

ORDINANCE NO. 2044

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS, APPROVING AN AMENDMENT TO THE CITY OF KELLER UNIFIED DEVELOPMENT CODE (UDC), ADOPTED BY ORDINANCE NO. 1746 DATED JULY 7, 2015, BY AMENDING ARTICLE 8 - ZONING DISTRICTS, DEVELOPMENT STANDARDS, TREE PRESERVATION, RELATED TO FENCE REQUIREMENTS; AUTHORIZING PUBLICATION; PROVIDE FOR PENALTIES; AND ESTABLISHING AN EFFECTIVE DATE. CITY OF KELLER, APPLICANT.

WHEREAS, the City Council of the City of Keller, Texas, finds it to be in the best interest of the citizens to amend the Unified Development Code by clarifying the height and setback requirements on corner lots and cul-de-sacs, providing exceptions to the four-foot setback requirements on the front property adjacent to bar ditches, allowing white vinyl fencing in certain cases for the SF-36 zoning district, and adding a definition for "open style" fencing within the City's Unified Development Code (UDC-21-0008) as detailed in "Exhibit A"; and

WHEREAS, notice of a public hearing before the Planning and Zoning Commission (Commission) was sent to real property owners within three hundred feet (300') of the property herein described at least ten (10) days before such hearing; and

WHEREAS, the Commission held a public hearing on October 12, 2021 and unanimously recommended approval as presented; and

WHEREAS, notice of a public hearing before the City Council was published in the Fort Worth Star Telegram, a newspaper of general circulation in Keller, at least fifteen (15) days before such hearing; and

WHEREAS, a public hearing to receive public input was held at the City Council meeting on November 2, 2021; and

WHEREAS, the City Council does find that there is community support for said revisions to the Unified Development Code, and that the public requires the amendment;

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

Section 1: THAT, the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: THAT, in accordance with the Unified Development Code, the City Council of the City of Keller, Texas hereby authorizes approval of

amendment to the City of Keller Unified Development Code, adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 8 - Zoning Districts, Development Standards, Tree Preservation, related to fence requirements; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. (UDC-21-0008), in the City of Keller, Tarrant County, Texas, and incorporated herein.

- Section 3: THAT, all Sections shall be amended to read as detailed in "Exhibit A," incorporated into this Ordinance by reference.
- Section 4: THAT, all other ordinances in conflict herewith are hereby repealed.
- Section 5: THAT, any person, firm, or corporation violating any of the provisions of this Ordinance, as read together with the Unified Development Code and accompanying map thereto, shall be guilty of a misdemeanor and upon final conviction therefore shall be fined in a sum not to exceed Two Thousand Dollars (\$2,000.00). Each and every day such violation continues shall constitute a separate offense and shall be punishable as such hereunder.
- Section 6: THAT, if any section, paragraph, clause, phrase, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the validity or unenforceability of such section, paragraph, clause, phrase, or provision shall not affect any of the remaining provisions of this Ordinance.
- Section 7: THAT, the City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.
- Section 8: THAT, this Ordinance shall become effective upon its adoption and publication provided by law.

AND IT IS SO ORDAINED.

Passed and approved by a vote of 6 to 1 on this the 2nd day of November, 2021.

CITY OF KELLER, TEXAS

BY: _____
Armin R. Mizani, Mayor

ATTEST:

Kelly Ballard, City Secretary

Approved as to Form and Legality:

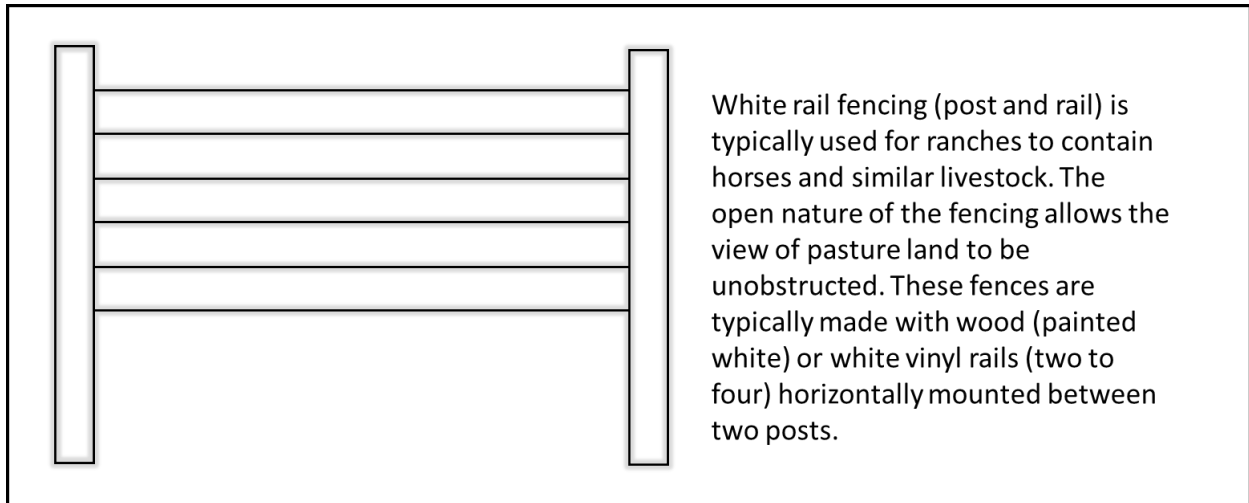
L. Stanton Lowry, City Attorney

Section 8.11 Fencing Requirements in Single-Family (S) and Two-Family (2F) Residential Zoning Districts

A. General Requirements for all Properties.

1. A fence permit shall be required for the following:
 - a) All new fence construction.
 - b) The replacement of an existing fence of more than eight (8) linear feet being replaced in the same location other than Agricultural Fencing.
 - c) The relocation of any portion of fencing regardless whether the same panels are being used.

A permit is not required for replacement of posts or hardware if there is no replacement of panels.
2. When sixty percent (60%) or greater of the total linear feet of a Legal Non-Conforming fence is replaced, the fence shall adhere to the standards of the current applicable Code. The percentage of linear feet being replaced cannot exceed more than fifty-nine percent (59%) in a twelve (12) month period from the date of the previous approved fence permit to retain the legal non-conforming status.
3. All fences shall be kept in good repair and shall not create urban blight. Dilapidated fences shall be repaired or replaced in accordance with provisions of this Code. Wood fences may be painted or stained with natural wood colors. Iron fences may be painted. No bright unnatural colors are allowed on any fencing. Fencing of the same material(s) must be a consistent color.
4. Dependent on the requirements below, fences may be constructed of wood, ornamental metal, tubular steel, or similar material. Fences may also be constructed of an open-style wood fencing with a thin-gauge wire screen attached directly behind the wood. White vinyl fencing is only permitted in the SF-36 zoning district if all of the following requirements are met:
 - a) designed as post and 2-, 3-, or 4-rail ranch fencing (see Diagram XX), and
 - b) applicant's property is used for agricultural purposes or is immediately adjacent to agricultural uses, and
 - c) the fencing material is professional grade (e.g. made from virgin vinyl, contains UV inhibitors (such as titanium dioxide) and impact modifiers), and
 - d) the fence is warrantied for a minimum of 20 years (versus "lifetime" warranty).



5. Variances to this ordinance may be considered by the Zoning Board of Adjustment.
6. "Open style" fencing requires that 50% of each panel be open. Examples of open fence styles include pipe, pipe and cable, wrought iron, picket, and rail fencing.

