

ORDINANCE NO. 2084

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF ALICE, TEXAS, APPENDIX A – ZONING, CHAPTER 10 – FENCE REGULATIONS, SECTION 10-3 – USE REGULATIONS, TO PROVIDE FOR A VARIANCE; PROVIDING A SAVINGS AND SEPARABILITY CLAUSE; A REPEALER CLAUSE; REVOKING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The current code provides for no variance to Section 10-3; and

WHEREAS, The determining factor in approving a fence being constructed in a R-1 residential district will be conformity within the subdivision and neighborhood of the property, bearing in mind that no construction poses a threat to public safety; and

WHEREAS, the building official and director must both agree to provide for a variance to this code;

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

Section One: Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section Two: Amendment. Appendix A – Zoning, Chapter 10 – Fence Regulations, Section 10-3 – Use Regulations, of the Code of Ordinances, City of Alice, is hereby amended by adding paragraph “I – Variance:” to read as follows:

Sec. 10-3. - Use regulations.

- (a) *Property lines.* No fence, guy wire, brace, light standard, sign, vee arm, barbed wire base and arm, or any structure attached to a fence shall protrude over any property line.
- (b) *Dimensions of fences.*
 - (1) *R-2, R-3, R-4, R-5 and R-6 zoning districts:*
 - a. *Front yard fence.* No fence shall be constructed or erected to exceed four feet in height. The height of the fence to be measured from the highest adjoining grade parallel to the fence.
 - b. *Back yard fence.* No fence shall be constructed or erected to exceed six feet in height. The height of the fence to be measured from the highest adjoining grade parallel to the fence.
 - (2) *C and D zoning districts.* No fence shall be constructed or erected to exceed eight feet in height in front yard and back yard. The height of the fence to be measured from the highest adjoining grade parallel to the fence.
- (c) *Placement of fences.*

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- (c) *Placement of fences.*

- (1) No fence shall be constructed in front of the designated building line of any property in R-1 one-family district except on existing platted lots within R-1 one-family district fences may be constructed where the majority of the lots within a block have fences constructed and erected prior to the enactment of this ordinance [6-13-1983] and said fence must be compatible in height to the fences constructed and erected in such area. Fences may be constructed on all property lines of property zoned in R-2, R-3, R-4, R-6, C and D zoning districts in accordance with the height regulations specified herein.
 - (2) No fence of any height or type shall be permitted on a corner lot within or along a triangle formed by measuring 15 feet in each direction from the point of corner of the property lines at the street intersection.
 - (3) No fence shall be constructed in any manner, which interferes with the drainage of contiguous properties.
 - (4) No gate for any fence shall open outward onto public right-of-way.
 - (5) No fence shall be constructed and no natural fence shall be planted within, nor shall such fence or natural fence encroach upon or extend over, any dedicated right-of-way of any street or alley.
- (d) *Maintenance.* It shall be the duty of the owner of the lot to provide proper maintenance of fences. Proper maintenance shall include but is not limited to:
- (1) Painting;
 - (2) Repair of broken or weak boards, posts, torn chain links, etc.;
 - (3) Trimming of natural fences; and
 - (4) Resetting of nails.
- (e) *Fence materials.* Any and all materials used in the construction of a fence built within the legal limits of the city shall meet or exceed standards set by the standard building code regarding fire zones.
- (f) *Prohibited materials.* Electrical fences of electrical attachments of any type, dimension or composition shall not be constructed within the legal limits of the city. Permanent barbed wire fences of any type or dimension shall not be constructed within the legal limits of the city. Vee arms or base and arms with barbed wire not to exceed three strands will be permitted provided such attachments are not less than six feet above ground level. Said attachments shall be considered as part of the fence in determination of the height of said fence and shall not protrude over property lines.
- (g) *Temporary fences.* Temporary fencing for the purpose of protection or securing of construction sites may be allowed and notice of duration of use of temporary fencing with the schedule of time of use must be so specified in the permit for fencing. Barbed wire fences may be allowed for temporary use but must be approved by height, location, and number of strands by the building inspector [building official].

- (h) *Inspection.* When a fence is completed it must be inspected. The office of the building inspector [building official] shall be notified upon completion of the fence. The building inspector [building official] will issue a card of acceptance if the fence complies with the provisions of this ordinance or it will be rejected. All fences constructed under the provisions of the ordinance shall be maintained so as to comply with the requirements of this ordinance at all times.
- “(i) Variance. “The Building Official of the City of Alice and Director may grant a variance to this code, making such determinations on a case-by-case basis. The determining factor in approving any exemptions to this code will be based on conformity to the subdivision and neighborhood of the property. The homeowner(s) requesting a variance must do so in writing to the Director. The Director and Building Official will have five (5) business days to respond to such requests. If a variance is not granted, the homeowner(s) of the may follow procedures in place to appeal that decision to the City of Alice Board of Adjustments.

(Ord. No. 1062, § 1(17-10-3), 6-13-1983)

Section Three: Repealer Clause. The repeal of any Ordinance or parts of Ordinances effectuated by the enactment of this Ordinance shall not be considered as abating any actions now pending under or by virtue of such ordinance or as discontinuance, abating, modifying or altering any penalty accruing or to accrue or as affecting the liability of any person, firm or corporation as waiving any right of the municipality under any section or provision of any ordinance existing at the time of the passage of this Ordinance.

Section Four: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section Five: Savings Clause. All rights and remedies of the City of Alice are expressly saved as to any and all violations of the provisions of any ordinances affecting fees within the City 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 Six: Effective Date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Texas Local Government Code.


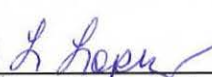
Section Seven: Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act.

PASSED AND APPROVED on the 24th day of April, 2018.



Mayor Jolene B Vanover

ATTEST:

Diana L Lopez, City Clerk
Approved: April 24, 2018