

(Summary First Published in the Times-Sentinel
on the ____ day of _____, 2017.)

THE CITY OF CHENEY, KANSAS

ORDINANCE NO. 894

AN ORDINANCE REVISING AND UPDATING THE ZONING REGULATIONS CONCERNING FENCING REQUIREMENTS AND RESTRICTIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF CHENEY, KANSAS BY AMENDING SECTIONS 2.83, 2.107, 2.109, 2.110, 2.179, 22.03 C. AND 22.03 Q. OF THE CHENEY ZONING ORDINANCE AND ADDING 2.107a TO THE CHENEY ZONING ORDINANCE.

WHEREAS, in accordance with Kansas statute, the City of Cheney, Kansas currently regulates and manages fencing within the City of Cheney, Kansas through its zoning regulations found in the Cheney Zoning Ordinance; and

WHEREAS, the Cheney City Planning Commission held a public hearing on December 5, 2016 to consider revision to the City's Zoning Ordinance concerning fencing. Notice of this public hearing was published in the official city newspaper at least 20 days prior to the date of the public hearing in compliance with K.S.A. 12-757; and

WHEREAS, following the public hearing a majority of the members of the Cheney Planning Commission present and voting at the hearing voted to recommend approval of amendment of the Cheney Zoning Ordinance concerning fencing;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHENEY, KANSAS:

Section 1. Amending Section 2.83 of the Cheney Zoning Ordinance

Section 2.83 of the Cheney Zoning Ordinance is amended to read as follows:

2.83 "Frontage" - means the portion of a lot or parcel of property which abuts a dedicated public street or highway.

A. **"Lot Frontage"** means the distance for which the front boundary line of the lot and the right-of-way are coincident.

B. **"Street Frontage"** means all of the property on one side of a street between two

intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting one side of a street between an intersecting street and the dead-end of the street.

C. "Primary Street Frontage" means the street frontage for which the property address is determined."

Section 2. Amending Section 2.107 of the Cheney Zoning Ordinance

Section 2.107 of the Cheney Zoning Ordinance is amended to read as follows:

"2.107 "Lot" - means a parcel of land occupied, or to be occupied, by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street. A lot as used in this ordinance may consist of one (1) platted tract or a part thereof pursuant to a formal lot split.

A. "Corner lot" means a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an interior lot.

B. "Double-frontage lot" see "through lot".

C. "Flag lot" means a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor. The lot width of a flag lot shall be measured at the midpoint of the main portion of the lot.

D. "Interior lot" means a lot other than a corner lot which has frontage on one street or road only. In the case where two streets or roads intersect at an angle of 135 degrees or more, then the adjacent lot(s) shall be considered an interior lot.

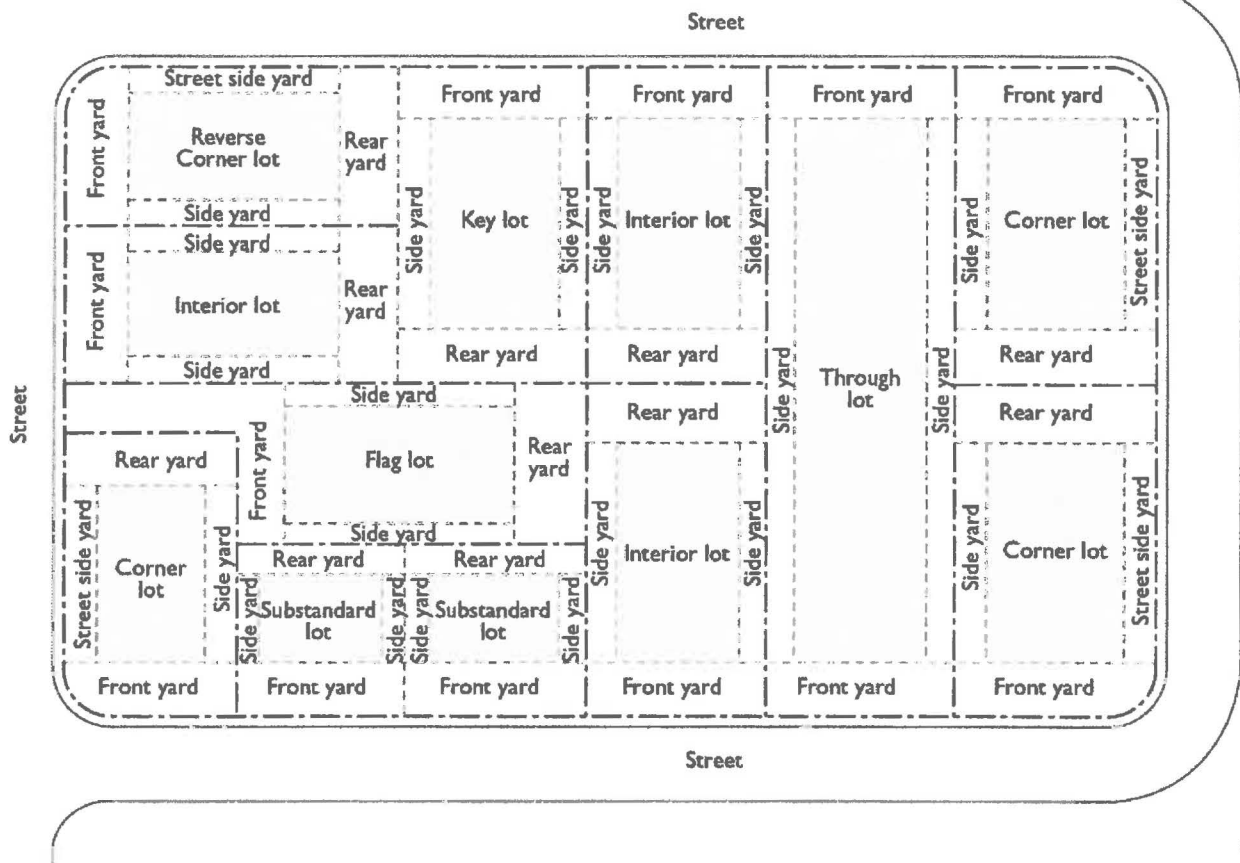
E. "Key lot" means an interior lot adjoining the rear lot line of a reversed corner lot

