



Screening Fence Waiver

Victoria City Code Section 21-102, Screening Fences, is printed on the attached page. Please read the section carefully before signing this Waiver.

AUTHORIZATION FOR WAIVER

I, _____, the legal owner of residential property located at, _____, which is legally described as Lot _____, Block _____, _____ *(address)* Subdivision, do hereby request that the Director of Development Services waive the requirement for _____, to erect an 8ft tall opaque screening fence between such commercial use and my residential property. I fully understand that this request will permit the Director of Development Services to allow the above-described property to be occupied by a nonresidential use known as _____, *(address of commercial property)* *(name of commercial use)*

_____ Without a screening fence.

_____ With a screening fence _____ ft. in height.

Owner's Signature

Date

STATE OF TEXAS:
COUNTY OF VICTORIA:

BEFORE ME, a Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that such person executed the same for the purposes and considerations therein stated.

SUBSCRIBED AND SWORN TO before me on this _____ day of _____, 20____.

Notary Public

Sec. 21-102. Screening fences.

(a) *Generally.* In the event that any multiple-family or nonresidential land use sides or backs to an existing or proposed single family and/or duplex residential land use, or in the event that any nonresidential land use sides or backs to an existing or proposed multiple-family residential land use, an opaque screening fence of eight (8) feet in height shall be erected along the property line(s) separating these uses. The purpose of the screening fence is to provide a visual barrier between the properties. The owner of such nonresidential or multiple-family property shall be responsible for the construction and maintenance of the screening fence along the property line(s) separating his/her property from the residential property. No certificate of occupancy shall be issued for a use until the Director of Development Services issues a Certificate of Approval indicating that the requirements of this section have been met. For the purposes of this section, a 'proposed' residential use is defined as follows:

- (1) Property located in a recorded subdivision which is restricted to residential use by a land use designation on the face of the plat;
- (2) Property located in a recorded subdivision which has no land use designation on the face of the plat, but which has been developed primarily for residential purposes;
- (3) Property for which preliminary plat and construction plan approvals have been given, and/or construction has commenced on public or private improvements for residential development.

(b) *Applicability.* The requirements of this section shall be applied in the following conditions:

- (1) A screening fence shall be constructed prior to the institution of, the conversion to, or a change in land use by any nonresidential or multiple-family use covered by Section 21-102(a) above. For purposes of this section, a change in land use shall be a change from one nonresidential land use to a higher intensity nonresidential land use. The determination as to whether there is an increase in land use intensity shall be made by the Director of Development Services. For a shopping or business center which has multiple occupancies, the following procedure shall apply. The first time after the effective date of this ordinance that a change in land use occurs in the center, the owner shall be made aware of the screening fence requirements. At such time, the owner shall be notified that the next change in land use in the center will trigger the enforcement of the screening fence requirements for the entire facility. No Certificate of Occupancy shall be issued for the latter occupancy until such time as the screening fence is installed for the entire center.
- (2) A screening fence shall be constructed when the premises of any nonresidential or multiple family use covered by Section 21-102(a) above are improved or remodeled, and the cost of such improvement or remodeling exceeds fifty (50) percent of the value of the premises according to the current records of the county appraisal district.

(c) *Materials.* Screening fences erected to meet the requirements of this section shall be constructed of conventional, opaque fencing materials to be approved by the Director of Development Services. Acceptable fences include, but are not limited to, solid wood fences made of treated pine, cedar or redwood, or masonry walls. Unacceptable materials include, but are not limited to, plywood, corrugated steel sheets and chain link fence with weave.

(d) *Height restrictions.* Screening fences located to the rear of the minimum required front building setback line shall be eight (8) feet in height. The maximum height of a screening fence located forward of the minimum required front building setback line shall be three (3) feet. For screening fences which cross a minimum required front building setback line, a five (5) foot transition area shall be provided between the eight (8) foot and three (3) foot sections of the fence. Such five (5) foot transition section shall be centered on the minimum required building setback line. For existing subdivisions which do not have platted building setback lines, a twenty (20) foot setback shall apply for the purposes of this subsection.

(e) *Maintenance.* All screening fences provided to meet the requirements of this article shall be maintained in good condition.

- (1) The fence shall not be out of vertical alignment more than one (1) foot from the vertical measured at the top of the fence.
- (2) Any and all broken, loose, damaged, insect damaged, or missing parts (i.e., slats, posts, wood rails, bricks, panels) having a combined total area of twenty (20) square feet or more of said fences shall be replaced or repaired within thirty (30) days of notification of non-compliance.

(f) *Waiver procedure.* In cases where the owner(s) of a site for which a screening fence is required and all owners of adjacent residential property agree that the screening the fence would be undesirable or unnecessary, such owners may make a written request to waive the requirement. The request may be for a total waiver of the requirement, or for a partial waiver of the requirement as to height.

However, there shall not be a partial waiver as to the length of the screening fence. In order for the screening fence requirement to be waived, the owners of all affected properties must join in the request for waiver. In the event of a change in land use on the premises of a nonresidential use, a waiver becomes void and a new waiver is required.

A request for a screening fence waiver shall be made on forms provided by the Director of Development Services. The completed form(s) shall be signed by the residential property owner(s), notarized, and submitted to the Director of Development Services for review and approval.