

ORDINANCE NO. 2011-03-06

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE LANCASTER CODE OF ORDINANCES, CHAPTER 3, BY REPEALING ARTICLE 3.800, "FENCE REGULATIONS", IN ITS ENTIRETY AND REPLACING WITH A NEW ARTICLE 3.800, "FENCE REGULATIONS"; PROVIDING FOR DEFINITIONS; PROVIDING A PERMIT REQUIREMENT, APPLICATION AND FEE; PROVIDING FOR THE ENCROACHMENT OF PUBLIC PROPERTY; PROVIDING FOR CONSTRUCTION WITHIN EASEMENTS; PROVIDING FOR HEIGHT LIMITATIONS - REAR AND SIDE YARDS; PROVIDING FOR FENCES ON REVERSE FRONTAGE LOTS; PROVIDING FOR THE USE OF BARBED WIRE OR ELECTRONICALLY CHARGED FENCES; PROVIDING FOR FENCE CONSTRUCTION AND MATERIALS; PROVIDING FOR GATES; PROVIDING FOR INSPECTION; PROVIDING FOR MAINTENANCE AND STANDARD OF FENCE; PROVIDING FOR THE APPEAL OF SPECIFIC REQUIREMENTS; PROVIDING FOR THE APPEAL PROCESS; AND BY AMENDING CHAPTER 14, LANCASTER DEVELOPMENT CODE, BY REPEALING ARTICLE 14.500, SECTION 14.501, SUBSECTION (h), "FENCES", IN ITS ENTIRETY AND RESERVING THE SAME FOR FUTURE USE; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING FOR A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the Lancaster Code of Ordinances be, and the same is, hereby amended by Chapter 3, by repealing Article 3.800, "Fence Regulations", in its entirety and replacing with a new Article 3.800, "Fence Regulations", which shall read as follows:

"ARTICLE 3.800 FENCE REGULATIONS

Sec. 3.801 Definitions

For the purpose of this article, the following terms, phrases and words shall have meanings respectively ascribed to them by this section:

Code Official. The administrative official or the designated representative charged with the responsibility of enforcement of this article.

Approved. Approved by the code official or the city council of Lancaster, Texas.

Corner Lot. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not to exceed one hundred thirty-five 135 degrees.

Fence. Any wall, berm or structure more than two and one-half (2 ½) feet in height erected or maintained for the purpose of enclosing, screening, restricting access to or decorating the surrounding lot, parcel, building or structure; located entirely on private property.

Front Yard. An open, unoccupied space on a lot facing a street and extending from the building or the required building line across the front of a lot.

Height (of fence). Measured from ground level at the base of fence to the uppermost part of the fence.

Interior Lot. A lot other than a corner lot.

Interior Lot Line. The side yard lot line that is adjacent to a corner lot or an interior lot's side yard line.

Rear Yard. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal buildings.

Reverse Frontage Corner Lot. A corner lot where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line.

Side Yard. An open unoccupied space on the same lot with the building, extending from the building or the required building line and the same lot line.

Street. For the purpose of this article, street shall refer to public and private streets.

Through Lot (Double Frontage Lot). A building lot not a corner lot, where both the front and rear lot lines adjoin street lines. For the purpose of this section, both street lines shall be deemed front lot lines.

Vision Triangle. Vision triangle is that imaginary area created by measuring along two (2) intersecting property lines a distance as indicated below, then drawing a line diagonally. Fence or fences in these vision triangles shall not exceed two and one-half (2 ½) feet in height.

- 1) Street-Street Intersections. The vision is determined by measuring back from the intersecting point of the two (2) property lines parallel to the intersecting streets a distance of twenty-five (25) feet, and drawing an imaginary line across these two (2) points.

- 2) Alley Intersections. The vision triangle is determined by measuring back from the intersecting point of the two (2) property lines parallel to the intersecting alley a distance of ten (10) feet, and drawing an imaginary line across the two (2) points. (See Figure #5 at the end of this ordinance.)

Sec. 3.802 Permit to Erect Required

It shall be unlawful for any person, firm or corporation to erect or have erected, or to make substantial repairs, suffer or permit a fence or any part of a fence of permanent construction without first obtaining a fence permit from the office of the code official.

