

ORDINANCE AMENDMENT
WALL AND FENCE REQUIREMENTS

RESOLUTION NO. PC 25-21

**A RESOLUTION OF THE PLANNING COMMISSION
RECOMMENDING CITY COUNCIL ADOPT AN
ORDINANCE AMENDING TITLE 17 OF THE ORANGE
MUNICIPAL CODE (ZONING) TO UPDATE AND
ESTABLISH NEW DEVELOPMENT STANDARDS FOR
WALLS AND FENCES**

APPLICANT: CITY OF ORANGE

Moved by Commissioner _____ and seconded by Commissioner _____
that the following resolution be adopted:

WHEREAS, the Orange Municipal Code Title 17 contains wall and fence development standards that no longer best serve residents and businesses due to current trends in popular land uses and development changes over time; and

WHEREAS, the City's economic and developmental growth has led to an increase in the level of periodic and ambient noise; and

WHEREAS, the City desires to update the OMC related to walls and fences to establish revised development standards in order to proactively mitigate and address the increase of periodic and ambient noise levels throughout the City; and

WHEREAS, periodic and ambient noise levels significantly impact physical and mental health of residents and limits the ability to use, safeguard, and enjoy private open spaces; and

WHEREAS, the Ordinance amendment includes revisions to Title 17 of the OMC including the addition of Chapter 17.12.070; modifications to OMC Chapters 17.04.025, 17.04.042, 17.10.050, 17.14.260, 17.32.060, 17.34.130; and the deletion of OMC Chapters 17.14.180, 17.18.140, 17.19.140, 17.20.100, 17.22.095, and 17.24.075 will clarify and establish new development requirements for walls and fences in the City as set forth in the Ordinance Amendment No. xx-21 provided as Attachment 1 to this Resolution; and

WHEREAS, the subject Ordinance revising provisions of the Code related to walls and fences is consistent with the goals and policies of the General Plan Land Use Element; and

WHEREAS, the subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5, Minor Alterations in Land Use Limitations) because it involves a modification to a citywide development standards related to required height of walls and fences. It does not involve a specific site, development project or focused geographic area, does not change permitted land use or density, and does not otherwise result in a physical change that could cause an impact to the environment; and,

WHEREAS, the Planning Commission, having considered the proposed changes to the Orange Municipal Code contained herein at public hearings held on October 4, 2021, including review of the staff report and having received public testimony on the item, has determined the proposed amendment is justified and recommends approval thereof.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council approve the subject Zoning Ordinance Amendment No. xx-21, shown as Attachment 1, attached hereto, based on the following findings:

SECTION 1- FINDINGS

The Planning Commission finds that the subject Ordinance amending Title 17 to establish revised development standards for walls and fences of the Orange Municipal Code is justified in order to ensure that the City is providing property owners, residents, and businesses the ability to fair and comparable provisions to secure private property and reduce noise impacts for the full enjoyment of private open space.

The Planning Commission finds that the subject Ordinance amending Title 17 to establish revised development standards for walls and fences supports the goals of the City's General Plan. Specifically, the Ordinance implements Noise Element Goal 1.0, which states that the City will promote a pattern of land uses compatible with current and future noise levels. Policy 1.1, calls for the City to consider potential excessive noise levels when making land use planning decisions and Policy 1.3 which requires the incorporation of design features into projects that can be used to shield residents from excessive noise.

SECTION 2-ENVIRONMENTAL REVIEW

The subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5, Minor Alterations in Land Use Limitations) because it involves a modification to citywide development standards related to walls and fences. It does not involve a specific site, development project or focused geographic area, does not change permitted land use or density, and does not otherwise result in a physical change that could cause an impact to the environment. As such, no further analysis is warranted or required.

I hereby certify that the Planning Commission of the City of Orange adopts the foregoing resolution on October 4, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dave Simpson, Planning Commission Chair

Resolution No. PC _____

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Date

ORDINANCE NO. XX-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE RELATING TO FENCES AND WALLS.

THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The action proposed herein is not a project subject to CEQA in accordance with CEQA Section 21065 and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The Ordinance involves general policy and procedure making that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Furthermore, the action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Such is the case with the Ordinance. No new development is proposed and the regulations for fences and walls would not result in a significant impact on the environment. Furthermore, any development applications subject to these provisions will be reviewed for CEQA compliance under a separate entitlement. On a case-by-case review of each project, the appropriate environmental document will be prepared to address any project-specific impacts. Therefore, the Ordinance will not have a significant effect on the environment.