F. "Platted lot" means a portion of a subdivision intended as a unit for transfer of ownership or for development.

G. "Reversed corner lot" means a corner lot, the rear of which abuts the side of another lot, whether across a lane or not.

H. "Through lot" means a lot having frontage on two non-intersecting dedicated streets or road rights-of-way, not including a corner lot.

I. The following diagram is a visual representation of the lots defined in this Section above and recognized by the City of Cheney, Kansas:



Section 3. Adding Section 2.107a to the Cheney Zoning Ordinance

New Section 2.107a is hereby added to the Cheney Zoning Ordinance to read as follows:

"2.107a "Lot area" - means the total area, on a horizontal plane, within the lot lines of a lot."

Section 4. Amending Section 2.109 of the Cheney Zoning Ordinance

Section 2.109 of the Cheney Zoning Ordinance is amended to read as follows:

"2.109 "Lot depth" - means the average distance from the front property line to the rear property line, measured in the general direction of the side property lines of the lot.

Section 5. Amending Section 2.110 of the Cheney Zoning Ordinance

Section 2.109 of the Cheney Zoning Ordinance is amended to read as follows:

2.110 "Lot line" – means the property line bounding a lot.

A. "Front lot line" means the property line abutting a public or private street or road right-of-way upon which the permanent street address is based. In the case of a corner lot where there are two (2) lot lines abutting intersecting streets, the front lot line shall normally be the one with the shortest length.

B. "Side lot line" means any lot line other than a front lot line or rear lot line.

C. "Rear lot line" means a lot line which is opposite and most distant from the front lot line."

Section 6. Amending Section 2.179 of the Cheney Zoning Ordinance

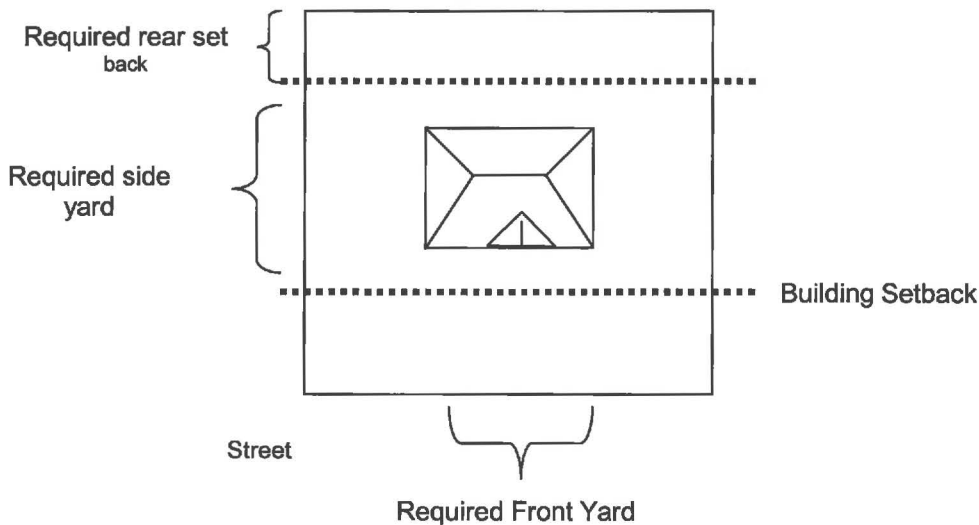
Section 2.179 of the Cheney Zoning Ordinance is amended to read as follows:

2.179 "Yard" - means any open space on the same lot or parcel with a building or group of buildings, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by these regulations.

