

ORDINANCE NO. 2018-02

AN ORDINANCE AMENDING THE 2009 PRIMGHAR, IOWA ZONING ORDINANCE BY AMENDING THE ZONING TEXT IN MULTIPLE SECTIONS OF THE CITY'S ZONING ORDINANCE.

WHEREAS, the zoning ordinance and zoning map on file in the office of the City Clerk designates certain standards as provided by Chapter 414, Code of Iowa, and

WHEREAS, the Planning and Zoning Commission has considered the proposed zoning changes and it is deemed advisable and recommended by the Planning and Zoning Commission to amend the Primghar Zoning Ordinance.

NOW THEREFORE IT BE ORDAINED, by the City Council of Primghar, Iowa;

Section 1. REPEAL ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing **Section 15.8. Rental Housing Maintenance Standards (Inspections)**. These standards which applied to all dwellings and dwelling units within the corporate limits of the City of Primghar shall here forthwith be repealed in its entirety from the Primghar Zoning Ordinance.

Section 2. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 2.1. Definitions**, Definition 1. Accessory Use (or Structure) and replacing with the following new text.

1. **ACCESSORY USE (OR STRUCTURE)**: Any building or structure or use of a building or structure that is subordinate to and serves a primary or principal building or use on the same lot; contributes to the comfort, convenience, or necessity of the primary or principal building or use; and is located on the same lot or parcel as the primary or principal use building or structure.

Section 3. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 14.12. Steps, Decks and Patios**. and replace with the following new text.

Section 14.12. STEPS, DECKS AND PATIOS.

Steps providing direct access to the ground level of a housing unit may encroach no more than three feet (3') into any required side yard. Steps may also include a horizontal landing or platform of 48 square feet or less and not projecting more than six feet (6') into a required front or rear yard.

Decks with a finished floor height greater than twelve inches (12") above the average grade of the adjoining ground shall comply with required yard setbacks. An open unenclosed deck may project into the required front yard for a distance not exceeding ten feet (10'). No covered decks or other covered structures may project into the required front yard setback or street side yard setback on a corner lot.

Patios and concrete, pavers or other hard surfaced areas or other concrete slab structures constructed at grade level shall be allowed to be constructed within the required front, side, or rear yards. If a railing, wall, terrace or any other above ground structure is built as part of the patio, all above ground structures shall comply with required yard setbacks. With that said, no such patio or uncovered hard surfaced area shall be permitted to be constructed closer than six inches (6”) from any property line.

Driveways and parking areas within front yard areas of residential zoned properties are permitted if the designated surfaced or concrete driveway is no larger than the width of the garage or designated parking space it is designated for and runs from the garage or parking space to the street. Furthermore, additional off street paved parking in the front yard shall be limited to no more than ten feet (10’) beyond either side of a driveway to be used for auxiliary parking spaces. No such driveway or auxiliary parking surface shall be permitted to be constructed closer than six inches (6”) from any property line. This shall not exclude a sidewalk on the property or paved access to the front door.

Section 4. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 14.13. Fences and Hedges**, and replacing with the following new text.

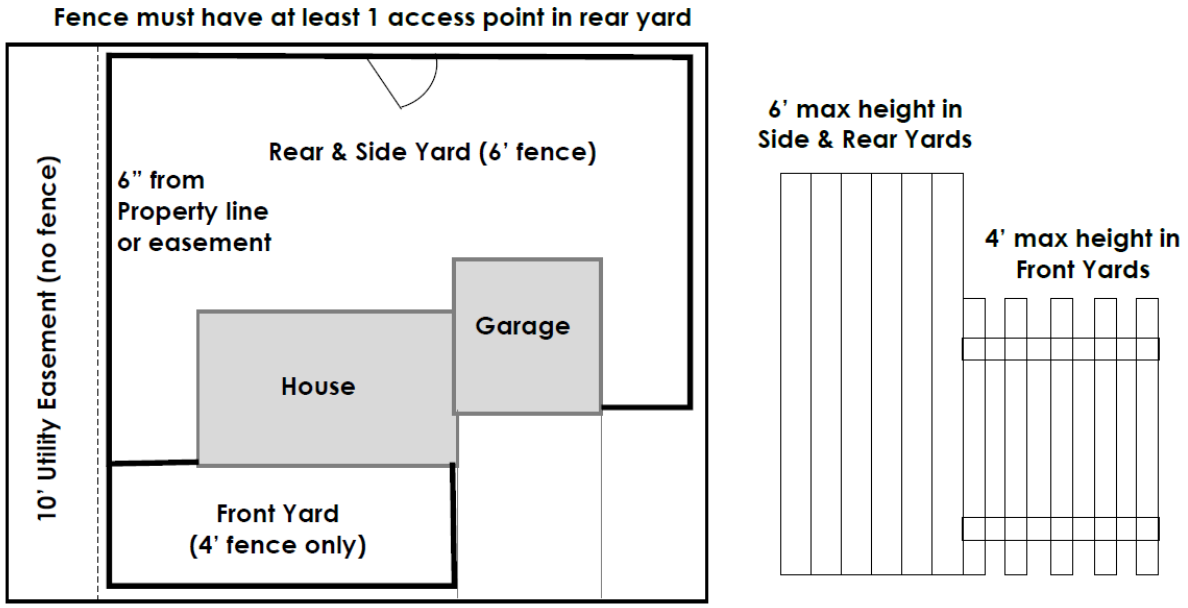
Section 14.13. FENCES, HEDGES AND RETAINING WALLS.

For purposes of this section, the term “fence” means a constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Plants, shrubs, bushes and trees are not normally considered fences.