SECTION II:

Section 17.04.025 of the Orange Municipal Code, “Zoning - Definitions – ‘F’ Definitions,” is hereby amended to add the following definitions:

FENCE – A substantial solid barrier intended to enclose, separate or surround. Landscaping that forms a substantial solid barrier within a front yard setback will be considered a fence.

FENCE, OPEN – A barrier intended to enclose, separate or surround which is constructed in such a way that no more than 20% of the surface area of the fence obstructs a view through the fence from a position perpendicular to the fence.

SECTION III:

Section 17.04.042 of the Orange Municipal Code, “Zoning - Definitions – ‘W’ Definitions,” is hereby amended to revise the following definition to read as follows:

WALL - A substantial solid barrier intended to enclose, separate or surround. Landscaping that forms a substantial solid barrier within a front yard setback will be considered a wall.

SECTION IV:

Section 17.04.042 of the Orange Municipal Code, “Zoning - Definitions – ‘W’ Definitions,” is hereby amended to add the following definition:

WALL, SOUND – A substantial solid barrier intended to separate land uses and designed with sound-dampening material to absorb sound waves.

SECTION V:

Section 17.10.050.D of the Orange Municipal Code, “Zoning - Specific Administrative Procedures – Administrative Adjustments – Actions Considered to be Administrative Adjustments,” is hereby amended to add the following subsection, with the remaining subsections renumbered accordingly:

2. Adjustment of Wall Height Requirements. The Zoning Administrator may approve wall heights greater than permitted subject to the provisions of Section 17.12.070, up to a maximum of two additional feet.

SECTION VI:

Section 17.12.070, “Zoning – General Regulations Applicable to All Districts – Fences and Walls,” is hereby added to the Orange Municipal Code to read as follows:

17.12.070 – Fences and Walls.

Fences and walls shall be permitted in all zoning districts subject to the following regulations:

- A. All zoning districts.
 - 1. Location.
 - a. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director.
 - b. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.
 - 2. Corner cut off shall be required per Section 17.14.150.
 - 3. Materials are allowed per Table 17.12.070.A.3.

Table 17.12.070.A.3

Material	R and MH Zones	OP and C Zones	M and SG Zones	MU Zones	PI, A1, RO, and SH Zones
Wood, masonry, vinyl, composite	P ¹	P ¹	P ¹	P ¹	P ¹
Decorative metals	P ^{1,2}	P ^{1,2}	P ^{1,2}	P ^{1,2}	P ^{1,2}
Chain link	- ³	- ³	P ^{1,3}	- ³	P ¹
Coated vinyl mini-mesh chain link	P ¹	P ¹	P ¹	-	P ¹
Barbed wire, concertina wire	- ⁴	-	P ^{1,6}	-	P ^{1,6}
Electrified fences	P ⁵	-	P ^{1,6}	-	P ^{1,6}

P = Permitted

- = Not permitted

Notes:

- (1) If within a historically or architecturally significant district, additional material restrictions may apply. Refer to the corresponding design standards for the appropriate district.
- (2) Sheet metal and corrugated steel are permitted with Community Development Director approval when integrated into the overall design and architecture of the project.
- (3) Chain link fencing shall not be erected in any required yard setback facing a public or private street. Exception: Chain link fencing may be used for security purposes for public utility structures and for temporary fencing needs (construction sites, special events, vacant lots, etc.) and screening shall be required subject to the determination of the Community Development Director.
- (4) Exception for public utility structures.
- (5) Electrified fences are not allowed on any lots less than 20,000 square feet or as perimeter fencing. A lot 20,000 square feet or more may have electrified fences inside an enclosing perimeter fence.
- (6) Materials not allowed as perimeter fencing may be allowed as interior fencing, subject to Community Development Director approval.

4. Greater Height of Fences and Walls in Side and Rear Yards.

a. A greater height than the height limit established, up to a maximum of two additional feet, may be considered by the Zoning Administrator through an Administrative Adjustment. Refer to Section 17.10.050.

b. A greater height than the height limit established may be considered by the Planning Commission through a Variance. Refer to Section 17.10.040.C.