Sec. 3.803 Application for Permit

Any person making application for a fence permit shall sign an application which shall contain the following information:

- 1) Applicants name, address and if the applicant represents a corporation, the name and address of the registered agent of the corporation, and if the applicant represents an association, the name and address of the higher manager or agent of the association.
- 2) Name of the owner of the property.
- 3) Address where the fence is proposed to be erected.
- 4) Type of fence construction and buildings to be utilized.
- 5) Height of fence.
- 6) Site plan showing proposed location of the fence and listing relevant dimensions between the fence and other structures on the lot and the location of property lines, easements and public rights-of-way.

Sec. 3.804 Permit Fee

Upon approval of application and at the time of issuance of permit, the applicant shall pay a fee as set forth in the Master Fee Schedule. Any fence constructed without first being issued the required building permit the permit fee may be doubled.

Sec. 3.805 Encroachment of Public Property

No fence, guy wires, braces or any post of such fence constructed pursuant to this Article shall be constructed upon or caused to extend or otherwise encroach over public property that the city or the general public has dominion and control, owns or has a right of access over, under, around or through, except upon utility easements which are permitted to be fenced.

Sec. 3.806 Construction Within Easements

- a) Permission to build a fence upon a utility easement does not remove the obligation of the owner of said 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. 3.807 Height Limitation-Rear and Side Yards

It shall be unlawful to erect, maintain, suffer or permit a fence at a height exceeding (8) feet in any rear yard or along any rear yard lot line, or in any side yard or along any side yard line, except by appeal to the Zoning Board of Adjustment Board and by favorable vote from same.

Sec. 3.808 Height Limitation-Front Yards

- a) Front Yard Fences shall be constructed within the required front yard according to the following:
 - 1) The fence is forty-eight (48) inches or less in height, and the fence is fifty (50) percent visibility open (no solid fences). (See Figure #1.)
 - 2) In the case of a corner lot, the fence is forty-eight (48) inches or less in height, and the fence is fifty (50) percent visibility open (no solid fences). (See Figure #2.)
 - 3) Metal fabric material (chain link) fence materials are not allowed within the required front yard except for the repair or replacement of existing chain link fences to its original height.

Sec. 3.809 Fences on Reverse Frontage Lots

- a) On all reverse frontage lots located on property zoned for residential use, or used for residential use, it shall be unlawful to construct, maintain, suffer or permit a fence within the required side yard area that is adjacent to a front yard area at a distance closer than ten (10) feet of the side property line.
- b) It shall be an affirmation of defense to subsection (a) above that:
 - 1) The fence is four (4) feet or less in height and the fence allows at least fifty (50) percent through vision. (See Figure #3.)

Sec 3.810 Use of Barbed Wire or Electrically Charged Fences

- a) Only fences as part of an agricultural or farming or ranching related activities erected, maintained or permitted shall be electrically charged in any manner or form. The exclusion includes but is not limited to fences electrically charged by battery or those tied in with the regular electrical outlet.
- b) No fence erected, maintained or permitted shall be made with barbed wire unless as part of an agricultural or farming or ranching related activities.
- c) No fence erected, maintained or permitted shall be made with concertina wire, razor wire or anything capable of causing significant harm to the general public.
- d) Any barbed wire portion of a fence for a commercial application must be on that portion of the fence over six (6) feet in height. The barbed arms shall not extend over public rights-of-way or easements or over private property of another person. When adjoining property is zoned or used for residential purposes or public rights-of-way, barbed arms shall extend inward. (See Figure #4.)

Sec. 3.811 Fence Construction and Materials

- a) All fences, unless prohibited elsewhere in this Article, shall be constructed or maintained with wire or metal fabric material (chain link), wood, brick, stone, concrete, vinyl, ornamental iron or other approved materials as approved by the code official. Fence posts shall be constructed or made of metal, brick, stone, concrete, fiberglass or other material approved by the code official. All fence posts must be placed at a depth of at least twenty-four (24) inches into the ground filled and anchored with concrete footers or encasement.
- b) The Zoning Board of Adjustments of the City of Lancaster is hereby designated the appeal body to hear any appeals to decisions rendered from the strict application of this section. Any material proposed not outlined in the above ordinance is considered prohibited for use as fence construction materials.
- c) Fencing in Commercial and Industrial districts behind the front building line shall be constructed of the primary masonry materials of the building, wrought iron, chain link, living plant material or other material as approved by the code official.

