

ORDINANCE NO. 2016-0-11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADD ARTICLE 3.13 WHICH REGULATES FENCES; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR THE PUBLICATION AND THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that comprehensive and uniform regulation of fences within the City of Palacios would benefit the health and safety of the citizens of Palacios, and improve the value and use of the properties in Palacios owned by its citizens; and

WHEREAS, The Planning Commission of the City of Palacios has developed regulations regarding fences in the City of Palacios, and presented those regulations to City Council for its review, and after reviewing and considering those regulations, the City Council of the City of Palacios has determined that the regulations proposed below are needed and necessary, and will improve the use and enjoyment of property of the citizens of Palacios, both individual and business owned; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That the Code of Ordinances of the City of Palacios, Texas is hereby amended by adding the following Article 3.13, which shall read as follows:

ARTICLE 3.13 FENCES

Sec. 3.13.001 Generally

(a) No fence, wall, or outdoor area enclosure structure may be erected, placed, or altered within the town unless the fence, wall, or outdoor area enclosure is in conformance with the provisions of this article.

(b) Definitions - for the purposes of this article, the following definitions shall apply:

Alternate orientation: Created when a structure located on a corner lot is constructed to face the street frontage not normally associated to be the front of the lot.

Approved fence materials: Wood, pipe, barbed wire, masonry, chain link, wrought iron, welded wire, plaster, plastic vinyl post and rail.

Corner lot: A lot, tract, or parcel which abuts two streets at their intersection, with the longer street frontage being the side of the lot.

Corner orientation: Created when a structure located on a corner lot is constructed to face the intersection, diagonally across a lot, rather than a traditional orientation toward one of the intersecting streets. In cases of corner orientation, both sides of the lot along the street frontages are to be treated as front yards.

Decorative fence: A fence or outdoor area enclosure constructed for aesthetic purposes only constructed of material such as wood pickets, lattice work, decorative metal, masonry or stone, meeting the requirements of this section.

Electrical fence: An outdoor area enclosure that contains an electrically charged or partially charged metallic material designed to discourage crossing by either man or animal.

Fence: An outdoor area enclosure of masonry, wood, chain link, plaster, or other approved building material no more than three inches in thickness, serving to enclose, divide, or protect an area.

Front building setback: Minimum required front yard setback as specified under Residential Regulations.

Key lot: An interior lot, tract, or parcel which sides to the rear of one or more lots, tracts, or parcels.

Nonresidential zoned areas: Any land within the city zoned for nonresidential uses: C, AG, A/R, WF3.

Office, business, or industrial park/complex enclosure (including entry features): A wall of masonry or a combination of masonry and pressure-treated timber, plaster, iron, or other approved building material serving to enclose or protect an office, business, or industrial park/complex.

Outdoor area enclosure: Any fence, wall, or structure of various materials designed to serve as an enclosure of an outdoor area, a barrier or boundary, or to otherwise divide or protect an area.

Privacy/security enclosures: Fences, walls, or structures located on individual lots, tracts, or parcels for the purpose of enclosing an outdoor area for privacy or security purposes.

Residential subdivision enclosures (including subdivision entry features): A wall of masonry or a combination of masonry and pressure-treated timber, plaster, iron or other building material as approved by the city serving to enclose, divide, or protect a residential subdivision.

Residentially zoned areas: Any land within the city zoned for residential uses: R-1, R-2, WF1, and WF2.

Wall: An outdoor area enclosure of masonry, wood, plaster or other approved building material that exceeds three inches in thickness, serving to enclose, divide, or protect an area.

Visibility triangle: An area as defined in the subdivision ordinance of the city, located at the intersection of two streets, access easements or alleys or any combination thereof where no structure, growth, or object shall exceed three feet in height.

Sec. 3.13.002 Uses

(a) *Residential uses*. In residentially zoned districts, fences, walls, and outdoor area enclosure structures may be erected if in accordance with the following regulations:

1. Privacy/security enclosures.

- (a) Privacy/security enclosures may be fences or walls.
- (b) Privacy/security enclosures shall not exceed eight feet in height.
- (c) Privacy/security enclosures may be erected upon the rear lot line of any lot.
- (d) Privacy/security enclosures may be erected upon the side lot lines of any interior lot.
- (e) Private/security enclosures can be no closer than 75 feet from front lot line.

2. Decorative fences.

- (a) Decorative fences shall not be walls.
- (b) Maximum height of decorative fences shall not exceed eight feet.
- (c) Solid surface area of any decorative fence shall not exceed 30 percent of the total surface area.
- (d) Decorative fences may be erected upon any residential lot line; however, no decorative fence may encroach upon any right-of-way, drainage or access easement, or flood way.
- (e) Decorative fences may be allowed within the visibility triangle with a maximum height of three feet.
- (f) Decorative fences shall be constructed of approved materials.

3. Residential subdivision enclosures, including subdivision entry features. All residential subdivision enclosures shall be walls or a combination of decorative fences as approved by the city staff.

(b) *Nonresidential Uses.* In nonresidential zoning districts, fences, walls, and outdoor area enclosures may be erected if in accordance with the following regulations:

1. Privacy/security enclosures.

- (a) Privacy/security enclosures may be fences or walls.
- (b) Maximum height of privacy/security enclosures shall not exceed eight feet.
- (c) Privacy/security enclosures may be erected on the rear lot line of any lot, tract, or parcel.
- (d) Privacy/security enclosures may be erected upon the side lot line of any lot, tract, or parcel provided that no fence may be erected to extend into the required front building setback without specific city staff approval.
- (e) No privacy/security enclosure may be erected to encroach upon any visibility triangle, right-of-way, access or drainage easements or flood way.

2. Decorative fences.

- (a) Decorative fence shall not be walls.
- (b) Maximum height of decorative fences shall not exceed eight feet.
- (c) Solid surface area of any decorative fence shall not exceed 30 percent of the total surface area.
- (d) Decorative fences may be erected upon any nonresidential lot line; however, no decorative fence may encroach upon any right-of-way, drainage or access easements, or flood way.
- (e) Decorative fences may be allowed within the visibility triangle with a maximum height of three feet.
- (f) Decorative fences shall be constructed of approved material.

3. Office, business, or industrial park or complex enclosure, including entry features.

- (a) Maximum height of all enclosures shall be eight feet.
- (b) Walls enclosing nonresidential developments may be erected along rear property lines.
- (c) Walls enclosing nonresidential developments may be erected upon rear property lines and along the front and side property lines to extend into the required front yard setback; provided that such encroaching structure does not exceed the required three-foot maximum height limit within the visibility triangle, and the enclosure does not encroach upon any right-of-way, drainage or utility easements, or flood way.
- (d) Plans for park or complex enclosures shall be reviewed and approved by the city staff.

(c) *Miscellaneous Uses.* The following regulations shall apply to zoning districts of the city as applicable:

1. Screening. Live screening using natural growth or planted vegetation shall be allowed within the city under the following provisions:

- (a) No tree, shrub, hedge, or other vegetation shall be so planted, pruned or otherwise maintained to exceed a height of three feet within the defined visibility triangle or street right-of-way.
- (b) Any tree, shrub, hedge, or other form of vegetation located within the public right-of-way, utility easement, or visibility triangle shall be subject to removal (without compensation) by the authority of the city for the purpose of utility maintenance and public safety.

2. Barbed wire: Is prohibited.

3. Electrical fences: Allowed for pet care only.

- (a) A warning sign shall be affixed to the fence post or fence wiring, clearly reading "Electric Fence." The wording shall be in English with white letters on a red background.
- (b) Electrical fences shall be UL-approved and installed and maintained as per manufacturer's instructions.

Sec. 3.13.003-3.13.004. Reserved

Sec. 3.13.005 Permits required

Prior to construction of a fence or any outdoor area enclosure, a permit shall be obtained from the city. Upon approval of the application by the city staff and payment of the permit fee, a permit shall be issued for construction. If the permit holder fails to comply with the provisions of this section, the permit shall be revoked, the fence will be considered a nuisance per se, and must be immediately removed.

Sec. 3.13.006 Permit not required

A permit is not required where fences are to be erected associated with new residential permit or new pool permit, where an existing fence is being repaired or where fences are erected within an existing fence. Enclosures in planned developments shall be addressed by the developer.

Sec. 3.13.007 Construction within easements

- (a) Permission to build a fence upon a utility easement does not remove the obligation of the owner of fence to remove the fence upon demand of the utility company. Removal of any fence and any rebuilding of any fence shall be the responsibility of the owner of said fence and at the owner's expense.
- (b) Fences shall be designed, constructed and maintained so as not to interfere with utility lines.
- (c) Fences shall be designed, constructed and maintained so as not to interfere with normal drainage.

Sec. 3.13.008 Setback requirements generally

No fence shall be built within the required front yard or any closer than the front edge of the building in commercial districts. (Reference Chapter 14, 12.4 Exhibit B)

Sec. 3.013.009 Height limit

- (a) No fence shall be built so as to exceed eight (8) feet in height on any residentially zoned property.
- (b) Fence height shall be measured from the grade adjacent to the fence from the applicant's side of the fence. If the fence is constructed on top of a retaining wall it shall be measured from grade near the retaining wall.

Sec. 3.13.010 Maintenance

It shall be unlawful to maintain a fence in such a manner as to allow:

- (1) Any portion of a fence to lean so that the fence is protruding on another's property or is in danger of falling.
- (2) Missing, loose or broken pickets, slats or panels in a fence.
- (3) Symbols, writings or other graffiti on a fence except for those which are permitted as signs or which pertain to the address or occupancy of a property.

Sec. 3.13.011 Variances

The Zoning Board of Adjustments may, upon the showing of an undue hardship to the applicant, grant a variance to this article.

Sec. 3.13.012 Existing Fences

(a) A fence that does not comply with the requirements of this article as of the effective date of this article, shall be allowed to remain provided that fences located in front of a building or in yards adjacent to streets in commercial districts that include barbed wire as a component shall be screened from public view by means of an authorized fence material, slats, or materials or by any screening method authorized in the landscape and screening regulations within 90 days of the effective date of this article and shall otherwise comply with all requirements of this article. If a fence that has barbed wire as a component is screened as provided in this section, the fence shall be allowed to remain unless the fence is replaced, destroyed or damaged to the extent of sixty (60) percent or more of the value of the structure, in which even the right to maintain the structure shall terminate.

(b) Any screening method installed under this article shall remain in place as long as the original fence is maintained. Once the original fence is removed the screening method must be removed within the 30-day period.

Sec. 3.13.013 Permitted types

The following types of fences may be built, erected or constructed within the city provided they meet all applicable requirements of this article:

- (1) Chain-link fences.
- (2) Board fences.

Sec. 3.13.014 Inspections required

When any fence is completed, an inspection must be performed by the building official. Upon completion of a fence, the permit holder shall notify the building official's office. The building official will issue a card of acceptance if the fence complies with the provision of this article. If the fence does not comply with the provisions of this article, it will not be accepted and the permit holder must call for an additional inspection when the fence is completed in accordance with the requirements of this article. All fences constructed under the provisions of this article shall be maintained by the property owner in a vertical position and shall comply with the requirements of this article at all times.

SECTION 2: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

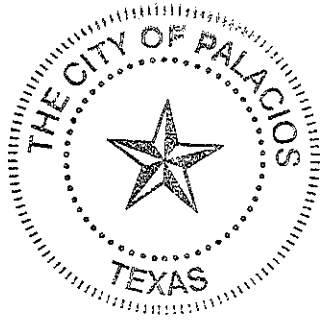
SECTION 3: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 4: Any person who shall violate any provision or provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$500.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 5: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this 15th day of November, 2016.

PASSED, APPROVED AND ADOPTED on second and final reading this 13th day of December, 2016.



CITY OF PALACIOS, TEXAS

GLEN SMITH, Mayor

ATTEST:

ANGELA FLORES, City Secretary

APPROVED AS TO FORM:

RANDALL B. STRONG, City Attorney

...ordinances/fence regulations