1. No fence more than four feet (4’) in height may be located in any front yard. Fences less than four feet (4’) may be located on any part of a lot.
2. No fences are allowed within the “sight triangle” in accordance with Section 14.11(5). No fence shall obscure clear view of traffic at street intersections or driveways so as to create a safety hazard to pedestrians or vehicular traffic.
3. Except as provided above, fences up to six feet (6’) tall may be erected in any required side or rear yards. Fences more than six feet (6’) may be allowed in the cases of tennis courts, swimming pools, other recreational amenities, or for commercial and industrial uses upon review by the zoning administrator.
4. The lawful use of any swimming pool tall enough that it requires a ladder to enter or exit from existing at the effective date of this ordinance may be continued, provided that twelve (12) months after the effective date of this ordinance, all nonconforming swimming pools shall be required to have a fence enclose the swimming pool of which conforms to the height requirement identified in this section, or a height specified by the property owner’s insurance company.
5. Determining the maximum height for fences and walls shall be made by measuring from the natural grade of the lot adjacent to the fence to the top of the finished fence structure.
6. Fences or walls shall not be closer than six inches (6”) to any property line, except no fence shall be located over any permanent easement. Perennial plantings, including shrubs and hedges, shall not be planted closer than two and one-half feet (2.5’) to any property line. Except that fences, walls and perennial plantings may be placed up to the

property line by written agreement of adjoining property owners, and upon approval by the zoning administrator if such fence does not impede or is located upon a permanent easement.

7. It is the responsibility of the property owner to locate all easements on their property prior to constructing or placing a fence. No permanent structure, including a fence, shall be erected within or over any easement. In any event, if removal of a fence over an easement is necessary or required by any public or private entity with ownership of the easement such removal and replacement of said fence shall be at the expense of the property owner.
8. Fences shall not be constructed of non-treated or natural wood products; sticks or branches; corrugated tin, corrugated metal, or corrugated fiberglass; or sheet metal. Fences may be constructed from chain link, non-decomposing wood products (e.g. pressure-treated, redwood, cedar, etc.), molded plastic, vinyl, finished metal, or wrought iron. The zoning administrator may approve other materials.
9. Ongoing maintenance and repairs of any fence installed on a property shall be the responsibility of the owner of the property on which side the fence is located on.
10. In the case of retaining walls, the height requirements specified in part 3. above shall apply only to that part of the retaining wall above the surface of the retained land. Retaining walls constructed from concrete, stone or other natural or manufactured materials, if used for the purposes of terracing land, holding back failing natural slopes, or for changing the contour of the land for development purposes will not be subject to yard setback requirements.
11. Garden fences are exempt from zoning regulations except that no garden fence shall create a traffic or pedestrian hazard, or be located within the front yard or street side yard.
12. Fences in side and rear yards shall have at least one (1) access point, to allow for access for public safety and utility purposes.
13. Disputes between property owners concerning fences and/or plantings, trees, bushes, hedges or other natural or manufactured structures obstructing views, sunlight or air shall be considered a civil matter between private parties and shall be resolved in a court of law.
14. All fences shall be subject to a completed and approved zoning/building permit.



Section 5. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 15.2. Accessory Buildings, Structures and Uses, Part 4** and replacing with the following new text.

4. Accessory buildings or structures, except for fences (see Section 14.13 for fencing regulations), shall be no closer than five feet (5') from any principal building(s), required lot line, or any permanent public or private easements.

Section 6. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 20.4. Zoning Administrator, Part 1** and replacing with the following new text.

The zoning administrator shall enforce this ordinance and in addition thereto and in furtherance of said authority, shall:

1. Review and issue zoning/building permits, when in compliance with the Primghar Zoning Ordinance; and collect fees for zoning services as established by resolution of the city council. The city clerk may also collect zoning/building fees for permits and services.

Section 7. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 20.6. Zoning/Building Permits Required.** and replacing with the following new text.

Section 20.6. ZONING/BUILDING PERMITS REQUIRED.

Buildings or other structures shall not be erected, moved, placed, added to, or structurally altered without a permit issued by the zoning administrator. Zoning/building permits shall be issued in conformance with the provisions of this ordinance, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit is issued does not begin within one (1) year from date of issuance. There is no

deadline on the completion of construction activities once a zoning/building permit has been issued.

Section 8. REPEAL AND REPLACE ZONING TEXT. The Primghar Zoning Ordinance is hereby amended by repealing the existing text from **Section 20.7. Application for Zoning/ Building Permit.** and replacing with the following new text.

Section 20.7. APPLICATION FOR ZONING/BUILDING PERMIT.

Application for zoning/building permits shall be obtained from city hall prior to starting or proceeding with a project, including erection of billboards. Approved permits shall be kept on file and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Each application for a zoning/building permit involving construction, erection, or structural alteration to any building or structure shall be accompanied by a site plan prepared in accordance with Article XVI. In the case of moving an existing building, the application shall be accompanied by photos of the structure to be moved.

Section 9: REPEALER. All ordinances or parts of the previously adopted Primghar Zoning Ordinance or Official Zoning Map in conflict with the provisions of this zoning amendment are hereby repealed.

Section 10: SEVERABILITY CLAUSE. If any section, provision or any part of this zoning amendment is determined to be invalid or unconstitutional, such adjudication shall not affect the validity of the previously adopted Primghar Zoning Ordinance or Official Zoning Map as a whole, or any part or provision of the zoning amendment not determined to be invalid or unconstitutional.

Section 11: EFFECTIVE DATE. This zoning amendment shall be in full force and effect from after passage and publication in a newspaper of general circulation.

Passed and approved by resolution of the first consideration on February 12, 2018

2nd Reading – Waived 2/12/18

3rd Reading – Waived 2/12/18

Kurt Edwards
Mayor, City of Primghar

Attest:
Wendy Ewoldt
City Clerk