

ORDINANCE NO. 2023-10

**AN ORDINANCE OF THE CITY OF EAGLE PASS
CODE OF ORDINANCES BY AMENDING SECTION
12 D (1), APPENDIX A (ZONING ORDINANCE) AND
23-94, ARTICLE VII, CHAPTER 23 (SUBDIVISIONS);
BY UPDATING NEW PROVISIONS TO NEW
DEVELOPMENT FOR UNIFORM STANDARDS
REGARDING FENCES; FINDING THAT THE
MEETING AT WHICH THIS ORDINANCE IS PASSED
IS OPEN TO THE PUBLIC AS REQUIRED BY LAW;
PROVIDING A SEVERABILITY CAUSE; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, Chapter 23 of the City of Eagle Pass, Texas (“City”) Code of Ordinances contains the rules and regulations governing the construction of new subdivisions in the City of Eagle Pass, Texas; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF EAGLE PASS, TEXAS:**

SECTION 1. That Section 12, D (1), Appendix A Zoning Ordinance, of the Code of Ordinances of the City of Eagle Pass is hereby amended by add the following:

Sec. 12. Additional use, height, and area regulations and exceptions

D. Miscellaneous regulations:

(1) Fences

- (a) All new subdivisions must have fencing as described in this chapter or other city ordinance.
- (b) The installation, replacement or relocation of a fence within the City of Eagle Pass requires a building permit from the City.(c) All fences within a residential zoning shall be constructed of brick, stone, masonry, cement, stucco, cinder block, iron or wood that has been stained, pressure treated, painted, or adequately sealed to prevent decay. Requests to upgrade to an alternative fencing material must undergo a concept plan review with the planning director and city engineer.
- (d) All new residential construction shall include fencing of the side yard areas from the primary structure to the side property line with at least one access gate. On corner lots and where there is more than one public right of way frontage, those sections abutting frontage shall also be constructed. These

sections of fencing shall be installed prior to issuance of certificate of occupancy.

- (e) Fences in commercial and industrial zones must undergo a concept plan review with the planning director and city engineer. The following materials are prohibited: cast off or second hand items, plywood.
- (f) Ranch style fencing typical for maintaining livestock and for predator control (such as a field fence, hours mesh fence, split rail, and ranch board) may be used on premises of three acres or more in size. In addition, barbed wire fencing may be used on premises upon which large farm animals are legally kept and maintained. Permits are not required for internal cross-sectioning of such premises for the control of animals, to enforce rotational grazing, or for the repair of ranch style fencing to the extent that it is a necessary part of normal maintenance.
- (g) Fences in any zoning district shall not exceed eight feet in height measured from the finished grade. Some fence designs may require to be engineered.
- (h) Fences and gates built in the front yard setback area, where permitted, shall not exceed four feet in height when constructed of wrought iron, or other semitransparent materials, with a minimum of 50% visibility, as approved by the Building Official. Chain link or cyclone fencing is not an allowed material for front yard fencing. Front yard fences or walls that are more than 50% opaque may not exceed 30" in height.
- (i) Fences on property that are at the intersection of two streets must not encroach within any visibility triangle. The VISIBILITY TRIANGLE shall mean a triangle sight area, at all intersections, which shall include corner lots, driveways or other access points with the public right-of-way. This visibility triangle must be kept free of fences and other screening between 30" and seven (7) feet in height that would obstruct the motorist's views of oncoming traffic.
- (j) Fence sections essentially parallel with a public street shall have their back side (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public. Exception: Posts and rails may be oriented to the exterior of the residence when concealed within construction that is consistent with and complementary to the construction of the fence. Visual depictions of construction shall be required for review of appearance prior to issuance of a permit.
- (k) In properties with double frontage, construction of fence sections along collector or arterial streets is the responsibility of the developer. Fence material and color within these sections shall be maintained by individual property owners to maintain uniformity and visible aesthetic from public right of way.
- (l) In properties with no double or triple frontage fence sections, construction of fences is the responsibility of the builder.

- (m) All fences constructed under the provisions of this article shall be maintained so as to comply with the requirements of this article at all times.

Fences shall be maintained in sound structural condition as a whole or completely removed, including posts.

- (o) No fence shall be erected, maintained, or permitted that is electrically charged in any manner, has barbed wire in or on it, has concertina wire in or on it, has razor wire in or on it, has in it or on it bards, projects, broken glass, or anything reasonably capable of causing harm to persons or animals except in industrial zoning districts or where allowed by this code.
- (p) No fence may impede access to public utilities or metering devices.
- (q) Where approved, 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 substantially damaged or destroyed through the exercise of the rights of the City of Eagle Pass or utility entities, the repair or replacement of the fence shall be the sole responsibility of the property owner.
- (r) Existing fences that were approved by the planning department and constructed prior to the adoption of this article with materials not currently permitted by this article may be maintained as long as no part of the fence is, or becomes unsafe, dilapidated, or a public nuisance as determined by the planning department.
- (s) Between residential and non-residential uses, a seven (7) feet minimum height opaque fence shall be provided to buffer the residential uses from impacts from the non-residential use. All screening fences required under this section shall be constructed of brick, stone, masonry, cement, stucco, cinder block or pressure-treated weather-resistant lumber, and shall be structurally reinforced to resist wind damage. They shall be constructed in such a manner as to provide visual screening.
- (t) The erection of a fence is not mandatory, with the following exceptions in which it is required: to enclose a swimming pool area where required, to enclose a day care center play area, residential perimeter fencing where required, as screening for commercial waste/refuse containers, and as required by other applicable sections of adopted City code.
- (u) The City does not permit fences in floodway areas as designated on FEMA's flood boundary and floodway map. The lone exception for fencing in a floodway area will be a break away fence type as approved through the City Engineer.

SECTION 2. That Section 23-94, Article VII, Chapter 23, of the Code of Ordinances of the City of Eagle Pass is hereby amended by add the following:

ARTICLE VII. – OTHER REQUIREMENTS

Sec. 23-94. Fences

- (a) All new subdivisions must have fencing as described in this chapter or other city ordinances.
- (b) In properties with double frontage, construction of fence sections along collector or arterial streets is the responsibility of the developer. Fence material and color within these sections shall be maintained by individual property owners to maintain uniformity and visible aesthetic from public right of way.

SECTION 3. If any section, part, or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable, and all other parts of this Ordinance shall not be affected thereby, and they shall remain in full force and effect.

SECTION 4. This Ordinance shall be in full force and effect from and after its final passage and publication thereof, in accordance with the City Chapter of the City of Eagle Pass.

READ, PASSED, AND APPROVED ON FIRST READING on this day 4th Day of April, 2023.

ATTEST:

Rolando Salinas
Mayor

Imelda B. Rodriguez
City Secretary

AYES: Salinas, Davis, Diaz, Ramon, Cruz
NAYS: None
ABSTAINED: None
ABSENT: None

READ, PASSED, AND APPROVED ON SECOND READING, this 2nd Day of May, A.D., 2023.

ATTEST:

Rolando Salinas
Mayor

Imelda B. Rodriguez
City Secretary

AYES: Salinas, Davis, Diaz, Ramon, Cruz
NAYS: None
ABSTAINED: None
ABSENT: None

READ, PASSED, AND APPROVED ON THIRD AND FINAL READING this 15th Day of May, A.D., 2023.

ATTEST:

Rolando Salinas
Mayor

Imelda B. Rodriguez
City Secretary

AYES: Salinas, Diaz, Garcia
NAYS: None
ABSTAINED: None
ABSENT: Davis and Cruz

APPROVED AS TO FORM AND LEGALITY:

Langley & Banack, Inc.
City Attorney