

ORDINANCE #8014

STATE OF TEXAS
COUNTY OF BELL
CITY OF NOLANVILLE

AN ORDINANCE OF THE CITY OF NOLANVILLE, TEXAS, CONTROLLING THE CONSTRUCTION, ALTERATION, REPLACEMENT, REPAIR, AND LOCATION OF FENCES AND SCREENS WITHIN THE CITY LIMITS OF NOLANVILLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR THE DISPENSEMENT OF THE REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; PROVIDING FOR PUBLICATION BY CAPTION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE, BELL COUNTY, TEXAS, that the following is hereby adopted as the Fencing and Screening Ordinance of the City of Nolanville:

Article I. In General

Section 1. Title.

This ordinance shall be known as and may be cited and referred to as the "Fencing and Screening Ordinance" of the City of Nolanville, Texas.

Section 2. Purpose.

A.) This ordinance shall control the construction, alteration, replacement, repair, and location of fences and required screenings within the city limits of the City of Nolanville.

B.) This ordinance is hereby declared to be remedial and shall be construed to secure the beneficial interest and purpose thereof, which are public health, safety, and general welfare of the community.

Section 3. Interpretation and Application.

As concerns the interpretation and application, the provisions of this ordinance shall be held to the minimum requirements. Where this ordinance imposes greater restriction than is imposed or required by other rules or regulations or ordinance, the

provisions of this ordinance shall control.

Section 4. Jurisdiction.

This ordinance shall be in full force and effect in the corporate city limits of the City of Nolanville, Texas. Territory annexed into the corporate limits of the City of Nolanville, Texas, subsequent to the effective date of this ordinance shall immediately be subject to the provisions of this ordinance.

Article II. Requirements.

Section 1: Quality Control.

Quality control of materials and workmanship is not within the purview of this ordinance except as it relates to the purposes stated within.

Section 2: Material.

Fences may be constructed of the following materials: Masonry, cedar, redwood, treated lumber, chain link and decorative iron. Wooden fence material placed in contact with the earth shall be treated to protect the material from rot, decay, and/or termites. Those materials not specifically mentioned are hereby prohibited unless approved in writing by the Building Official upon application. Barb wire fencing may be allowed or used on parcels upon which farm animals are legally kept and maintained. Permits are not required for internal cross-sectioning of such land for the control of animals or to enforce rotational grazing.

Section 3: Placement.

A.) Fences shall be built on property lines to avoid conflicts between property owners. In the event that there is a dispute between property owners of the location of a property line, it shall be the responsibility of the property owners to resolve the conflict without intervention by the city.

B.) Any fence built in or across utility easements shall remain the responsibility of the property owner. In the event that the fence is constructed on an easement and the fence is subsequently damaged or destroyed through the exercise of the rights of the owner of the easement, the repair or replacement of the fence shall be the sole responsibility of the property owner.

C.) Fences and gates built in the front yard within the 25 foot building setback, where permitted, shall not exceed four feet in height. However, on lots consisting of five or more contiguous acres, one decorative arch or gate neither exceeding 20 feet in height nor 30 feet in width may be erected as a part of such a fence.

D.) Fences built on a side yard shall be placed on the property line.

(1) Fences built on a side yard facing a public street may be placed on the property line. When the side yard is adjacent to the adjoining property's front yard, the side yard fences may not exceed four feet in height unless they are set back to the adjoining properties front yard setback line.

(2) Any fence in the rear yard of lots that contain a 25 foot building setback in the rear portion of the lot shall not exceed four feet in height.

Section 4: Zoning.

Fences constructed in areas zoned "R" shall not exceed six feet in height measured from finished grade. Fences constructed in all other zoned areas shall not exceed eight feet in height measured from finished grade.

Section 5: Screening.

A.) Where the side, rear, or service side of property zoned R-3, R-MH, B, or M is adjacent to property zoned R-1, R-2, or R-3 or RT-1, screening of not less than six feet in height shall be erected separating the use from R-1, R-2, R-3, or RT-1 property. Screening shall be erected as the property is developed for use. Screening shall meet the requirements of one of the listed alternates, A, B, or C, as set forth in Section 6: Standards for Screening. No screening shall be required adjacent to a street.