Sec. 3.812 Gates

It shall be unlawful for any person to erect, construct or maintain any fence without providing a gate or other means of entrance and exit into and out of the area which the fence encloses; and it shall further be unlawful for any person to erect, construct or maintain any fence along or near a rear property line which adjoins an alley or easement without providing a reasonable means of access to such alley or easement. Gates must swing inward toward private property and are not allowed to swing outward across property lines into public rights-of-way.

Sec. 3.813 Inspection

Upon completion of the installation of a fence, the building inspection department shall be called upon for inspection. An acceptance tag will then be issued or a rejection tag indicating the defects in the same not in compliance with approved plans of city ordinances.

Sec. 3.814 Maintenance and Standard of Fence

All fences shall be maintained by the owners of the property so as to comply with the requirements of this article and shall also be maintained in good condition, such condition shall not deviate from the maintenance standards as follows:

- 1) The fence shall not be out of vertical alignment more than twenty (20) degrees.
- 2) Any and all broken damaged, removed or missing parts of said fence shall be replaced within ten (10) days of receiving notification by regular mail, or notice delivered in person by the code official or his authorized representative. The code official may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time as necessary. Replacement materials to be the same material, size, shape and quality of original fence to which the repair is being made except when a post is damaged, removed or missing. Replacement materials of fence posts shall conform to the standards established by Section 3.811 above. Such post shall be replaced with metal or steel (095 or schedule 40) or other material approved by the code official. Except in cases where a fence or fences are ordered to be constructed on property as a result of a specific order of the city council or through operation of the zoning ordinances of the city, the above requirements shall not be construed so as to not allow a fence or fences to be removed.

Sec. 3.815 Appeal of Specific Requirements

Upon denial of a fence permit application by the code official, an applicant may appeal in writing to Zoning Board of Adjustment Board for consideration of variances. Whenever the applicant can show that a strict application of the terms of this article will impose upon him unusual or practical difficulties, the Zoning Board of Adjustment may consider such variances when the board is satisfied that granting of such variation will not merely serve as a convenience but will alleviate some demonstrable and unusual hardship or difficulty to warrant a variance and at the same time, the surrounding property will be properly protected.

Areas that warrant a hearing before the Zoning Board of Adjustments would be fence materials, fence setbacks and overall height of the fence. These are the only areas that may be considered for considering a variance by the Zoning Board of Adjustments.

Sec. 3.816 Process of Appeal

- a) After denial of a fence permit, the applicant may file an application for appeal for a variance hearing with the Planning Department to be considered or scheduled for a hearing before the Zoning Board of Adjustments.
- b) An appeal fee as provided for in the Master Fee Schedule shall accompany such application.
- c) Site plan drawings and elevations of proposed fence shall accompany application.
- d) The Zoning Board of Adjustment shall hear the appeal from the applicant and render a decision.”

SECTION 2. That the Lancaster Development Code be, and the same is, hereby amended by repealing Article 14.500, Section 14.501, Subsection (h), “Fences”, in its entirety and reserving the same for future use, which shall read as follows:

**“ARTICLE 14.500. DISTRICT DEVELOPMENT REGULATIONS
AND STANDARDS**

.....

Sec. 14.501 General

.....

- (h) Reserved for future use
- (i) Chart of District Standards.

SECTION 3. That all provisions of the Code of Ordinances and Lancaster Development Code in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Code of Ordinances and Lancaster Development Code not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances or Lancaster Development Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances or Lancaster Development Code, as amended hereby, which shall remain in full force and effect.

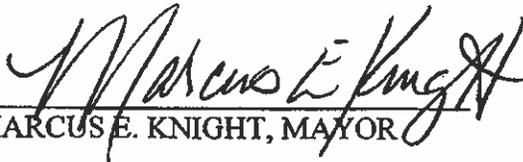
SECTION 5. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Ordinances of the City of Lancaster, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. That any person, firm, or corporation violating any provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the City of Lancaster, as heretofore amended and upon conviction shall be punished by a fine not exceeding \$500.00. The penalty imposed for a violation of this ordinance shall not exceed or be less than the penalty prescribed by state law, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

PASSED AND APPROVED ON THIS THE 14th DAY OF MARCH 2011.

APPROVED:


MARCUS E. KNIGHT, MAYOR

ATTEST:


DOLLE K. DOWNE, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:


ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb)