

**CITY OF LA CROSSE, WISCONSIN  
CITY PLAN COMMISSION  
REPORT  
May 2, 2016**

➤ **AGENDA ITEM – 16-0324 (Lewis Kuhlman)**

AN ORDINANCE to create Section 115-398(f) of the Code of Ordinances of the City of La Crosse regarding fences on City owned property and easements.

➤ **ROUTING:** J&A Committee

➤ **BACKGROUND INFORMATION:**

This Ordinance would exempt all City fences along recreation trails from height, material, setback, and permitting requirements in [Sec. 115-398 Fences and Hedges](#), of the Municipal Code. While this Ordinance is being created for the fence along the Bud Hendrickson Trail, it will impact all current and future fencing along trails.

The current fence ordinance seems to require a separate permit for each parcel on which the City has an easement to place the fence. The trail abuts approximately 36 privately-owned parcels on its west side.

• **GENERAL LOCATION:**

Citywide

➤ **RECOMMENDATION OF OTHER BOARDS AND COMMISSIONS:**

N/A

➤ **CONSISTENCY WITH ADOPTED COMPREHENSIVE PLAN:**

This ordinance is not addressed in the Comprehensive Plan. However, a major aspect of the Comprehensive Plan and the Zoning Code is to promote health, safety, and welfare as well as appearance. Any deregulation may erode the Zoning Code from doing so.

➤ **PLANNING RECOMMENDATION:**

**Planning staff recommends referral of the ordinance for 30 days to review and amend the ordinance.** An ordinance change may be necessary, but a complete preemption raises concerns. Other than having to obtain multiple permits, it is not clear why every future City fence abutting a recreational trail should be exempt from the fence and hedge regulations of Sec. 115-398. It is unfair to make everyone but the City follow City regulations. This ordinance has the potential to create resentment and a

detrimental precedent. For example, the Common Council recently amended the zoning code so buildings in the Public and Semi-public Zoning District (i.e. government property) are not exempt from design standard requirements (Legislative File #[15-0818](#)).

Planning staff would prefer to work with the Division of Fire Prevention and Building Safety and Engineering Department to improve the fence ordinance, rather than reduce its effectiveness. Further, any fence permitted without a permit should go under *Sec. 115-398(e)(3) Fences permitted without a permit*. Fences covered by the proposed ordinance may be better suited to have similar standards to *Sec. 115-398(e)(1)h. Fence required under conditional use permits*, in which “an opaque fence of six feet in height may be required...” but “such fence shall comply with material requirements as specified hereunder.”

On the other hand, if the one fence that this ordinance is intended for needs an exemption, the City could instead request a variance through the Board of Zoning Appeals.