A. "Front yard" means a yard across the full width of the lot extending from the front line of the main building to the front lot line, adjacent to a street.

B. "Rear yard" means the area between the rear property line and the rear yard setback line, which extends the full width of the lot or parcel.

C. "Side yard" means the area from the front yard or from the front lot or parcel line where no front yard is required by these regulations, to the rear yard, or rear lot or parcel line, between a side lot or parcel line and the side yard setback line. See diagram below.



D. "Required yard" means that portion of any yard constituting the minimum area required in any zoning district, but excluding that portion of the yard in excess of the minimum required area.

E. "Side Street Front Yard" means a yard that occurs on a corner lot along the length of the lot. The side street front yard is adjacent to the side street public right-of-way and is generally perpendicular to the established front yard. Special setback requirements apply for side street front yards, see Figure A1 and A2."

Figure A1

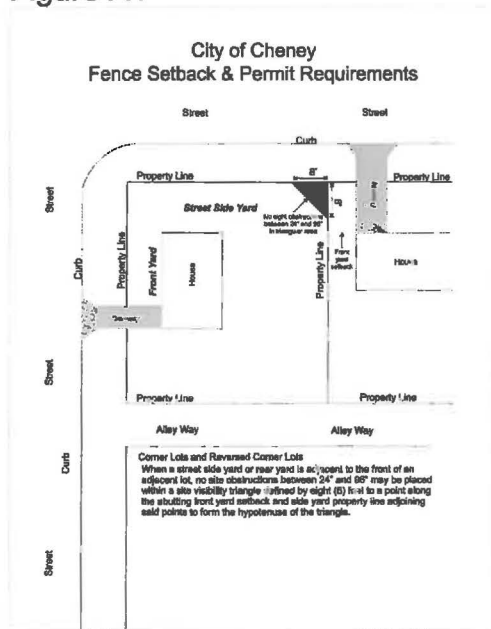
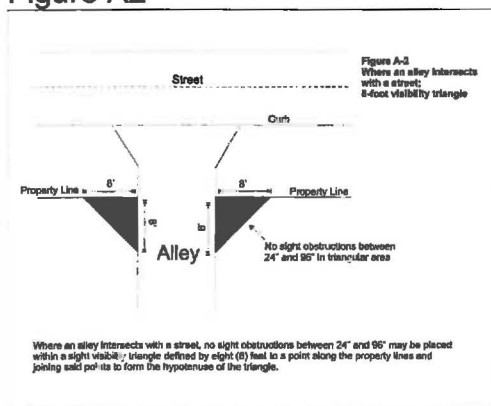


Figure A2



Section 7. Amending Section 22.03 C. of the Cheney Zoning Ordinance

Section 22.03 C. of the Cheney Zoning Ordinance is amended to read as follows:

“C. Fences, Walls and Hedges:

No fence, wall or hedge may be constructed within the zoning jurisdiction of the City unless it is constructed in conformance with the following requirements:

1. A fence, wall or hedge may project into or enclose any required front, side or rear yard subject to access requirements of any established easement and in accordance with the following:

a. The maximum height of fences, walls or hedges that project into any front yard shall be no more than three feet high at the grade from the right-of-way edge. Except that fences such as chain link, split rail and others that allow visibility through at least 50 percent of their area may be four feet high.

b. The maximum height of fences, walls or hedges that project into side yards shall not exceed seven feet in height at the grade of the nearest wall of the principal structure.

c. A fence in excess of three feet in height shall not extend beyond the front of any principal structure located on adjacent parcels except as provided herein. However, required front yard setbacks must always be maintained.

d. The maximum height of fences, walls or hedges that project into rear yards shall not exceed seven feet in height at the grade of the nearest wall of the principal structure unless otherwise required.

e. In an industrial district, fences, walls or hedges needed for security and safety shall not exceed eight feet in height in any yard, except as may be otherwise permitted.

f. Where a residential structure is on a corner lot, a solid fence six feet in height may be constructed in the side street front yard subject to the following:

1. Distance from the Street Side Yard Property Line for Corner Lots. On corner lots zoned residential, fences may be erected inside and adjacent to the street side yard property line abutting a street right-of-way if the fence will not encroach into the sight triangle or the front yard setback. When the street side yard or rear yard is adjacent to the front yard of an adjacent lot then the fence must maintain a 45-degree sight triangle to the abutting front yard setback. See figure A1 and A2.

