. Side and backyard fences shall not exceed eight feet (8') in height. In no event shall a fence, hedge, or wall obstruct the vision of automobile traffic on Town Streets, driveways, or alleys, as determined by the Town. Fences may extend to twelve feet (12') in height for tennis courts, or other approved recreation purposes if a visual safety problem is not created by doing so.
- 1.7 Any such fence, hedge, or wall which was constructed prior to the adoption of this Ordinance shall be allowed to remain where located unless the Town determines that the placement of the fence, hedge, or wall constitutes a safety problem, public nuisance, restricts the vision of automobile drivers and bicyclists turning on a public street, turning into or out of an alley, is not constructed of approved material, or the placement of the fence, hedge, or wall interferes with a Town Ordinance, policy or proper exercise of the Town police power. In such case, the Town shall give written notice to the owner of the fence, hedge, or wall notifying the landowner to remove the fence, hedge, or wall for the reasons given, such notice to direct the fence, hedge, or wall to be removed within thirty (30) days of the date of the notice.
- 1.8 Any such fence, hedge, or wall may not block the natural flow of water, and have no restrictions to drainage or storm water on the property.
- 1.9 All fences located around the back lots of properties must allow access by gate to the Town owned electrical meters and all other Town owned utilities. It is the property owners responsibility to replace and or repair their fence if the Town needs access to repair or replace any and all utilities.
- 1.10 Any and all fences, landscape walls, or decorative posts shall be erected so as to locate visible supports and other structural components toward the subject property.
- 1.11 Any and all fences, landscape walls, or decorative posts shall be maintained in a structurally sound and attractive manner as determined by the Town Superintendent or designated officer or agent of the Town of Haxtun.

Section 2 **Fences, Hedges, and Walls on Commercial Properties**

Fences, hedges, and walls shall be allowed upon any commercial property within the Town of Haxtun, subject to the following conditions and requirements:

- 2.1 All fences and walls may be constructed of the materials listed in the 1.1 for residential property, along with the following materials:

- a) Security fencing topped by barbed wire, and strong barn (tin) may be used. Galvanized fencing must be painted, no reflective metal may be used.

2.2 All other regulations must be followed by commercial properties as listed in Section 1 above for residential properties.

Section 3 Fence required for swimming pools

- 3.1 All properties with an outside swimming pool 24 inches deep or more must install a fence with a self locking gate around the pool area with the following regulations:
 - a) Any access gates through the enclosure open away from the swimming pool and are self closing with a self latching device placed no lower than 60" above the ground.
 - b) A minimum fence height of 60".
 - c) A maximum vertical clearance from the ground to the bottom of the enclosure of 2".
 - d) Gaps or voids, if any, do not allow passage of a sphere equal to or greater than 4" in diameter.
 - e) An outside surface free of protrusions, cavities or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of 5 years to climb over.

Section 4 Permit Required for Fence and Walls

- 4.1 Prior to the construction or replacement of a fence or wall, the landowner shall apply for a building permit on a form provided by the Town Clerk. The nature of the fence or wall to be constructed, the style and material of the fence or wall is required. A sketch of the proposed fence location is also required. The cost of the permit is set by resolution, and sales and use tax on the building materials will also be collected by the Town Clerk at the time of the permit application.

Section 5 Abatement and Penalty

- 5.1 Abatement. Should any fence, hedge, or wall be constructed, maintained, replaced, or planted within the Town of Haxtun, either without the landowner first obtaining a permit for a fence or wall and/or the fence, hedge, or wall being in violation of the provisions of this Ordinance, The town may provide written notice to the landowner requiring that the landowner take action to cease and desist construction of the fence or wall, or that the landowner's property be brought into compliance with Town Ordinances within a reasonable time, such time not to exceed thirty (30) days from the date of the notice. If the landowner fails or refuses to bring the offending property into compliance, the Town may seek enforcement through a citation to the Haxtun Municipal Court. Remedies available to the Town shall include the right to bring the offending property into compliance and to access the costs, including the Town's reasonable attorney fees attorney fees incurred in the enforcement of this Ordinance, to the offending property.

5.2 Penalty. It shall be unlawful for any person, firm, or corporation to maintain any property of cause or permit the same to be done in violation of the terms of this Ordinance. Those persons or entities in violation of the provisions of this Ordinance may be subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each violation of this Ordinance, for each day that the property is not in compliance with the provisions of this Ordinance.

Section 6. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 7 The repeal or modification of any provision of the Town of Haxtun ordinances by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 8. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2009.

TOWN OF HAXTUN, COLORADO

Tommy G Thompson, Mayor

ATTEST:

Karie Wilson, Town Clerk