

**BILL NO. 2026-07
ORDINANCE NO. 772**

An Ordinance amending Ely Municipal Code Title 12, Zoning Regulations, Chapter 11, General Provisions, Section 5, Fences, Walls and Hedges.

WHEREAS, N.R.S. 266.105 empowers the Ely City Council to pass ordinances necessary for the municipal government and the management of the affairs of the City, for execution of all powers vested in the City, and for making effective the provisions of Chapter 266 of the Nevada Revised Statutes ("N.R.S.");

WHEREAS, the Ely City Council deems it in the best interest of the City of Ely and its residents to modify the fence-height provisions for residential properties;

WHEREAS, the Ely City Council has approved the proposed amendment of Title 12, Zoning Regulations, Chapter 11, General Provisions, Section 5, Fences, Walls and Hedges;

NOW, THEREFORE, the Ely City Council DOES HEREBY AMEND ELY MUNICIPAL CODE TITLE 12, CHAPTER 11, Section 5, Part C, as described below;

Section 1 Enacting Provisions. The Ely Municipal Code Title 12 is amended in the following manner:

Section 1.1 Amendment. Ely Municipal Code Title 12 is amended by modifying Chapter 11, Section 5 regarding fences, walls and hedges, which will hereafter read as follows:

Title 12, Chapter 11, Section 5

12-11-5: FENCES, WALLS AND HEDGES:

Fences, walls and hedges may be located in required yards as follows:

- A. Subject to the any and all restrictions described elsewhere within this section and also in Title 5, Chapter 1, Section 3 of the Ely Municipal Code, fences, walls, and hedges are permitted to a height of seven (7) feet in side and rear yards.
- B. Ornamental fences with an open-to-close ratio of 6-to-1 or greater may be located in any yard; and ornamental iron front yard fences greater than five feet (5') in height are required to display an address plaque on the outside thereof. Front yard gates of up to seven (7) feet in height are permitted.
- C. Within ten (10) feet of driveways, fencing is required to be 50% open or more.

- D. If not exceeding seven (7) feet in height, such may be located in any required rear yard or side yard; provided, that on a corner lot, the rear of which abuts the front area of another lot, no such fence, wall or hedge shall exceed five feet (5') in height in the exterior side yard.
- E. On any corner lot, there shall be no structure, fences, shrubbery or obstruction to vision more than three and one-half feet (3½') high within the sight line of the intersection of any two (2) street curb lines; provided, however, that a height not to exceed seven (7) feet is permitted if there is a minimum 6-to-1 open-to-close ratio; and also provided, however, that shade trees of sufficient height to permit sight distance one street to the other under the lowest branches of foliage thereof, may be permitted and maintained. (Ord. 410, 8-25-1986)
- F. In all front yards, including corner lots, chain-link fencing not to exceed five (5) feet in height is permitted.
- G. Regarding the height restrictions in this Chapter, averaging of heights is permitted for the purposes of preventing undue burdens on parcels located on hills and where fences, walls, and/or hedges exceed height limitations on the downhill side of a section of fence, wall, and/or hedge.
- H. Government parcels and/or properties including, but not necessarily limited to, buildings, parks, courts, and recreational facilities, are exempt from the requirements of this Chapter.
- I. Beginning at the time this amended Chapter goes into effect, retaining walls are prohibited in sight distance areas.
- J. Beginning at the time this amended Chapter goes into effect, the sight distance requirements in this Chapter apply to all zones of the City of Ely.
- K. Beginning at the time this amended Chapter goes into effect, all front yard fences are subject to zoning review, and the planning department is hereby authorized to establish a permit requirement and assess a nominal fee for such permits.

Section 1.2 Reenactments. All other chapters of Title 12 of the Ely Municipal Code are reenacted without change.

Section 2. Effective Date. This ordinance shall become effective twenty days after its passage, approval, and publication according to law.

Section 3. Proposing Party. The foregoing ordinance was proposed by Councilor _____, at the regularly scheduled meeting of the Ely City Council on October 8, 2026, read by title and referred to the City Council of the City of Ely, as a committee of the whole.