B. Residential.

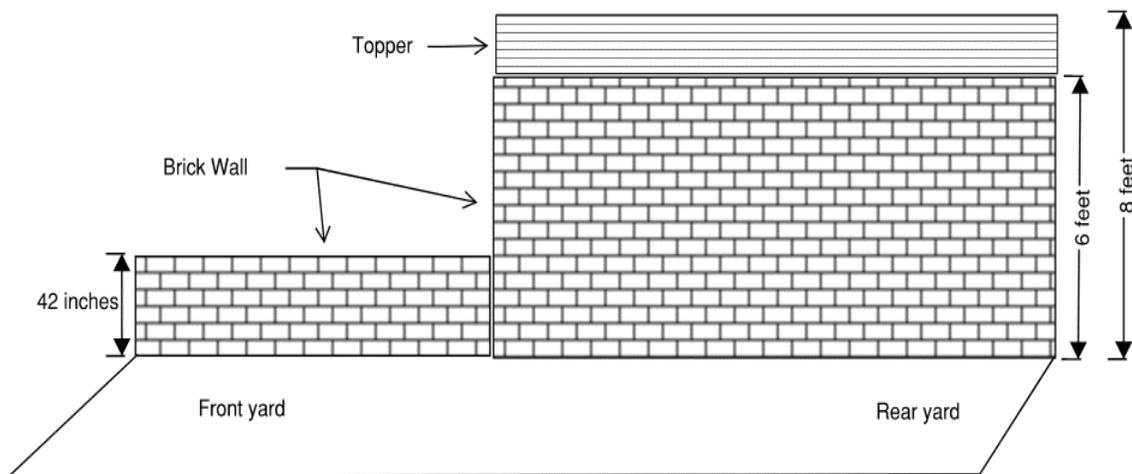
1. Side and Rear Yards—Standard Lot. Fence and wall heights shall be measured from adjacent grade to the top of the fence or wall structure. Any items connected to the fence or wall, such as, but not limited to decorative latticework, privacy toppers, and screens, shall be counted towards the overall height of the fence or wall, as referenced in Figure 17.12.070.B.1. Fences and walls located in the side and rear yards of standard lots shall be limited in height as follows:

a. Six feet, as measured from the highest elevation of land contiguous to the fence, and ten feet as measured from the lowest elevation contiguous to the fence.

b. For properties within 300 feet of freeways or railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to eight feet as measured from the highest elevation of land contiguous to the wall and ten feet as measured from the lowest elevation contiguous to the wall.

c. For properties abutting a non-residential zoning district the height may be up to eight feet as measured from the highest elevation of land contiguous to the fence or wall, and ten feet as measured from the lowest elevation contiguous to the fence or wall.

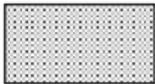
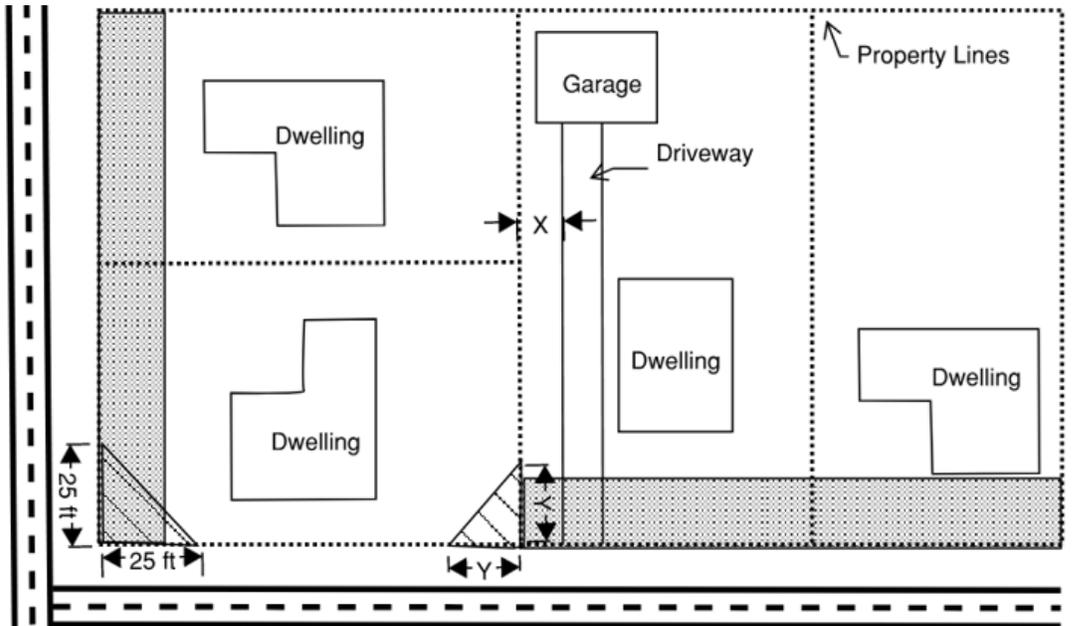
Figure 17.12.070.B.1



2. Front Yard—Standard Lot. In the required front yard area, the height shall be limited to three and one-half feet.

3. Corner, Reverse Corner and Key Lots. For corner, reverse corner, and key lots, fence and wall heights shall be limited as indicated on Figure 17.12.070.B.3.

