

ORDINANCE NO. 2023-12

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, OF THE CITY OF TEXAS CITY, TEXAS, TITLE XV - LAND USAGE, BY ADDING CHAPTER 161: “FENCE ORDINANCE”; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; DISPENSING WITH THE CHARTER REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION

WHEREAS, there is a need to amend The Code of Ordinances of the City of Texas City, Texas, Title XV - Land Usage, by adding Chapter 161, Fence Regulations, and

WHEREAS, there is a need to address the minimum standards for the erection of fencing within the City, and

WHEREAS, there is a need to clarify the additional authority regarding the erection and maintenance fencing, and

WHEREAS, upon recommendation of the Director of Engineering & Planning, Fire Chief and Fire Marshal and full review and consideration of all matters related and attendant thereto, the City Commission determines that amending Title XV - Land Usage, by adding Chapter 161, Fencing Regulations will promote the health, safety, and general welfare of the City and the safe, orderly, and healthful development of the City;

WHEREAS, the City Commission determines that amending Title XV – Land Usage, Chapter 161, Fencing Regulations will promote the health, safety, morals, and general welfare of the City and the safe, orderly, and healthful development of the City;

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

SECTION 1: The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact, and

SECTION 2: The City Commission hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to promote health, safety, morals, or general welfare and the safe, orderly, and healthful development of the municipality, and

SECTION 3: The City of Texas City’s Code of Ordinances, Title XV – Land Usage, is hereby amended to add the following:

CHAPTER 161: FENCE ORDINANCE

Sec. 161.001 Title and Purpose.

(A) The chapter shall be known and may be cited and referred to as the "Fence Ordinance"

(B) The Fence Ordinance is adopted for the following purposes:

- (1) To promote the health, safety, and general welfare of the city.
- (2) To ensure the safe, orderly, and efficient development and expansion of the city.
- (3) To promote a desirable visual environment.

General Provisions

Sec. 161.002 Definitions.

For the purpose of this Chapter, the following terms, phrases, words and their derivation shall have the meaning given below:

Build Line – The location allowed for the installation of a fence. The property line is the build line for the rear and side yards. The front build line shall not be any closer to the front property line than the front of the primary structure or the front setback, whichever is further away from the front property line. The term "setback" is defined in the Zoning Ordinance.

Corner lot - A lot situated at the junction of two (2) or more private or dedicated public streets.

Exempt Repair – An exempt repair is maintenance to an existing fence where replacement of materials does not exceed the greater of twenty-four (24) linear feet or ten (10) percent of the length of the fence and does not change the scope, material, location or dimensions of the fence. Exempt Repair may be or include the painting or staining of an existing fence without limitation to length. Exempt repairs shall be made using the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made. Exempt repairs can be made only to fences which otherwise comply with the requirements of this Chapter regarding location, dimension, materials, condition and with any other applicable provision of the Zoning Ordinance at the time of repair.

Fence – Any barrier, wall or structure more than eighteen inches (18") in height constructed for the purpose of enclosing, screening, restricting access to or providing decoration to any lot, building or structure. Except where otherwise required in this Chapter or elsewhere in the Texas City Code of Ordinances, regulations governing the height, location and opacity of fences also apply to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. The term "fence" includes each and every part of a fence, including the base, footings, supporting columns, post, braces, gates, structural members, locks, closures or any other of its components or appendages.

Front yard – An open space, unoccupied (except as provided in the Zoning Ordinance) across the full width of the lot extending from the front line of the building to the front street line of the lot.

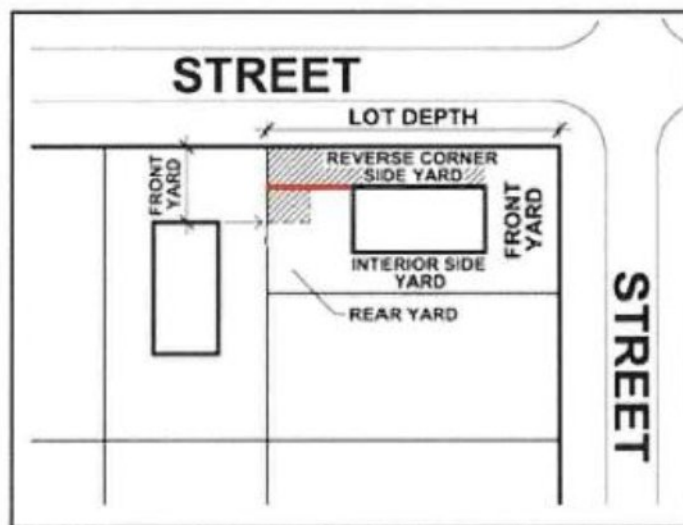
Non-Opaque Fence – *Non-sight obscuring fence* that can be seen through by persons outside its confines and which does not act as a privacy screen. A fence with gaps between vertical members of two and a quarter inch (2 ¼) or more (measured facing the fence or viewed at an angle from the side) shall be considered a non-sight obscuring fence. Opaque sections shall not exceed two and a quarter inch at any point.

Property Line – The boundary line between two pieces of property or between a piece of property and the public right of way.

Rear yard – An open space, unoccupied (except as provided in the Zoning Ordinance) between the rear lot line and the rear line of the principal building and the side lot lines.

Retaining Wall – A wall designed and or constructed to resist the lateral pressure of soil in an area where there is a desired change in ground elevation.

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 a building, situated between the building and the side line of the lot, and extending through from the street or from the front yard to the rear line of the lot. Any lot line not a rear line or a front line shall be deemed a side line.

Survey – A real property survey is a report that indicates the location of improvements, easements and rights of way relative to the boundaries of the property. It is prepared and stamped by the duly licensed Texas surveyor, signed and seal dated.

View Triangle – A “view triangle” constitutes an area of unobstructed sight distance for the traveling public at the intersection of two streets, which area can be determined by the maintained distance of not less than thirty-five (35) feet in either direction of the corner property line.

Sec. 161.002 Fence and Retaining Wall Permits.

(A) It shall be unlawful for any person within the City, without first obtaining a permit, to erect, construct, reconstruct, or have constructed or reconstructed, alter, repair or to allow the erection, construction, reconstruction, alteration, or repair of any type of barrier, fence, wall or structure, or any part thereof, or any type of retaining wall. No permit is required for an Exempt Repair as that term is defined under this Chapter.

(B) Permits are required for the following:

- (1) New installation
- (2) Addition to an existing installation
- (3) Relocation in whole or part of an existing installation
- (4) Changes in materials
- (5) Changes in height
- (6) Repairs which are not exempt

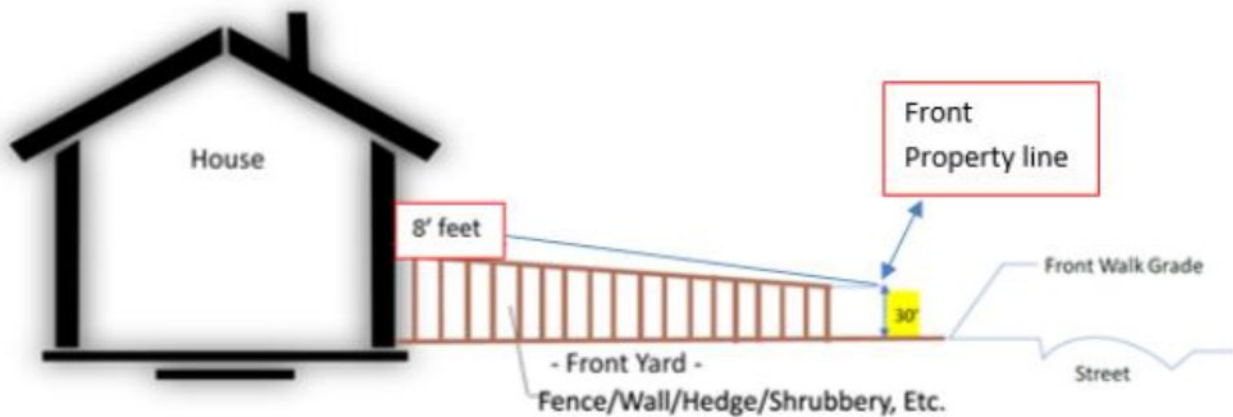
Sec. 161.003 Application. Application shall be made upon forms and according to procedures issued by the Building Official. Applications must show authorization by current property owner. Proof of ownership and proof of identification shall be required for each application. Contractors engaged to perform the work shall be registered with the City of Texas City. A permit fee shall be collected with the application as provided by the Building Inspections Fee Schedule.

Sec. 161.004 Fence Requirements

(A) Rear yard requirements. It shall be unlawful to erect a fence at a height exceeding eight (8) feet in any rear yard. Fences shall be erected along the rear build line with no part of the fence extending outside of the property line as shown by survey.

(B) Side yard requirements. It shall be unlawful to erect a fence at a height exceeding eight (8) feet in any side yard. Fences shall be erected along the side build line with no part of the fence extending outside of the property line as shown by survey.

(C) Front yard requirements. It shall be unlawful to construct an opaque fence that extends more than thirty (30) inches in height from grade beyond the front property line. It shall be unlawful to erect a non-opaque fence to a height greater than (30) inches above the finished lot grade. Front yard fences of non-opaque construction with greater than two and quarter inch (2¼) openings are allowed to be a maximum height of forty eight (48) inches above finished grade, not to extend beyond the front property line. It shall be unlawful to erect a fence that exceeds the maximum allowable build line height as if a string was pulled from the maximum build line height to the maximum front property line height. It shall be unlawful to construct a fence that is within sixty-six (66) inches of the edge of the street or curb.



(D) Fence Materials:

(1) Front yard fence material shall be chain link mesh of galvanized, black vinyl or dark green vinyl coating or other material as approved by the Building Official.

(2) Decorative fence material (e.g., wrought iron, wood, masonry, etc.) shall be approved by the Building Official.

(3) Chain link fences in a residential zoned district shall have (for, among other reasons, safety concerns) the finished edge of the material on the top of the fence.

(E) It shall be unlawful for any person to erect, construct, maintain or allow a fence that:

(1) Is constructed of damaged, deteriorated or unsafe materials.

(2) Is constructed of unapproved materials.

(3) Is constructed with used or recycled materials.

(4) Is constructed of fiberglass panels; or any other materials that are not manufactured specifically as fencing materials unless intended for agricultural usage or for restraining livestock.

(4) Is constructed with Barbed wire except when used only to restrain livestock or as part of a fence on commercial or industrial property where the lowest strand of barbed wire is not less than six and one-half (6½) feet above ground level.

(5) Is constructed with rope; string, tarps; except as otherwise provided in this Section, wire products, including but not limited to, chicken wire, hog wire, wire fabric and similar welded or woven wire fabrics; live bamboo; netting; cut or broken glass; paper; corrugated metal panels; galvanized sheet metal or plywood.

(6) does not afford proper view triangle requirements for visual clearance for traffic approaching an intersection in either direction as defined in Section 160.086(G). Proper view triangle visual clearance shall be maintained for a distance of not less than thirty-five (35) feet in either direction of the corner property line.

(F) It shall be unlawful to construct a temporary fence except where required by code for construction, excavation or life safety issues, provided however that temporary fences made of wire and not in excess of three feet in height are permitted for residential gardens.

(G). It shall be unlawful to construct a fence on a vacant lot or on multiple adjacent individual vacant lots. For purposes of this provision, vacant shall mean the property does not have an active principal use compliant with the Zoning Ordinance.

(H) Swimming Pool, Spa and Hot Tub Fence - A person constructing or maintaining a fence or wall enclosure around a swimming pool, spa or hot tub shall comply with the minimum requirements of the City's building codes, as it exists or may be amended, and other applicable laws.

(I) Fences that face the public right of way or open space must be smooth side out. Rails must be facing in towards the yard.

(J) Fences must be located eighteen (18) inches from the public sidewalk if the sidewalk is four (4) feet wide or less. If the sidewalk is over four (4) feet wide the fence may be located up to the sidewalk.

Sec. 161.005 Retaining Walls

The City of Texas City requires a permit for any retaining wall, regardless of height. Retaining walls more than two feet in height require engineered plans.

Sec. 161.006 Deed Restrictions

Deed restrictions and regulations by homeowner associations or property owner associations or other site specific regulations imposed by agreements which attach to the property and may be enforceable by private action may be more restrictive than this Chapter, but shall not be effective to reduce the requirements or limitations of this Chapter.

Sec. 161.007 Maintenance Required

(A) Any person, group of persons, firm or corporation owning or having control of any fence within the City shall be responsible to maintain the fence in a safe and presentable condition and in compliance with the requirements of this Article. This shall include, but not be limited to, replacement of broken or defective boards, posts, wire or other fence parts that may cause the fence to be unsafe or unsightly, and the correction of any visible and/or unsafe lean or condition in the fence. Failure to properly maintain such fence as required under this section shall be considered a violation of this Article.

(B) All fences, including without limitation, fences existing on the effective date of this Ordinance, are subject to inspection and may be tagged as safety hazards or public nuisance if not adequately maintained.

Sec. 161.008 Abatement and Removal of Unsafe Fences and Other Violations

Violations of this Chapter/Subchapter may be deemed a Nuisance in accordance with Texas City Code of Ordinances Section 94.001 and the Texas Health and Safety Code Section 341.011 and,

thereafter, a Notice for Removal issued in accordance with Section 94.

Sec 161.009 Applicability to existing Fences.

To avoid undue hardship and provide for the application of the requirements of this Chapter to existing fences, the City Commission adopts the following special procedure for fences existing as of the effective date of this Chapter:

(A) City officials shall promote public awareness and provide intense and/or targeted public education about the requirements of this ordinance for a period of six (6) months from the date of adoption of the Fence Regulation Ordinance.

(B) City officials shall conduct courtesy inspections of existing fence installations upon request or at the discretion of the official based upon the condition of the existing fence installation. Warning citations shall be issued for a period of six (6) months from the date of adoption of the Fence Regulation Ordinance. Except as provided hereinbelow, such warning citations shall not be enforceable as a violation unless and until the expiration of six (6) months from the date of adoption of the Fence Regulation Ordinance AND the condition remains unresolved or the property owner fails to make reasonable effort to comply with the requirements of the citation for a period of thirty (30) days.

(C) Warning citations may be made enforceable for cause within the six (6) months from the date of adoption of the Ordinance or at any time thereafter for any condition which may be deemed a Nuisance in accordance with Texas City Code of Ordinances Section 94.001 and the Texas Health and Safety Code Section 341.01, upon the joint recommendation of the Director of Community Development, Fire Marshal and Chief Building Official and approval by the Mayor.

(D) From and after the six (6) month anniversary of the date of adoption of the Fence Ordinance, all citations shall be enforceable if the cited condition remains unresolved or the property owner fails to make reasonable effort in good faith to comply for a period of ten (10) days.

Sec. 161.010 Conflicting Regulations

Whenever the requirements of this Chapter/Subchapter conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern, except that any specific requirements expressed in Chapter 159 Subdivision Regulations or Chapter 160 Zoning shall prevail. This exception shall be interpreted and applied liberally to effectuate the purposes of the subdivision and zoning regulations.

Sec. 161.999 Penalty for Violations

(1) Any person or corporation who shall violate any of the provisions of this article or fail to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor, and each owner or owners of any building or premises or part hereof, where anything in violation of this article shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who knowingly assists in the commission of

any such violation shall be guilty of a separate offense and upon conviction shall be fined as herein provided. The City likewise shall have the power to enforce the provisions of this article through civil action as provided by state law.

(2) Any person or corporation violating or failing to comply with any provisions of this Chapter shall be fined, upon conviction, not less than \$10, nor more than \$2,000, and each day any violation or non-compliance continues, shall constitute a separate offense.

Section 4. This ordinance shall be cumulative of all provisions of the City of Texas City, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the more restrictive provision shall apply.

Section 5. It is hereby declared to be the intention of the City Commission of the City of Texas City, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Commission without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. All rights and privileges of the City of Texas City, Texas, are expressly saved as to any and all violations of the provisions of any Ordinances affecting land use or development, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. This Ordinance shall be effective immediately upon the passage, approval and publication as required by law.

Section 8. That the Charter requirement for reading this Ordinance on three (3) separate days has been dispensed by a majority vote of the City Commission.

PASSED AND ADOPTED this 19th day of April 2023.

Dedrick D. Johnson, Sr., Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Rhomari D. Leigh
City Secretary

Kyle L. Dickson
City Attorney