

CITY OF NEVADA TEXAS

ORDINANCE NO. 09-05

AN ORDINANCE OF THE CITY OF NEVADA, TEXAS, REPEALING ORDINANCE NO(S). 02-10 AND 04-04, AND ESTABLISHING THE REGULATION OF CONSTRUCTION, ENLARGEMENT, ALTERATION, AND MAINTENANCE OF ALL FENCES WITHIN THE BOUNDARIES OF THE CITY OF NEVADA IN ORDER TO PROVIDE A PRACTICAL SAFE GUARDING OF LIFE, HEALTH, AND PROPERTY FROM HAZARDS THAT MAY ARISE FROM IMPROPER CONSTRUCTION OF SUCH INSTALLATIONS. HOWEVER, THIS SECTION AND THE PROVISIONS HERE OF SHALL NOT APPLY TO FENCES ERECTED OR MAINTANINED IN DISTRICTS WITHIN THE CITY WHICH ARE ZONED BUT ARE STILL UNDER THE AGRICULTUAL USE AS UNDEVELOPED PROPERTY; PROVIDING FOR THE ISSUANCE OF PERMITS AND THE COLLECTION OF FEES, PROVIDING FOR A PENALTY CLAUSE, A SERVIABILITY CLAUSE, A REPEALING CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Nevada deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enforce regulations regarding the construction and maintenance of fences in the City; and

WHEREAS, the City Council finds that the adopting a set of minimum standards regarding the construction, maintenance, location, height and materials used in a fence promotes uniform construction and provides a minimum standard of safety.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, TEXAS AS FOLLOWS:

SECTION 1 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fence means any wall or structure more than 24 inches in height, erected or maintained for the purposes of enclosing, screening, restricting access to or decorating the surrounding lot, parcel, building or structures.

SECTION 2 PERMIT TO INSTALL OR ALTER FENCES

- (a) It shall be unlawful for any person to install or cause to be installed, or to permit any person to install a fence or to make any alterations, additions, or changes to a fence greater than twenty (20) feet in length, without first having procured a permit to do so. This does not include repairing or maintaining an existing fence with similar materials.
- (b) The fee of \$75.00 for a permit required by this ordinance shall be provided for in the fee schedule under the permit fee ordinance and shall be paid prior to the issuance of the permit.
- (c) The building inspector may require a plot plan showing the lot size, all in improvements on the lot, and the proposed location of the fence to be constructed before a permit will be issued under this ordinance.

(d) The building inspector may refuse to issue a permit under this section to any person who has been convicted of a violation of any provision of this section.

SECTION 3 COMPLIANCE WITH THE ZONING ORDINANCE

All fences and fence locations shall conform to the requirements of the city's zoning ordinance and nothing in this ordinance shall be construed as permitting construction of a fence which would violate the provisions of the zoning ordinance, as the same now exists or may be hereafter amended.

SECTION 4 REGULATIONS OF ELECTRIC FENCES

Electrically charged fences, whether battery, transformer, or any other type, may be allowed within the rear yard only along the interior base line of an otherwise permitted fence within all zoning districts with the exception of Agricultural districts where it may be installed in the front or side yards as well. No permit shall be required for the erection and maintenance of such single strand wires.

SECTION 5 VISIBILITY OBSTRUCTION

No fence shall be erected or maintained in a manner so as to be a visibility obstruction at or within forty five (45) feet of any intersection of roadways within any district of the city of Nevada.

SECTION 6 HEIGHT REGULATIONS

Front yard.

Only Ornamental type fences not to exceed four feet (4') in height with at least fifty percent (50%) through vision may be constructed in the required front yard. No fence shall be constructed in the front of a residence that will in any manner obstruct the entrance of emergency rescue personnel in the event a life safety situation should occur.

Rear yard and alley line.

No fence shall be constructed at a height exceeding eight feet along the rear yard or alley line of any property within the city.

Side yard.

No fence shall be constructed at a height exceeding eight feet on any side yard line between the front building line and the rear lot line on any property within the city.

Side yards of corner lots.

On corner lots, where side yards are required adjacent to the street to conform to minimum front yard setback of lots fronting upon such street, within the same block and upon the same side, no fence shall be constructed or maintained within such required side yard.

Fences in Heavy and Light Industrial Districts

No fence shall be constructed at a height exceeding ten feet (10') in heavy industrial or light industrial districts. Fence arms may be permitted for use on fences located in heavy industrial or light industrial districts so long as they do not extend beyond the property lines.

SECTION 7 FENCES PROHIBITED IN DRAINAGE EASEMENTS

No fence shall be constructed within any drainage easement in the corporate limits of the city unless the city engineer shall have first determined and advised the building official, in writing, that he or she believes such fence shall, in all probability, not interfere with or impact the natural flow of water across the drainage easement.

SECTION 8 Fence Materials

Fences may be constructed of materials or products such as chain link, wood planks and boards, masonry as defined by the building code, and wrought iron or ornamental iron. Materials or products such as rope; string; wire products including, but not limited to, barbed wire, razor ribbon wire; corrugated metal panels; and plywood are prohibited. Other wood, metal or plastic products that are designed specifically for uses other than fence construction are also prohibited.

SECTION 9 General fence provisions.

- (a) Fences that are constructed on any property within the city must be of approved materials and must be of uniform construction throughout the fence. Once a pattern of materials and construction method is established, it must be carried throughout the entire length of fence section from corner post to corner post.
- (b) It shall be unlawful to erect a fence which alters the natural drainage or planned drainage on any residential lot.
- (c) Used or secondhand materials shall not be used in the construction of any fence in a residential area.
- (d) All fence materials, construction, and workmanship shall comply with all requirements of the building code and all approved plans and specifications.

SECTION 10 INSPECTION OF NEW FENCES

When a fence for which a permit has been issued under this ordinance is completed, it must be inspected. The building inspector's office shall be notified upon completion of the fence.

SECTION 11 NONCONFORMING FENCES

The lawful use of any fence on the effective date of this ordinance may be continued, although such use does not conform to the provisions of this ordinance; provided however, the right to continue such non-conforming use shall be subject to the following regulations:

- (a) Normal repairs and maintenance may be made to a non-conforming fence; provided those repairs do not exceed (50%).
- (b) Unless otherwise provided, a non-conforming fence shall not be added to in any manner unless such additions are made to conform to all the requirements of the district in which such fence is located.

(c) A non-conforming fence shall not be moved in whole or in part unless every portion of such fence is made to conform to all regulations of the district in which it is located.

(d) If a non-conforming fence is damaged, destroyed or in disrepair to an extent greater than (50%), such fence shall be replaced and must conform to all regulations of the district in which it is located and shall be treated as a new fence.

(e) If a property is sold or vacated with a non-conforming fence the property loses its non-conforming status and must be converted to a conforming use. Such fence shall be replaced to conform to all regulations of the district in which it is located and shall be treated as a new fence.

SECTION 12 MAINTENANCE

(a) All fences shall be maintained reasonably plumb and structurally sound. Each structural and decorative member of a fence shall be free of deterioration and be compatible in size, material and appearance with the remainder of the fence.

(b) A fence that has deteriorated to a condition that it is likely to fall shall be repaired or replaced.

(c) Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members.

SECTION 13 Variances

Appeals to the conditions of this Ordinance shall be heard by the City Council. The City Council shall have the authority, upon appeal in specific cases, to authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a strict enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.

SECTION 14 PENALTY CLAUSE

This ordinance dispenses with culpable mental state or element. Any person, corporation or association violating any provisions of this ordinance shall be deemed guilty of an offense, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) For every seven days thereafter, a violation shall be deemed a separate offense, and shall be punished accordingly, provided however, compliance may be further sought through injunctive relief in the District Court.

SECTION 15 SEVERABILITY CLAUSE

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance is adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of provisions thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 16 REPEALING CLAUSE

All ordinances or parts of ordinances in conflict or inconsistent with any of the provisions of this ordinance are hereby repealed insofar as the same are in conflict with the provisions hereof and insofar as necessary to give this ordinance full force and effect.

SECTION 17 EFFECTIVE DATE

This ordinance shall become effective immediately after its passage and publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF NEVADA TEXAS ON THIS THE 5th DAY OF May 2009

CHRISY SCHELL, MAYOR

ATTEST:

MARLA BARTH CITY SECRETARY