Figure 17.12.070.B.3



Required front yard setback where fence height 42 inches maximum



Corner Cut Off provision where fence height 42 inches maximum

Distance X in feet	Distance Y in feet
0	10
1	9
2	8
3	7
4	6
5	5
6	4
7	3
8	2
9	1
10	0

4. Tract Fencing. Fences and walls adjacent to public streets, surrounding residential tracts, shall be constructed by the developer and maintained in a safe structural condition by the homeowner's association, or by each individual home owner on whose property the fence or wall is located if no homeowner's association exists. Periodic repair or maintenance of any section of the fence or wall shall be done in a manner that matches the original design and appearance. The intent of this section is to ensure that the fence or wall maintains a consistent appearance around the entire perimeter of the tract, and is not intended to preclude repainting, replastering or such other maintenance as may be required, provided such treatment is applied to the entire contiguous fence or wall, including fence or wall area beyond the individual property.

C. Mobile Home.

1. Perimeter Screening. In order to provide a buffer between mobile home parks and abutting uses, an eight-foot high solid, masonry wall shall be installed and maintained along, but no closer than, ten feet from the ultimate or future right-of-way from any public street and three feet from any mobile home. Where there is a difference in elevation on opposite sides of such screen, the height shall be measured from the highest grade level.

2. For properties within 300 feet of freeways or railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to ten feet as measured from the highest elevation of land contiguous to the wall and twelve feet as measured from the lowest elevation contiguous to the wall

D. Commercial.

1. Division Wall Required.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence, and not greater than ten feet in height as measured from the lowest elevation contiguous to the fence, shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. Division wall height taller than ten feet as measured from the lowest elevation contiguous to the wall may be considered by the Community Development Director.

b. Properties with an outdoor use component that is integral to the principal use of the subject site and located adjacent to any freeway or railroad may have fences and walls taller than the limits set forth herein. Refer to Section 17.12.070.A.4.

c. Commercial properties not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038.

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following regulations:

a. Front Yard. In the required front yard area, the height shall be limited to forty-two (42) inches.

b. Side Yard. In required street side yard areas, the height shall be limited to forty-two (42) inches.

c. All Other Areas. In all other areas, the height shall be limited to six feet as measured from the highest elevation of land contiguous to the fence or wall, and ten feet as measured from the lowest elevation contiguous to the fence or wall.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

E. Industrial.

1. Division Wall Required.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence, and not greater than ten feet in height as measured from the lowest elevation contiguous to the fence, shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. Division wall height taller than ten feet as measured from the lowest elevation contiguous to the wall may be considered by the Community Development Director.

b. In industrial properties where a stationary noise source produces exterior noise greater than 65 dBA, the division wall shall be at least eight feet as measured from the highest elevation of land contiguous to the fence, and twelve feet as measured from the lowest elevation contiguous to the fence.

c. Industrial properties are not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following height regulations:

a. Front Yard. In the required front yard area:

i. Solid fences and walls are limited to 42 inches in height.

ii. Along non-arterial streets, open fences may be up to six feet in height.

b. All Other Areas. In all other areas, fences and walls may exceed eight feet in height provided that a site assessment is submitted for review by the Community Development Director. The assessment must address the following as a minimum:

i. A discussion evaluating the operational capacity of the existing land use and its impacts on the immediate vicinity.

ii. An analysis demonstrating that the additional height does not negatively impact the surrounding property or public streets.

iii. Scaled and dimensioned plans providing an adequate basis of evaluation.

iv. A concluding statement containing evidence that the proposed fence or wall will benefit the community and will not adversely impact any residential areas or any public streets.

The Community Development Director shall approve such fences and walls if it is found that the applicant's site assessment contains the requisite evidence and analysis.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

F. Mixed Use.

1. Division Wall Required.

a. A masonry division wall up to eight feet in height as measured from the highest elevation of land contiguous to the fence shall be constructed on all property lines adjacent to any single-family residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height. In the OTMU-15S zone, a wood fence may also provide separation between properties.

b. Pedestrian access points are encouraged and may be allowed subject to approval of the Community Development Director.

c. Properties not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following:

a. Front Yard. In the front yard area, the height shall be limited to forty-two (42) inches.

b. Street Side Yard. In street side yard areas, the height shall be limited to forty-two (42) inches.

c. All Other Areas. In all other areas, the height shall be limited to six feet, as measured from the side of the fence or wall with the highest grade.