2. The fence shall not project beyond the property line nor into a city right-of-way.

3. The fence shall not extend nearer to the front street lot line than the front wall of the principal building.

4. The fence shall not extend into any sight triangle as defined in these regulations.

5. The fence shall not exceed a height of seven feet as measured at the average highest adjacent grade.

6. The zoning administrator shall establish which yard is the side street front yard.

g. Except as otherwise set forth in this Ordinance, permitted materials in residential districts for fences on all properties shall include:

1. new lumber and new wood boards;
2. split rail;
3. chain link;
4. wrought iron and decorative aluminum;
5. vinyl;
6. brick and masonry;
7. stone, rock and concrete block;
8. stucco;

h. Prohibited materials in residential districts shall include but not be limited to:

1. sheet metal;
2. metal building siding and roofing materials;
3. corrugated metal or fiberglass;
4. barbed wire except as may be permitted for security requirements;
5. chicken wire;
6. plywood;
7. scrap wood;
8. scrap metal;
9. canvas, nylon or other non-rigid material or fabric;
10. cast-off, secondhand or other materials not originally intended to be used for constructing or maintaining a fence; and
11. stock fences.

i. The zoning administrator may require a photograph or sketch of the proposed fence.

j. No fence shall be constructed upon a lot or parcel within the zoning jurisdiction of the City of Cheney, Kansas without the owner and/or owner's representative obtaining a building permit in accordance with the provisions of Chapter 4 of the Cheney Zoning Ordinance. An application for a permit authorizing the construction of a fence shall be made on forms supplied by the City of Cheney, Kansas.

2. Electric Fences.

No electric fence shall be constructed or maintained within the zoning jurisdiction of the City of Cheney, Kansas unless located on property located within the Ag – Agricultural District upon receipt of written approval from the Zoning Administrator.

3. Facing.

The finished surface of all fences shall face outward from the property. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

4. Effective Date.

Any existing fence in conformity with the provisions of any previous ordinance regulation of the City of Cheney, Kansas that remains in place as of the date of adoption of these regulations may remain in place without change, notwithstanding that the same may be in conflict with one or more provisions of the current Cheney Zoning Ordinance. However, any replacement of or change to more than 50 percent of such an existing fence in a 24-month period must meet the requirements of the current Cheney Zoning Ordinance.”

Section 8. Amending Section 22.03 Q. of the Cheney Zoning Ordinance

Section 22.03 Q. of the Cheney Zoning Ordinance is amended to read as follows:

“Q. Swimming pools with permits

Swimming pools are defined as any structure and area intended for swimming or recreational bathing that contains water over 24 inches deep on a lot located within the City of Cheney zoning jurisdiction. Swimming pools include but are not limited to in-ground, above ground and on-ground swimming pools, hot tubs and spas and their concrete patios. Swimming pools are permitted on lots used for residential purposes upon the owner and/or owner’s representative of a residential lot or parcel obtaining a building permit for the same in accordance with the provisions of Chapter 4 of the Cheney Zoning Ordinance. An application for a permit authorizing the construction of a swimming pool shall be made on forms supplied by the City of Cheney, Kansas.

Such swimming pool structure and/or area shall be surrounded by a barrier which shall comply with the following provisions:

1. The top of the barrier shall be at least 48 inches above grade measured on the side of the barriers, which face away from the structure/area.
2. Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.
3. Solid barriers, which do not have openings, such as a masonry or stonewall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. The horizontal members of the composed barrier shall be located on the structure/area side of the fence.
5. Pedestrian access gates shall open outward away from the structure/area, shall be self-closing and have a self-latching device. Where the release mechanism of the self-

latching device is located less than 54 inches from the bottom of the gate, the release mechanism and openings shall comply with the following:

a. The release mechanism shall be located on the structure/area side of the gate at least 3 inches below the top of the gate and the gate and barriers shall have no opening larger than ½ inches within 18 inches of the release mechanism.

6. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

a. The structure/area shall be equipped with a powered safety cover.

b. Doors with direct access to the structure/area through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened.

c. Other means of protection, such as self-closing doors with self-latching devices, may be approved by the City of Cheney governing body.

7. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is ladder or steps:

a. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

b. The ladder or steps shall be surrounded by a barrier, which meets with City of Cheney requirements as approved by the Zoning Administrator.

8. If a fence is selected as the enclosure around the pool area, said fence shall be a minimum of four (4) feet in height and a maximum of six (6) feet in height.”

Section 9. Effective Date

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

Passed by the City Council this 12th day of January, 2017.

Approved by the Mayor this 12th day of January, 2017.


MAYOR, LINDA BALL

SEAL

ATTEST:




CITY CLERK, DANIELLE YOUNG