Section 4. Notice. Notice of filing of such ordinance, City of Ely Ordinance 772 (2026-07) was duly given by publication as required by law.

Section 5. Reading. It was read in full at the regular meeting on _____ by the following vote:

VOTE: **AYES:** _____

NAYES: _____

ABSENT: _____

ABSTAIN: _____

Approved this _____ day of _____, 2026

NATHAN ROBERTSON, MAYOR

ATTEST:

JENNIFER LEE, CITY CLERK

Approved as to form and content:



Chris Arabia, Esq., City Attorney

Jason Woywod stated we are happy to hear this corner is going to get redeveloped. We have always wanted it redeveloped. The discussion seemed to be based on the size of the lot in what can and cannot be built there. Just to give you an understanding the Holiday Inn sits on 1.6 acres with ninety rooms and ninety parking spots, the Prospector sits on 3.5 acres with a full hotel, casino, restaurant, lounge and over one hundred parking spots. The proposed Pine West development is on almost 4 acres so there is plenty of room there Mr. Alworth to build a hotel and we could have discussed this as well. As far as the language on not having a slot parlor, they have done very well in Reno and Las Vegas circumventing the type of language that is proposed tonight; the slot parlors have. We need to be very cautious with the language that is discussed because if you look around at all the slot parlors several of them are not six thousand square foot buildings with a kitchen and we just want to make sure that in a couple years from now we are not flooded with forty machine slot parlors because we did the same mistakes Reno and Vegas did when putting in ordinances trying to prohibit slot parlors. We are happy that corner is being developed. If they weren't going to do it, we were going to do it. We just want to make sure moving forward this is done correctly, clearly, and we are not addressing this again in the future. They are fine with thirty machines, and we could definitely go to thirty machines and could even do forty rooms with their machines. Hopefully we can all get together on the best language for this Ordinance.

B. NEW BUSINESS CONTINUED

1. Councilwoman Elliott – Councilman Alworth – Discussion Only – Update on Porter Group efforts on the City of Ely's behalf to secure federal and State funding.

Councilman Alworth stated this is another one of those assignments. We have been with the Porter Group for about three years, and we need to get other council members involved. It was a one man show and I invited Ed to join me when he was on the Council because you can't make all the meetings. I didn't go to the last meeting because I think we need to appoint someone else to pick up that because we have a new person, and we need to have a backup on that too. They have gotten us a lot of money through the congressional works. I will stay on with Sam because she has good ideas as well as B.J. and the Mayor until we can see if someone wants to sit in on that board.

Councilwoman Elliott stated we did get good news from them this week. Initially our Campton Street Project has been approved and is now in the bills so once the bill is passed, we should see that money and be able to proceed with the project. We also found out the \$610,000.00 for cameras throughout town were approved. We are still waiting to hear about the Wastewater Treatment Plant Project and the Fire Station Solar Project.

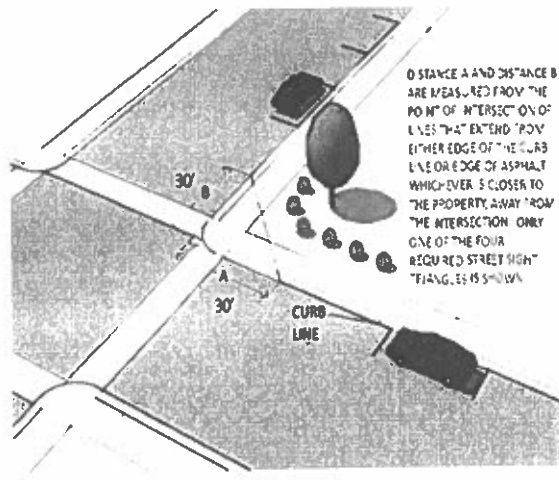
Mayor Robertson stated we did receive a waiver letter for both of those projects which means the twenty percent match that we would be required to do on that has been waived and that is fantastic because that is a lot of money.