d. For properties within 300 feet of freeways, railroads and build out Noise Contours, as defined by the Orange General Plan Noise Element – Noise Contours and subsequent noise modifications as defined by adopted noise studies, sound wall height may be up to eight feet as measured from the highest elevation of land contiguous to the wall and ten feet as measured from the lowest elevation contiguous to the wall, except in a street-facing, front, side, or rear yard setback, where the wall shall be limited to forty-two (42) inches in height.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

G. Public Institutions.

1. Division Wall Required. A masonry division wall shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to 42 inches in height.

a. A masonry division wall at least eight feet in height as measured from the highest elevation of land contiguous to the fence shall be constructed on all property lines adjacent to any residential district, except in a street-facing, front, side, or rear yard setback where the wall shall be limited to forty-two (42) inches in height.

b. In properties where a stationary noise source produces exterior noise greater than 65 dBA, the division wall shall be at least eight feet as measured from the highest elevation of land contiguous to the fence, and twelve feet as measured from the lowest elevation contiguous to the fence.

c. Properties which are not in conformance with Section 17.12.070 shall comply at the time of any substantial improvement, as defined by Section 17.04.038

2. Other Fences and Walls. Fences and walls are permitted in any yard area subject to the following height regulations:

a. Front Yard. In the required front yard area, the height shall be limited to 42 inches.

b. All Other Areas. In all other areas, fences and walls may exceed six feet in height with a determination by the Community Development Director.

3. Location. All perimeter fences and walls shall be constructed on the property line unless a different location is permitted by the Community Development Director. No parallel fence or wall shall be constructed less than five feet from an existing fence or wall, unless approved by the Community Development Director.

H. Agriculture, Open Space, and Slope and Hazard. Fences and walls shall be permitted in accordance to commercial regulations contained in 17.12.070.C.

I. Sand and Gravel.

1. Perimeter Screening. In order to provide a buffer between Sand and Gravel operations and abutting uses, an eight-foot high solid, masonry wall shall be installed and maintained along, but no closer than, ten feet from the ultimate or future right-of-way from any public street. Where there is a difference in elevation on opposite sides of such screen, the height shall be measured from the highest grade level.

2. A required screen shall be installed prior to commencement of operations.

3. Fences and walls not conforming to Section 17.12.070.I are subject to review and approval by the Community Development Director.

SECTION VII:

Section 17.14.180 and Figure 17.14.180.C of the Orange Municipal Code, “Zoning – Residential Districts – Fences and Walls,” are hereby deleted in their entirety.

SECTION VIII:

Section 17.14.260.E of the Orange Municipal Code, “Zoning – Residential Districts – Additional Development Standards for Mobile Home Parks – Perimeter Screening,” is hereby amended in its entirety to read as follows:

E. Fences and Walls. For fence and wall requirements refer to Section 17.12.070.

SECTION IX:

Section 17.18.140 of the Orange Municipal Code, “Zoning – Commercial Districts – Fences and Walls,” is hereby deleted in its entirety.

SECTION X:

Section 17.19.140 of the Orange Municipal Code, “Zoning – Mixed Use Districts – Fences and Walls,” is hereby deleted in its entirety.

SECTION XI:

Section 17.20.100 of the Orange Municipal Code, “Zoning – Industrial Districts – Fences and Walls,” is hereby deleted in its entirety.

SECTION XII:

Section 17.22.095 of the Orange Municipal Code, “Zoning – Agricultural and Open Space Districts – Fences and Walls,” is hereby deleted in its entirety.

SECTION XIII:

Section 17.24.075 of the Orange Municipal Code, “Zoning – Public Institution District – Fences and Walls,” is hereby deleted in its entirety.

SECTION XIV:

Section 17.32.060.G.2 of the Orange Municipal Code, “Zoning – Sand and Gravel Extraction District – Operational Standards, Generally – Screening - Height,” is hereby amended in its entirety to read as follows:

2. Other Screening. See Section 17.12.070.I.

SECTION XV:

Section 17.34.130.B of the Orange Municipal Code, “Zoning – Off-Street Parking and Loading – Maintenance and Operation of Permanent Parking Areas – Border and Fencing,” is hereby amended in its entirety to read as follows:

B. Border and Fencing. Every parking area which abuts property located in any R (Residential) zone district shall be separated from such property by a view-obscuring masonry wall at least six feet in height but no greater than eight feet in height. An Administrative Adjustment may be considered per Section 17.10.050. Wall height shall be measured from the grade of the finished surface of the parking area closest to the contiguous R-zoned property or from the high grade side of the parking lot. However, the wall shall not exceed forty-two (42) inches in height in any required front yard area. Also, no wall is required where the elevation of the parking area along the property line immediately adjacent to the R-zoned property is six feet or more below the elevation of the R-zoned property.

SECTION XVI:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof,

irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XVII:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ___ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ___ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange