Town Council

AGENDA ITEM REPORT

J.3

To:	Town Council
Subject:	Consider and act upon the second reading of Ordinance No. 2024-07 adopting an amendment to the Unified Development Ordinance (UDO), including but not limited to amending Section 3.06.05 – Fence Standards, as it relates to fencing requirements around private sports courts within single family residential zoning districts. Case 1802-Z UDO Amendment – Fence Requirement.
Meeting:	Town Council - August 26, 2024
Department:	Development Services
Staff Contact:	Surupa Sen

SUGGESTED ACTION:

Staff recommends approval.

BACKGROUND INFORMATION:

This is a town-initiated Unified Development Ordinance (UDO) amendment as it relates to fence material requirement for residential properties. Per UDO, chain link fencing is prohibited for new fences in residential (see applicable section below).

UDO Section 3.06.05.C. Fence Design and Materials

5. For residential, chain link fencing is prohibited for new fence construction.

Typically, chain link fences are prohibited in residential neighborhoods to ensure high quality fence installation. Usually, residential side and rear yard fences are made of wood and per UDO, ornamental metal fences are required adjacent to open space or trail networks. The fence material restriction promotes neighborhood aesthetics, and low maintenance cost for homeowners, as chain link fences are not as durable as fences constructed of metal or wood. During storms or other extreme weather conditions, chain link fences get damaged easily as well.

In this current context, staff is proposing to add an exception to prohibiting chain link fences within residential zoning. Staff have been approached by homeowners who would like to build basketball, tennis or pickleball courts in their backyard and would like to have the flexibility to install chain link fence around these sports courts to prevent ball or cork hitting the neighbor's yard or fence. The text amendment proposed would add an exception to the current UDO Section 3.06.05.C.5 where chain link fence will only be permitted around residential sports courts in the back yard. There are certain design restrictions proposed that would allow proper installation of a chain link fence.

Following text (in red) amendment is being proposed:

UDO Section 3.06.05.C. Fence Design and Materials

1. *For residential, chain link fencing is prohibited for new fence construction except as stated below:*
    a. *Chain link fencing is allowed around private sports courts within the rear yard of a residential lot, containing an occupied, single family, detached home, within single family residential zoning districts.*
    b. *Chain link fence that is permitted under Section 5.a) shall be installed with the following specifications:*
1. *No chain link fence shall be taller than 9-feet in height including the fence posts.*
2. *All vertical terminal posts (corner, gate and end) shall be a minimum 2-3/8 inch outside diameter by 0.065-gauge galvanized steel and shall be capped using an aluminum or galvanized post cap designed for this type of application.*
3. *All vertical line posts shall be a minimum 1-5/8 inch outside diameter 0.065-gauge galvanized steel and shall be capped using an aluminum or galvanized post cap designed for this type of application.*
4. *All post lengths shall equal the fence height plus the bury depth of 24 inches minimum into a 30-inch-deep minimum, six (6) inch diameter (minimum) concrete post footing.*
5. *The top and bottom rail shall be a minimum 1-3/8 inch outside diameter 0.055-gauge galvanized steel.*
6. *The chain link fabric shall be a minimum 11-1/2-gauge, galvanized material with a minimum 12-gauge single strand tension wire along the bottom of the fabric. Tension wire to be pig-ringed to fabric on 16-to-18-inch centers maximum and set to within four (4) inches or less from the bottom of the fence. Fabric to be secured to top rail and line posts by minimum 11-gauge aluminum fence ties on 16-to-18-inch centers.*
7. *All materials shall be securely fastened using galvanized bands, bolts, tension bars, etc. to ensure a continual, attractive appearance and safe conditions.*
8. *All materials used for the chain fence, whether galvanized posts or chain link fabric shall be coated black or dark green.*

Staff presented this proposed UDO amendment to the Planning and Zoning Commission on July 17, 2024, at their regular meeting. After much deliberation, discussion, and hearing from homeowners who spoke at the public hearing, the Commission recommended approval of the proposed text amendment, albeit with the modified text as stated in their motion below:

"Add subsection 5.8 All galvanized materials used for the chain link fence can be either raw or coated."

Staff conferred with the Town's Parks and Facilities Director and other area colleagues who manage or have experience maintaining similar sports facilities that contain chain link fences. The recommendation received was to not keep the material coating option open-ended as suggested by the Commission. This might result in unintended and aesthetically challenging consequences. Staff is proposing the yellow highlighted text above instead as a modification to the proposed UDO amendment language. Requiring the materials to be coated black or dark green reduces visibility of the fence post and fabric used during installation.

During discussion at the July 17 Planning and Zoning Commission meeting, there were some confusions as to what constitutes a rear yard on a single-family residential lot. The concern was related to standalone basketball hoops located on residential driveways that are visible from the front or the main street. Whether this amendment would allow chain link fence around these basketball hoops was a question raised by the Commission. Staff explained that as per the UDO, rear yard is defined as follows:

"385. Yard, Rear

A yard across the full width of the lot extending from the rear line of the main building to the rear line of the lot."

As a result, only residential sport courts that are situated entirely within the designated rear yard of the lot, would be able to take advantage of this amendment. Chain link fence will not be allowed within front yard or side yards even if the sports court is located in the side yard, or not located entirely within the rear yard.

There are already several homes in Sunnyvale where small sport courts have been built in the rear yard. Besides restricting installation of chain link fence around sport courts that are located within the rear yard only, additional restrictions may apply, depending on their respective Homeowners Association (HOA) rules and regulations. Many HOA rules do not allow installation of chain link fence within their neighborhoods which would preclude homeowners within these subdivisions from utilizing this proposed UDO amendment.

This amendment, if approved, is primarily applicable to standard single family residential zoning districts. Residential Planned Development zoning districts are commonly regulated under HOA covenants or laws. These HOA covenants supersede UDO requirements if the HOA covenant is stricter.

The proposed amendment will allow existing homeowners to install chain link fence around rear yard sport courts if they so choose and if they are not prohibited within their HOA laws. Additionally, homeowners who are contemplating building a new pickleball or basketball court will be able to take advantage of this amendment. The objective of this amendment is to provide flexibility to current homeowners, and to encourage residential property improvements.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission considered the proposed UDO amendment request at their July 17, 2024, regular meeting. The commission, unanimously recommended approval of the UDO Amendment with the following modifications:

"Add subsection 5.8 All galvanized materials used for the chain link fence can be either raw or coated."

Town Council Action 1st Reading

The Town Council considered the proposed UDO amendment request at their August 12, 2024, regular meeting. Town Council unanimously approved the UDO Amendment with the following modifications:

"5.a. Chain link fencing is allowed around private sports courts within the rear yard of a residential lot of minimum one-acre in size, containing an occupied, single family, detached home, within single family residential zoning districts.

5.b.9.Chain link fence around private sports courts shall meet the minimum set back requirements of accessory buildings of the applicable residential zoning districts where the sports court shall be located.

5.b.10. Chain link fabric is not required to be installed on the side facing the main residence on the property."

FINANCIAL IMPACT:

PUBLIC NOTICE:

Texas State Legislature S.B. 929, passed into law last year, requires municipalities to mail out individual notices to property owners within affected zoning districts, if any zoning ordinance text amendment is proposed by the municipality. The Town is proposing a text amendment to the Unified Development Ordinance (UDO) related to fence standards. As a result, 3,211 letters of notification were mailed to all the property owners within residential zoning districts on July 3, 2024. Notice of the public hearing was also published in the Dallas Morning News legal notice section on July 26, 2024. As of the writing of this report, the Town has not received any written response regarding the UDO Text Amendment request.

ATTACHMENTS:

Ordinance No 2024-07.docx

Excerpt of UDO Section 3.06.05 Fence Standards.pdf
Map of properties with existing sport courts.pdf