9. Council Members – City Building Official Peterson – Discussion/For Possible Action – Presentation regarding fence heights in the City of Ely with possible determination of compliance options.

City Building Official Peterson stated I have received a couple of complaints and hadn't really thought about the fence ordinance, or the height of fences allowed in this community. I drove around and realized nobody else has thought about them for the last twenty-five years either, because most properties are out of compliance. Almost on every block there are dozens of examples. I took stock of what we had and put together a very short presentation. The following slides were reviewed:

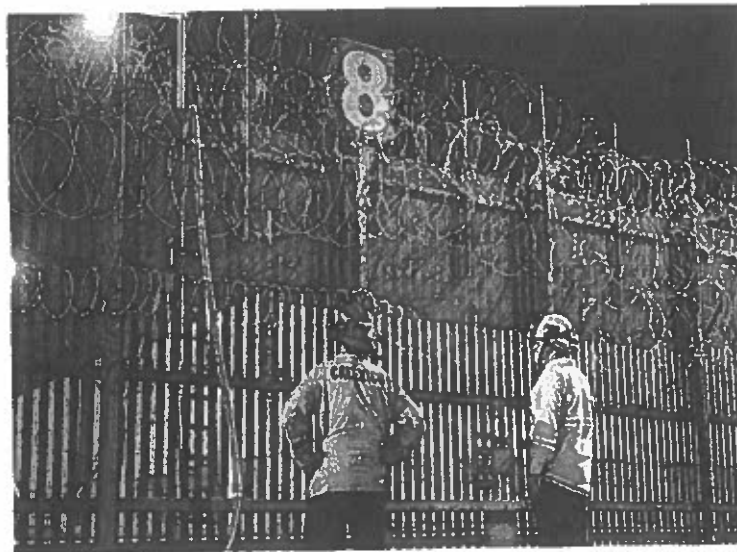
City Building Official Peterson stated we need to be able to see pedestrians, cyclists, other cars, pets, children and all the things we care about.

The governments' role in fencing is safety



City Building Official Peterson stated we need to ensure that proper access is not restricted for police, firefighters, and EMT's.

first responder access



Different requirements in different locations

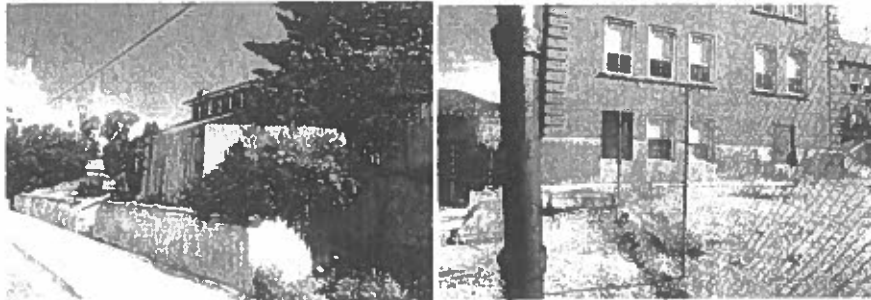
- Most places require shorter fences along driveways and corner lots than we require. With the average being around 2.5 feet in areas of concern for visibility. Some locations only allow 18”.



Many cities have exceptions for ornamental iron fencing in front and side yards



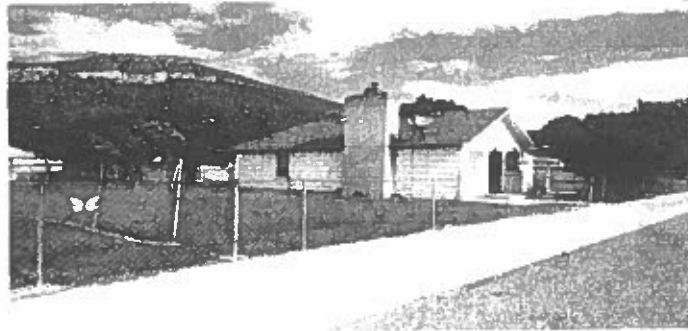
City Building Official Peterson stated most locations with heavy deer populations allow for a variety of deer fences that are usually temporary and unsightly attachments to conforming fences. Here are some fences that are in violation but really don't pose a hazard:



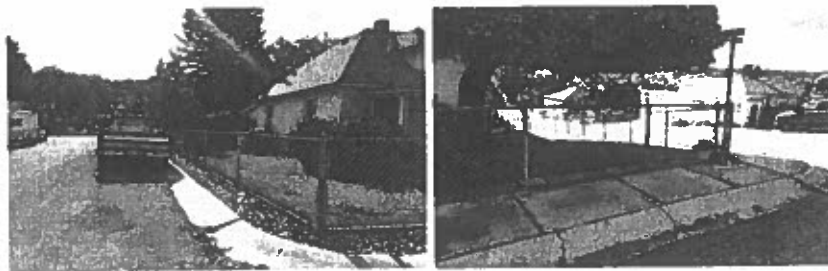
City Building Official Peterson stated barbed wire is required to slope away from the public way.



City Building Official Peterson stated this house has a corner fence that exceeds 6 feet, a front fence that exceeds 4 feet and the higher section on the left can only be 4 feet until it reaches the front of the structure. Are these all violations? Can they be enforced? Certainly, but should they be? Absolutely not as they do not pose a safety risk.



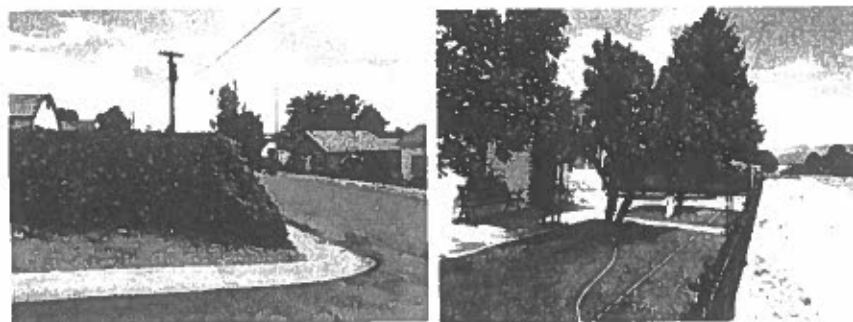
City Building official Peterson stated these houses are over three and a half feet on the corner.



City Building Official Peterson stated this property is in violation but does not cause a sight issue.



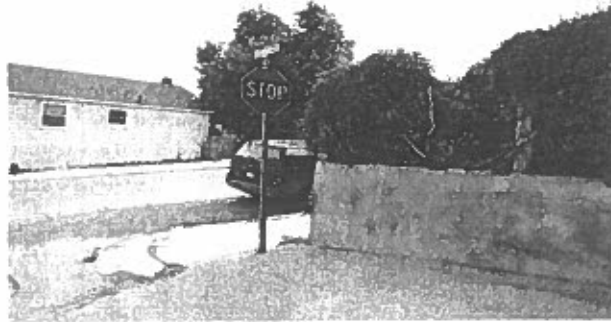
City Building Official stated the following are fences out of compliance that do pose a risk.



City Building Official Peterson stated this violation is under the police regulations section of the code and would be a misdemeanor since the barbed wire is at about four feet.



City Building Official Peterson stated this is a tricky one since the non-compliance is technically above the required three and a half feet. If the bushes were trimmed it would comply, hence my suggestions to create ordinances specific to the needs of the community.



City Building Official Peterson stated I could be like the Kool-Aid man and start knocking these down all over town in strict compliance with the rules, but it doesn't really serve the community and at a certain point of non-compliance the people have spoken. We need to promote safety and could use rules that fit our location and topography. If it pleases the Council I would like to compile and provide a draft ordinance amending the rules to allow better visibility and allow more freedom of choice for residents, with I.co's help of course.

Councilwoman Elliott moved to direct City Building Official Peterson to work with City Attorney Cahoon to draft an ordinance regarding fence heights and compliance in the City of Ely. Councilman Carson seconded the motion. The motion carried unanimously.

9. DISCUSSION/POSSIBLE ACTION ITEMS PERTAINING TO THE PUBLIC HEARING.

1. Council Members – City Attorney Cahoon Discussion/For Possible Action – Approval of Second Reading of Ordinance 751, Bill No. 2023-05, proposed ordinance amending Title 3, Chapter 5, Section 13 of the Ely City Code requiring gaming license applicants who intend to operate 16 or more slot machines to have at least 40 hotel rooms; and providing other matters relating thereto.

Councilman Trask moved to quash the approval of Second Reading of Ordinance 751, Bill No. 2023-05, proposed ordinance amending Title 3, Chapter 5, Section 13 of the Ely City Code requiring gaming license applicants who intend to operate 16 or more slot machines to have at least 40 hotel rooms; and providing other matters relating thereto. Councilwoman Elliott seconded the motion. The motion carried unanimously.

Fence presentation supporting document.

What we have

5-1-3: BARBED WIRE FENCES:

A. Barbed wire fencing shall only be allowed at the top of a six foot (6') tall or higher fence. No portion of the barbed wire fencing shall reach below that six foot (6') height at any time.

B. The portion of the fence which utilizes barbed wire must be angled in toward the private property and away from any public area at a minimum of a thirty degree (30°) angle. (Ord. 637, 9-24-2009)

12-11-5: FENCES, WALLS AND HEDGES:

Fences, walls and hedges may be located in required yards as follows:

A. Under Four Feet: If not exceeding four feet (4') in height, such may be located in any yard or court.

B. Under Six Feet: If not exceeding six feet (6') in height, such may be located in any required rear yard or side yard; provided, that on a corner lot, the rear of which abuts the front area of another lot in an R district, no such fence, wall or hedge shall exceed four feet (4') in height in the exterior side yard.

C. Corner Lot In Residential District: On any corner lot in an R district, there shall be no structure, fences, shrubbery or obstruction to vision more than three and one-half feet (3 1/2') high within twenty five feet (25') of the intersection of any two (2) street curb lines; provided, however, that shade trees of sufficient height to permit sight distance one street to the other under the lowest branches of foliage thereof, may be permitted and maintained. (Ord. 410, 8-25-1986)

What we don't have

1. Prohibition on electric fences or razor wire
2. A requirement for an open to closed ratio in the sight distance areas
3. A permitting system for fencing
4. Rules that mitigate sight distance issues caused by grade changes
5. Specific rules on ornamental fencing
6. An exemption for government buildings, parks, courts, or recreational facilities
7. An exemption for gate heights up to 7 feet
8. Sight distance rules that apply to new commercial properties (there are no setback requirements for c-2 or c-3 properties)
9. Any meaningful protection from deer depredation for corner lots

Recommendations

1. Allowing ornamental fences with a minimum of 6 to 1 open to close ration up to 7 feet in any yard.
2. Require an address plaque on the outside of front yard fences that exceed 5 feet (ornamental iron only)
3. Allowing all other fencing to a height of 7 foot in side and rear yards
4. Add a provision to the sight distance section on corner lots requiring 50% open below 31/2 feet,
5. allow front yard chain link fencing to a height of 5 feet in all required front yards including corner lots
6. require 50% open fencing within 10' of driveways for 10' at the front property lines.
7. Require a zoning review of all front yard fences. Possible permit for tracking purposes, nominal fee
8. Add an exemption for front yard gates up to 7' in height
9. Disallow the use of electric, razor wire, or barbed wire on residential parcels
10. Add a provision to disallow future retaining walls in sight distance areas
11. Codify the sight distance provisions in title 12 chapter 11 and apply to all zones
12. Add a provision to the height restrictions that allows for averaging (the provision is intended to provide relief to people who live on hills where their fences exceed the height limitations on the downhill side of a fence panel.
13. Proactive enforcement of the sight distance triangle areas.