

HABERSHAM COUNTY BOARD OF COMMISSIONERS

EXECUTIVE SUMMARY

SUBJECT: Comprehensive Land Development Resolution (CLDR) Amendment to Section 68-201 Definitions - Fence

DATE: October 7, 2022

☒ **RECOMMENDATION**

☐ **POLICY DISCUSSION**

BUDGET INFORMATION:

☐ **STATUS REPORT**

ANNUAL- N/A

☐ **OTHER**

CAPITAL- N/A

COMMISSION ACTION REQUESTED ON: October 17, 2022 (First Reading)
November 21, 2022 (Second Reading)

PURPOSE: This is a Comprehensive Land Development Ordinance (CLDO) amendment further defining what materials may be used as a fence/fencing.

BACKGROUND / HISTORY:

1. The Planning and Development Department issued a warning to a property owner to remove a junk vehicle or shield it from public view. The property owner installed a fabric type fence.
 2. When the case eventually reached Magistrate Court, the Judge directed us to better define what constitutes a fence. In other words, define what materials a fence may be constructed of.
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FACTS AND ISSUES:

- a. Staff added wood, masonry, stone, wire, iron, or other materials approved by the department to the definition.
 - b. The Planning Commission wanted the finished board face to face outward from the property. We discussed it so the finished face is to the outside where we require the fencing as part of a screening requirement or buffers. I did not want my department to be involved in neighbor disputes where we must tell a neighbor to switch the fence face.
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OPTIONS:

1. Approval of the proposed amendment;
 2. Denial of proposed amendment;
 3. Commission defined alternative.
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RECOMMENDED SAMPLE MOTION: Motion to approve the Comprehensive Land Development Ordinance amendment to Section 68-201 Definitions as recommended by the Planning Commission.

DEPARTMENT:

Prepared by: Mike Beecham

Director _____

**ADMINISTRATIVE
COMMENTS:** _____

County Manager

DATE: _____

Fence: A structural barrier for enclosure, screening or demarcation, composed of wood, masonry, stone, wire, iron, or other materials approved by the department but not including hedges, shrubs, trees, or other natural growth, presenting a solid face or having openings amongst or between its constituents' members; also a wall separate from or extending from a building. When fencing is required for the purposes of screening a use from view, the finished side of the fence shall face to the outside of the property.

FIRST READING DATE: October 17, 2022

APPROVAL DATE: _____

**HABERSHAM COUNTY
STATE OF GEORGIA**

**AN AMENDMENT TO CHAPTER 68, ARTICLE II, SUBSECTION 68-201,
ENTITLED “DEFINITIONS” FOR THE PURPOSE OF AMENDING THE
DEFINITION OF FENCE FOR COMPREHENSIVE LAND USE AND
DEVELOPMENT**

WHEREAS, the duly elected governing authority of Habersham County, Georgia, is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety and welfare of the citizens of Habersham County, Georgia; and

WHEREAS, the duly elected governing authority of Habersham County, Georgia is the Board of Commissioners therefor; and

WHEREAS, the governing authority desires to amend the definition of a fence AS SET FORTH HEREIN;

**NOW, THEREFORE, THE HABERSHAM COUNTY BOARD OF COMMISSIONERS
HEREBY ORDAINS AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE
SAME** as follows:

-1-

Chapter 68 (“Comprehensive Land Use and Development”), Article II (“Definitions and Acronyms”), Section 68-201 (“Definitions”) of the Code of Ordinances of Habersham County, Georgia is hereby amended by deleting in its entirety the definition of “Fence” therein and substituting in lieu thereof the following:

CHAPTER 68 – COMPREHENSIVE LAND USE AND DEVELOPMENT

ARTICLE II. – DEFINITIONS AND ACRONYMS

Section 68-201 – Definitions.

Fence: A structural barrier for enclosure, screening or demarcation composed of wood, masonry, stone, wire, iron or other material approved by the department but not to include hedges, shrubs, trees or other natural growth, presenting a solid face or having openings amongst or between its constituent members; also a wall separate from or extending from a building; also when fencing is required for the purposes of screening a use from view, the finished side of the fence shall face the outside of the property.

-2-

This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

-3-

- A. It is hereby declared to be the intention of the Habersham Board of Commissioners that all sections, paragraphs, sentences, clauses, and phrases of this ordinance are upon their enactment, believed by the board of commissioners to be fully valid, enforceable and constitutional.
- B. It is hereby declared to be the intention of the Habersham Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is further declared to be the intention of the board of commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.
- C. In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the board of commissioners that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

-4-

Except as otherwise provided herein, all ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

-5-

This ordinance shall become effective upon its adoption.

DULY ORDAINED AND ADOPTED this _____ day of November, 2022.

**HABERSHAM COUNTY BOARD
OF COMMISSIONERS**

Bruce Palmer, Chairman

Attest:

Brandalin Carnes, County Clerk