

2. New small wireless facilities in a right-of-way shall not extend more than the greater of (a) 50 feet in height, including antennae, or (b) more than 5 feet above an existing utility pole in place as of September 1, 2019 and located within 500 feet in the same right-of-way.

3. The City shall have the right, at its sole discretion, to consider and approve an application to install a utility pole or wireless support structure that exceeds the height limits in this subsection (C); provided, any facility which exceeds the height restrictions set forth in the definition of "small wireless facility" provided in Section 9.03.42 shall also be subject to the City's Zoning Ordinance.

D. Decorative Poles (Streetlights).

If decorative poles serving as streetlights have been installed in a neighborhood, small wireless facilities shall first be collocated on such poles at intersections as combination poles with streetlights, with poles mid-block as secondary sites so that removal of decorative streetlights mid-block is minimized and preservation of the intended decorative aesthetics is maximized. The City may, in its discretion authorize the replacement of a decorative pole but any replacement pole shall strictly conform to the design aesthetics of the decorative pole being replaced.

9.03.47 Independent Technical and Legal Review

In the event applicant is requesting make ready work on utility poles, the City may request a deposit for such make ready work based on a good faith estimate.

9.03.48 Relief

Any applicant desiring to appeal from any aspect or requirement of this Article, may file an appeal with the Board of Adjustment pursuant to Section 10.02 of Article 10 of the City of Fairbury Zoning Ordinance. Section 10.02 to 10.04 shall govern such appeals.

Section 9.04 Fences

9.04.01 No fence shall be constructed within the zoning jurisdiction of the City of Fairbury unless a permit therefore is approved and issued by the building inspector or zoning administrator and is constructed in conformance with the following requirements:

1. Unless otherwise provided by this title or other sections of the Fairbury Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines, or adjacent to any municipal property, excluding public streets and parks.
2. Unless otherwise provided by this title or other sections of the Fairbury Municipal Code, any fence built on residential property within required front yards shall contain openings constituting no less than 50 percent of the surface area of the fence.
3. No solid fence permitted or required by this title or other sections of the Fairbury Municipal Code shall be built within the sight triangle; or otherwise in any manner that creates a traffic hazard or obstruction to visibility.
4. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
5. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
 - a. The maximum height of a fence within a required front yard shall be 42 inches not exceeding 50 percent closed construction, or 48 inches not exceeding 25 percent closed construction.
 - b. The maximum height for any fence outside of a required front yard shall be seven feet.
 - c. Fences built on residential property outside of the required front yard and outside of the site triangle may exceed 50 percent closed construction.
 - d. Fences shall be constructed of wood, chain-link, PVC/resin, wrought iron, stone or masonry materials and any other materials approved by the City of Fairbury Zoning Administrator or his/her designee.
 - e. Materials not allowed in (d) above may be allowed by conditional use permit only and can include: scrap lumber, scrap metal, pallets, snow fences, chicken wire and wire.
6. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than seven feet in height may be approved through a Conditional Use Permit.

7. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
 8. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.
- 9.04.02 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 9.04.03 The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
 2. Farm fencing constructed for agricultural purposes on parcels of land 10 acres or more in size, located in the TA-1 District.
- 9.04.04 All fences shall be maintained in good repair.
- 9.04.05 *Electric Fences.* No electric fence, except for underground animal control fencing, shall be constructed or maintained within the City of Fairbury or within its extraterritorial zoning jurisdiction except in TA-1 District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Zoning Administrator shall approve any electrified fencing, it shall be determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

Section 9.05 Performance Standards for Industrial Uses

- 9.05.01 *Physical Appearance:* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 9.05.02 *Fire hazard:* No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Fairbury.
- 9.05.03 *Noise:* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- 9.05.04 *Sewage and Liquid Wastes:* No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which is detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- 9.05.05 *Air Contaminants:*
1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
 2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour,