

CITY OF PRINCETON

ORDINANCE NO. 2011-10-10-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PRINCETON AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS" ESTABLISHING A NEW ARTICLE III, ENTITLED "FENCE REGULATIONS"; PROVIDING FOR A PURPOSE; PROVIDING DEFINITIONS; REQUIRING PERMITS AND FEES; PROHIBITING FENCES IN DRAINAGE DITCHES; PROVIDING FENCE REQUIREMENTS; RESTRICTIONS AND PROHIBITIONS; PROVIDING FOR SECURITY OR COMMERCIAL FENCES; PROVIDING FOR FENCE MAINTENANCE AND ESTABLISHING MINIMUM STANDARDS; PROVIDING FOR INSPECTIONS; PROVIDING FOR SWIMMING POOL ENCLOSURES AND SAFETY DEVICES; PROVIDING FOR VIOLATION FOR NOTICE AND AN OPPORTUNITY TO CURE; PROVIDING FOR METAL, WRECKING AND SALVAGE YARD FENCING; ESTABLISHING VIOLATIONS, OFFENSES AND PENALTIES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Princeton, Texas, ("City") has established and created by separate ordinances, a Comprehensive Zoning Ordinance and Subdivision Regulations; and

WHEREAS, the City Council deems it necessary and desirable to adopt Fencing Regulations to regulate and establish standards for construction, materials, location and districts within the corporate city limits of the City of Princeton.

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

Section 1. *Incorporation of Premises.*

That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. *Adoption of Fence Requirements.*

The City Council of the City hereby amends Chapter 14 "Buildings and Building Regulations" to establish a new Article III entitled "Fence Requirements" which shall hereinafter read in its entirety as follows:

“Article III. Fence Regulations

Sec. 14.60 Purpose of article

The purpose of this article is to regulate the construction, erection, enlargement, alteration and maintenance of all fences within the boundaries of the city in order to provide a practical safeguarding of life, health and property from hazards that may arise from improper construction of such installations. However, this article and the provisions of this article shall not apply to fences erected or maintained in districts within the city which are zoned (A) agricultural use, which has Ag exemption on said property and which is being used for agricultural purposes unless the provision is specifically made to apply to the Agricultural Zoning District.

Sec. 14.61 Fence Definitions

For the purpose of this article, the following terms, phrases, words and derivations shall the meanings set forth below.

- 1) **Adjacent Grade:** The slope of property where it abuts to another property, alley or roadway.
- 2) **Corner lot:** A lot situated at the junction of two (2) or more private or dedicated public streets.
- 3) **Fence:** Any wall or structure more than eighteen inches (18”) in height constructed for the purpose of enclosing, screening, restricting access to, or decoration of any lot, building or structure.
- 4) **Front yard:** An open, unoccupied space on a lot facing a street and extending from the front of the lot to the front of the principal building, between the side lot lines.
- 5) **Infield lots:** A lot located within the interior of the block; not a corner lot.
- 6) **Rear yard:** A space unoccupied by the principal structure extending for the full width of the lot between a principal structure and the rear lot line.
- 7) **Side yard:** An open unoccupied space on the same lot with the building, situated between the building and the side line of the lot, extending from the front yard to the rear yard.
- 8) **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.
- 9) **Visibility triangle:**
 - i) Residential or commercial developments or infield lots with rear or side entry access to a garage or carport, a visibility clip shall be measured five feet (5’) from the corner of the property line, in both directions, shall be provided on both sides of the drive;

- ii) At residential or commercial corner lot with a street to the front or the side, a visibility clip shall be measured at twenty-five (25) feet from the corner of property line in both directions.
- 10) Interior Lot: A lot other than a corner lot.
- 11) Interior Lot Line. The side lot line that is adjacent to a corner lot or an interior lot's side yard line.
- 12) 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.
- 13) Street. For this purpose of this article, street shall refer to public and private streets.

Sec. 14.62 Fence permits required; fee; violation; application

1. A fence permit shall be required as set forth herein and shall be valid for a period of not longer than 180 days.
2. 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, including repairs and maintenance of existing fences, to a fence, or a portion thereof, greater than twenty feet (20') in length, without first having procured a permit to do so. Any repair or maintenance must be done with similar materials. The permit fee required by this ordinance shall be provided for in the fee schedule under the Comprehensive Fee Schedule and shall be paid prior to the issuance of the permit.
3. A plot plan is required showing the lot size, all improvements on the lot, and the proposed location of the fence to be constructed before a permit will be issued under this Article.
4. Application: The following information (in addition to the basic information on the city required permit form) must be included by the applicant when applying for a permit to erect a fence.
 - (1) Type of fence (i.e., style, material and design)
 - (2) Height of fence;
 - (3) Show easements (i.e., utility, drainage etc.) also show width and length of easement.
 - (4) Any requirement specifically provided in any other portion of this Article.

Sec. 14.63 Fences Prohibited in Drainage Easements

No fence shall be constructed within any drainage easement in the city limits of the city unless the property owner submits a certification under seal from a licensed engineer that such fence shall not interfere with or impair the natural flow of water across the drainage easement. The certification must be reviewed and approved by the city's engineer. The applicant is

responsible for 100% of the engineer's consultant fee set forth in City of Princeton's Comprehensive Fee Schedule. Nothing herein shall absolve the property owner of responsibility should the fence interfere with or impair the natural flow of water across the drainage easement, nor shall the city's review of same subject the city or its engineer to liability.

Sec. 14.64 Fence requirements, restrictions and prohibitions

- a) No privately owned fence or guy wires, braces or any other part of a privately owned fence shall be constructed upon or caused to protrude over property owned by the city or the state.
- b) Each individual residential lot within a residential district (SF1, SF2, SF-SE, TF, SF-Z and SF-TH) shall have constructed a minimum six foot wooden fence within the required side and back yards measured at the adjacent grade. If property has a residential use, in a non-residential district, then either the six (6) foot fence must be constructed, or the buffer requirement met as provided in the zoning ordinance, as it exists and as it may be amended, the burden of compliance falling on the use later in time, unless otherwise provided in a specific ordinance.
 - i) In areas where the topography significantly slopes towards an adjacent grade such that a six (6) foot fence as constructed does not equate to a six (6) foot fence, the building official may approve a waiver to the height requirement such that the effective height is six (6) feet and level, consistent with surrounding properties.
- c) No fence shall be constructed within the required front yard or beyond the front building line.
- d) All post shall be schedule 40 steel post and be buried at least 2 feet in the ground with concrete support. Wood posts are not allowed.
- e) **Electric Fencing.** No fence that is electrically charged in any form or manner shall be allowed in any zoning district, unless prior written approval has been given by the City Council as part of the development approval and permit process.
- f) Barbed wire, metal/wire livestock fencing not exceeding five feet in height above the adjacent grade shall be permitted within a required front yard in an (A) Agricultural Zoning District only.
- g) Each lot or tract of land in a (SFE) Single Family Residential – Estate District, or(A) Agricultural Zoning District may construct a solid fence or wall within the required front yard provided the fence shall not exceed (4) four feet in height above adjacent grade. The solid fence or wall shall be of brick, rock stone or a combination there of. Wrought iron may be a part of the fence or wall. A site plan and design standard will be required prior to permit and approval by the Building Official.
- h) No fence shall be located within any easement except by prior written approval of the agencies which have interest in such easement, which must be submitted at the time of permit application.
- i) No chain link fence with or without slats shall be permitted.

- j) No sheet metal fences shall be constructed on properties in any residential or commercial zoning areas, or be used as part of the required buffer zone.

Sec.14.65 Security or Commercial Fences

- a) For all properties that are zoned for Industrial, Commercial or on public property which requires protection from vandalism may construct a fence with barbed wire arms extending outward. No such barbed wire arm shall extend outward over the property line. No fence will be greater than (8) eight feet in height. No fence will be allowed past the front building line.
- b) Security fences for industrial or commercially zoned property and gated communities will require Princeton's City Council's approval as to construction materials, height, appearance prior to issuance of a permit.
- c) The Council may permit such fences to provide the requisite noise and light barrier, in whole or in part, as part of the development approval and permit process.
- d) All gates must be equipped with an Emergency Access system approved by the Fire Marshal.

Sec. 14.66 Fence Maintenance

- a) All fences shall be maintained in good condition and meet the minimum standards set forth in the International Codes as adopted and as they may be amended, and shall comply with the following requirements.
 - i) Fences, or any part thereof, shall not be more than (20%) percent out of vertical alignment.
 - ii) Damaged, removed, or missing portions of a fence shall be replaced or repaired with comparable materials to the remaining portion.
 - iii) The owner of any fence, existing or new, shall be responsible for the removal of any and all graffiti.
 - iv) Any and all vegetation shall be kept clear of fences and shall not be allowed to grow into a fence.
- b) It shall be a violation of this Article to fail to maintain a fence in good condition by failing to meet one of the above requirements, minimum standards adopted or by permitting a damaged, deteriorated or unaligned condition, graffiti or vegetation to exist contrary to a stated requirement.

Sec. 14.67 Inspection of New Fences

When any fence for which a permit has been issued under this Article is completed, it must be inspected. The building inspection department shall be notified within 10 days of completion of the fence. The building inspection department will issue a card of acceptance if the fence complies with the provisions of this Article or reject the fence if it does not comply and issue a notice to cure the deficiencies. Any deficiency noted must be completed within 30 days unless the building inspection department grants an extension of an additional 30 days for good cause shown.

Sec. 14.68 Swimming Pool Enclosures and Safety Devices

- a) Swimming pool fences and enclosures shall comply with all applicable federal and state regulations. The City hereby adopts Section 3109 of the 2006 edition of the International Building Code, as it exists and as it may be amended, as the minimum standards for swimming pool fences and enclosures.
- b) Pools owned, controlled or maintained by the owner of a multi-unit dwelling complex or a property owners association, as defined by Chapter 757 of the Texas Health & Safety Code, shall be governed by the standards, rules, and regulations set forth thereunder, as it exists and as it may be amended.
- c) The provisions of this section in this Article are adopted pursuant to Section 214.101 of the Texas Local Government Code. Procedures for the repair, replacement, securing or other authorized remedy for deteriorated, substandard, dilapidated or other state or condition that poses a hazard to the public health, safety and welfare shall be those found under Chapter 214.001 of the Texas Local Government Code, as adopted by the City by ordinance.
- d) It shall be a violation to fail to meet the minimum standards required for maintaining a swimming pool enclosure or safety device as set forth herein or the code adopted hereunder.

Sec. 14.69 Dilapidated Fence; Notice and Opportunity to Cure.

- 1) It shall be a violation of this Article to fail to maintain a fence in good condition, consistent with the minimum standards as adopted herein.
- 2) A notice shall be served to the property owner informing of the violation of minimum standards and providing a written ten day opportunity to cure. Failure to timely cure may result in the Building Official issuing a notice of violation and/or proceeding under Chapter 214.001 of the Texas Local Government Code, as adopted by the City, relative to the repair or demolition of substandard structures.

- 3) Nothing herein shall preclude the City from proceeding under both civil abatement and criminal proceedings.

Sec. 14.70 Scrap Metal, Wrecking and Salvage Yard Fencing

- a) Fences or enclosures for these uses must be addressed in the ordinance granting the Specific Use Permit, and shall include but not be limited to the following:
 - i) All applications for sheet metal fencing shall require plans designed by a registered architect or engineer and the wind load shall be determined by said architect or engineer.
 - ii) Must meet applicable state law requirements.
 - iii) All fences for such uses must be constructed so as to completely screen the yards and the contents from public view, from both public or private properties. Screened from public view shall include solid construction that does not permit views through the enclosure, and be of a height, to fully enclose and screen from public view the contents of the use. No stacking of contents of the use shall exceed the height of the fence.

Sec. 14.71 Offense and Penalties:

1. It shall be a violation of this Article to
 - a. fail to obtain a permit required herein;
 - b. conduct any activity in violation of the provisions herein;
 - c. fail to comply with any obligation to cure a deficiency or maintenance requirements set forth herein;
 - d. Use construction materials other than as provided herein;
 - e. Construct a fence prohibited by this Article;
 - f. Construct a fence in a prohibited location.
 - g. Fail to maintain a fence in good condition.
2. Any owner, person, firm, corporation or business entity violating this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00). Unless otherwise specified, allegation and evidence of a culpable mental state is not required for proof of an offense committed herein. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.
3. Notwithstanding the foregoing, nothing herein shall preclude the City from proceeding with civil abatement of a dilapidated fence as provided herein”

Section 3. *Repeal of Conflicting Ordinances.*

This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Princeton, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this

Ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

Section 4. Severability.

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

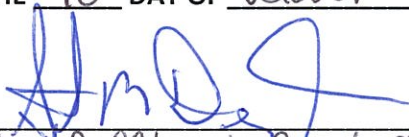
Section 5. Penalty

Any person violating the terms and provisions of this ordinance shall, upon conviction, be punished by a fine of not more than Five Hundred Dollars (\$500.00) and each and every day this ordinance is violated shall constitute a separate offense. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this ordinance.

Section 6. Providing an Effective Date.

The ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PRINCETON, TEXAS, ON THIS
THE 10 DAY OF October, 2011.



Steve Deffenbaugh Deputy Mayor Pro Tempore
KEN BOWERS, Mayor

ATTEST AND

CORRECTLY ENROLLED:



LESIA THORNHILL, City Secretary