B.) For all uses other than R-1, R-2, or RT-1, refuse storage areas shall be visually screened by a six-foot high solid fence or wall on all sides except the side used for pick up service. Such side need not be screened.

Section 6: Standards for Screening.

Where screening is required, the following are the approved types of screening:

A.) *Screening alternate A.* Consists of a solid masonry or concrete wall, six feet in height measured from the average grade of the nearest property line of the property adjacent to that on which the screening is required.

B.) *Screening alternate B.* Consists of a chain link fence with redwood slats, six feet in height measured from the average grade of the nearest property line of the property adjacent to that on which the screening is required.

C.) *Screening alternate C.* Consists of a solid wood fence, six feet in height measured from the average grade of the nearest property line of the property adjacent to that on which screening is required.

Section 7: Maintenance.

All required screening shall be kept in good repair and maintained in a neat and orderly manner at all times. The duty of maintenance shall be the responsibility of the person or persons in charge and control of the property where screening is required.

Section 8: Additional Screening or Fencing.

The Planning and Zoning Commission may recommend and the City Council may require screening or fencing requirements in any zoning case, in addition to these requirements, when the nature and character of surrounding or adjacent property dictate a need to require such devices, in order to protect such property and to further provide protection for the general health, welfare, and morals of the community.

Article III. Enforcement.

Section 1. Notice of Violation.

A.) Whenever the Code Enforcement Officer shall determine that any violation of this Ordinance has occurred, the Officer shall send written notice to the violator.

B.) In addition to the written notice, the Code Enforcement Officer may also post notice on the violation itself.

C.) The notice must state that the violation must be corrected and removed not later than the tenth (10th) day after the date of the notice.

Section 2. Remedies, Expenses, and Citations.

A.) If the violation is not corrected or remedied within the ten days following the date of the notice required by this article, the Code Enforcement Officer is authorized to correct the violation. The cost of correction, and any other costs accrued by the City in the process of correcting the violation, shall be assessed against the violator. Payment of such expenses shall not relieve any person from prosecution for the violation of any part of this Ordinance.

B.) The Code Enforcement Officer may issue a citation or summons to a person in charge of property within the city limits who violates this Ordinance. A person receiving a citation or summons who is convicted of violating any provision of this Ordinance shall be guilty of a Class C misdemeanor and fined not less than five dollars (\$5.00) nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offense. Such remedy under this section is in addition to the abatement restitution.

C.) This section shall not be construed to limit the authority granted by any other law for a police officer or other authorized person to enforce the laws of this state and of this city.

Section 3. Repeat Violations.

The Code Enforcement Officer shall inform the violator, in the Officer's written notice to abate, that if the violator commits another violation of the same kind on or before the first anniversary, twelve (12) months, of the date of the notice, the Code Enforcement Officer, without further notice, may correct the violation as provided in this Ordinance.

Article IV. Repeal of Conflicting Ordinances, Severability Clause, Savings Clause, Publication and Effective Date.

Section 1. Repeal of Conflicting Ordinances.

Any ordinance now in effect that conflicts or is inconsistent with any provision of this Ordinance is hereby repealed to the extent of such conflict or inconsistency.

Section 2. Severability Clause.

It is hereby declared to be the intention of the City Council of the City of Nolanville, Texas, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining clauses, phrases, sentences, paragraphs, and sections of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 3. Savings Clause.

All rights and remedies of the City of Nolanville, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance 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 Ordinance, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 4. Publication.

The reading of this ordinance on three (3) separate days, having been dispensed with, the City Secretary of the City of Nolanville, Texas, is hereby directed to publish the caption and Article III, Section 2, A. and B. of this Ordinance for two (2) days in the


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official newspaper of the City of Nolanville, Texas, as authorized by Section 52.011, of the Texas Local Government Code.

Section 5. Effective Date.

It being necessary for the preservation of the public peace, health, and safety, this Ordinance shall be in full force and effect after its passage and publication as required by law.

PASSED AND APPROVED AT A REGULAR COUNCIL MEETING OF THE CITY COUNCIL OF THE CITY OF NOLANVILLE, TEXAS, ON THIS THE 19TH DAY OF FEBRUARY, 2004, AT WHICH TIME A QUORUM WAS PRESENT.


C.W. Mike Carter, Mayor


Christine Taylor, City Secretary