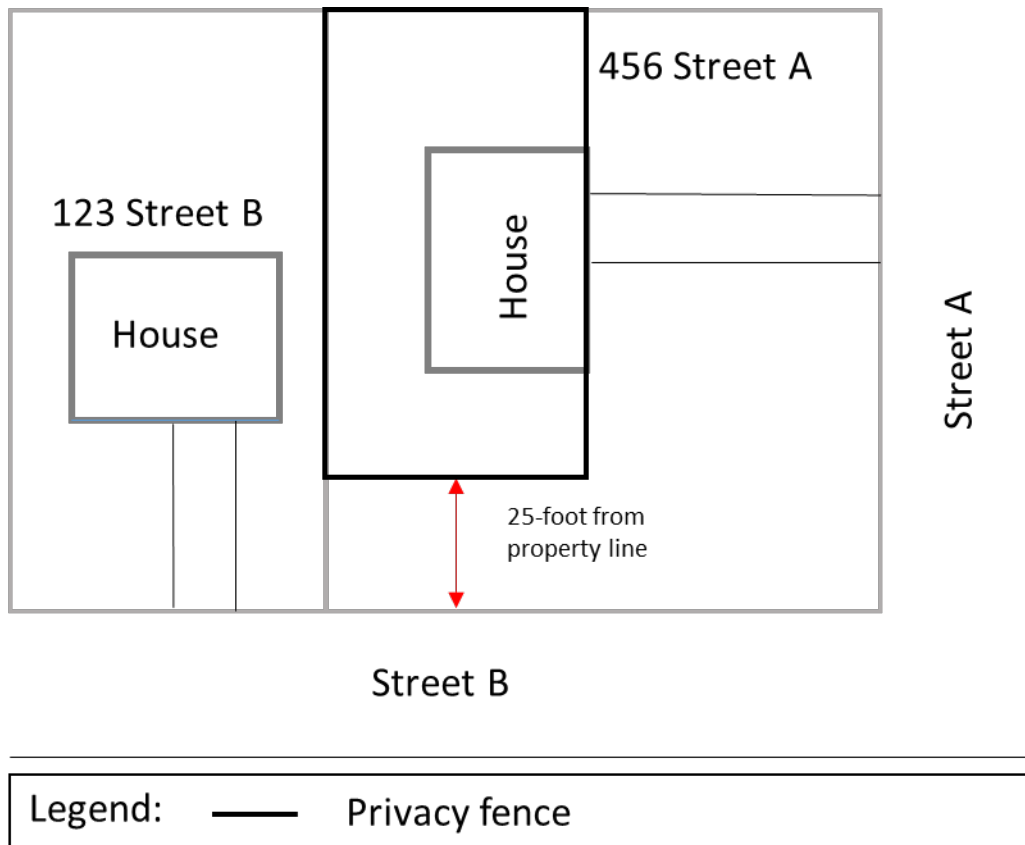
B. Height Requirements.

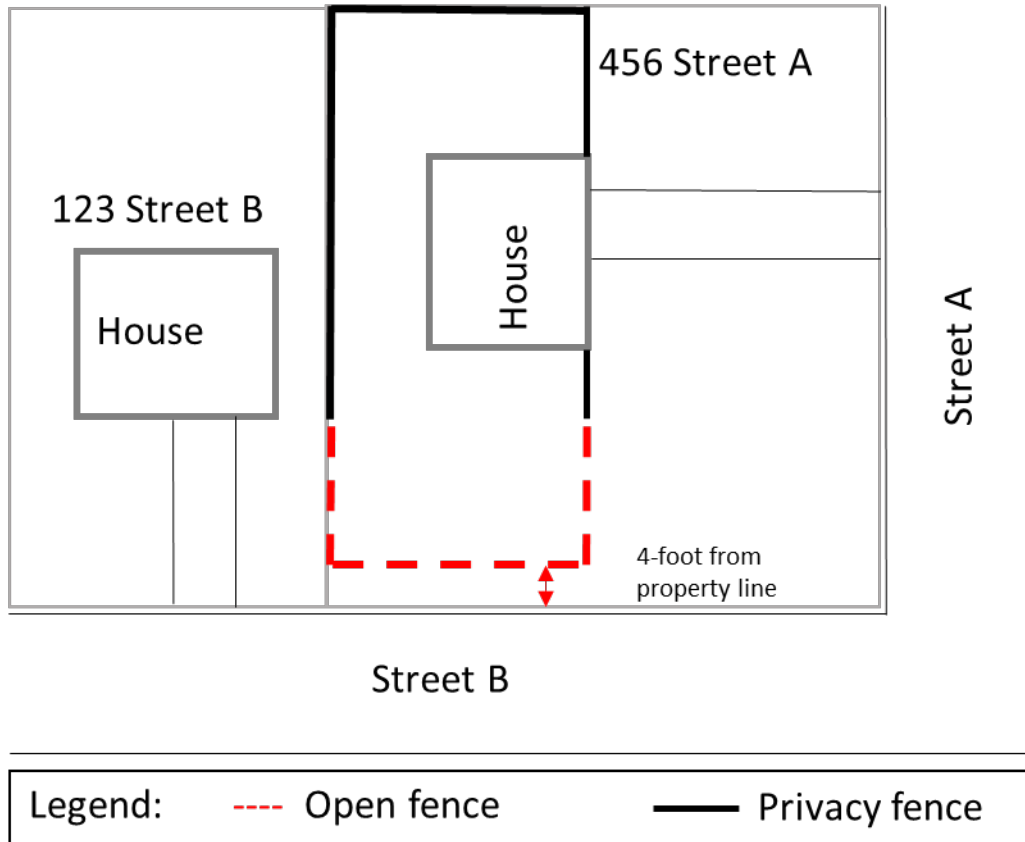
1. Height requirements are as follows:
 - a) Eight feet (8') maximum for all interior rear and side yards. (Any area in front of the main structure is considered "Front Yard" per the UDC.)
 - b) Open-style fence height requirements for front yards and side yards in front of the main structure are as follows:
 - 1) For properties which are located in SF-8.4, SF-10, SF-12, and SF-15 zoning districts, fence shall not exceed a height of thirty-six inches (36") when located in front of the main structure.
 - 2) For properties which are located in SF-20, SF-25, SF-30, and SF-36 zoning districts, fence shall not exceed a height of six feet (6') when located in front of the main structure and the property is a half-acre or greater. If the property is less than a half-acre, refer to B(1)(b)(1) of this code.
 - c) Corner lots shall comply with the following requirements:
 - 1) The maximum height of fences for corner lots are as follows:
 - a) Eight feet for side fences and rear fences adjacent to a street.
 - b) Eight feet for connecting interior fences that are not adjacent to the street.
 - c) When a fence is adjacent to a park or trail (regardless whether it is developed or passive) the maximum height allowed is eight feet (8').
 - d) Ten feet (10') in height for athletic enclosures on residential properties which cannot be seen from the street or adjacent properties.
 - e) When a fence abuts a subdivision Landscaping/Screening Wall, the height of a fence adjacent or perpendicular to a screening wall shall not exceed the height of the subdivision's screening wall or any other fence constructed by the developer at the time of initial development.

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- g) Special exceptions for fence heights over these maximums may be made for properties of exceptional topography or necessary finished floor elevations to aid in screening when standard fence heights are inadequate. The determination will be made by the Director of Community Development or his/her designee.

C. *Locations for Fences In All Zoning Districts.*

1. In all zoning districts, fences adjacent to a street must be inset a minimum of four feet (4') from the property line except when front property line is adjacent to a bar ditch.
2. In all zoning districts, solid fences for side and rear yards may be allowed on the property line when such fence is not adjacent to a street.
3. The location of fences adjacent to a street on corner lots shall be as follows:
 - a) Open-style fences (including front and side yards when adjacent to a street) shall be located a minimum of four feet (4') inside of the property line except when front property line is adjacent to a bar ditch.
 - b) If a side or rear fence for a property is located in front of the main structure *of an adjacent property*:
 - 1) A solid fence may be located no closer than 25 feet from the side property line facing the street.
 - 2) An open-style fence may be located no closer than 4 feet from the side property line facing the street.
 - 3) Landscaping may not be added that inhibits traffic visibility of the corner.
 - 4) If the corner lot is on an entry to a cul-de-sac, the fence may extend to the build line on both street-facing sides even if closer than 25' and extends in front of the adjacent home. This latter scenario assumes the corner home was built behind the build line.
 - 5) Fences and landscaping are required to have a vision clip in accordance with this Code (see Art. 8 Section 8.08.I.b) so as not to impede the vision of traffic. Live screening is allowed *inside* of the fence.





- d) When a fence abuts a subdivision Landscaping/Screening Wall, a private fence may be constructed beyond the required setback line in order to adjoin the subdivision screening wall.
- D. *Requirements for Lots Adjacent to Streets, Schools, Alleyways, and other Public Spaces.* Allowable wood privacy fences adjacent to streets, schools, passive parks, alleyways, or visible from public spaces shall have the finished side facing the public space. All fence posts and structural components shall be placed on the interior of the lot.
- E. *Requirements for Lots Adjacent to Thoroughfares.* All new or replacement privacy wooden fences adjacent to a thoroughfare, as shown on the Thoroughfare Plan, shall be constructed of Cedar material with posts set in concrete and Cedar top caps, and bottom caps (also as known as "rot boards" or "kickboards") constructed of treated wood. The entire fence shall be stained with Ready Seal or equivalent wood sealant material. All replacement of Legal Non-Conforming fences more than sixty percent (60%) of total linear feet shall comply with this provision (see Art. 8 Sec. 8.17 Figure 19).
- F. *Requirements for Lots in or Adjacent to a Drainage Way or Drainage Easement.* Fences adjacent to a drainage way or drainage easement shall be as follows:
1. All fences adjacent to drainage ways or drainage easements (including floodplains and floodways) shall be constructed of an open-style fence and may be constructed of ornamental metal, tubular steel, or similar material. Masonry columns may be considered in conjunction with one of the aforementioned materials and require approval of the Public Works Director or his/her designee when requested in or adjacent to a drainage way or drainage easement. Vinyl fencing is strictly prohibited. Wood fencing shall not be allowed within or immediately behind the required open fencing.

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2. All fences that are adjacent to drainage ways and drainage easements and have been historically constructed of wood and do not inhibit the Drainage Easement may be approved by the Public Works Director or his/her designee on a case-by-case basis. If approved, the fence shall meet all other applicable criteria as set forth in this Code.
 3. Swing gates may be required by the Public Works Director or his/her designee. In such cases, the fence must comply with all other applicable Codes in this ordinance.
- G. *Requirements for Lots in or Adjacent to a Open Space or a Common Space.* All fences adjacent to an open space and/or a common space area shall be constructed of ornamental metal, tubular steel, or similar material.
- H. *Requirements for Lots Adjacent to a Park or Trail.* All fences in or adjacent to a park or trail shall be as follows:
1. Fences in or adjacent to a developed park or trail shall be constructed of ornamental iron, tubular steel, or similar material. Vinyl fencing is strictly prohibited.
 2. Fences in or adjacent to a passive park may be constructed of (privacy) wood with smooth side facing out, ornamental metal, or tubular steel. Fences may also be constructed of an open-style wood fencing with a thin-gauge wire screen attached directly behind the wood. Vinyl fencing is strictly prohibited.
- I. *Requirements for Lots with a Swimming Pool.* Swimming pool fences shall comply with the following requirements:
1. Swimming pools barriers (fences) shall be no less than 48 inches (1219 mm) above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.
 2. Openings in the fence shall not allow passage of a 4-inch-diameter sphere. All gates shall have self-closing, self-latching mechanisms installed.
 3. A main structure or accessory building may be used as part of a fence enclosure, provided that all entrances into the swimming pool area or court are equipped with gates as described herein, or doors with latches or locks.
- J. *Requirements for Non-Residential Uses in Residential Districts.* Fences for non-residential uses allowed in residential districts such as schools and churches shall be constructed of ornamental metal, tubular steel, masonry, or a combination thereof. Fences may also be constructed of an open-style wood fencing with a thin-gauge wire screen attached directly behind the wood. Vinyl fencing is strictly prohibited.
- K. *Requirements for Drive Gates.* Drive gates are permitted as follows:
1. Properties in SF-8.4, SF-10, SF-12, SF-15 zoning districts in side or back yard.
 2. Properties in SF-20, SF-25, SF-30, and SF-36 zoning districts fencing is installed in the front yard, side yard, or back yard.
 3. All drive gates must adhere to the following criteria:
 - a) Swinging drive gates must swing in towards the property and not out towards the street. Sliding gates may also be considered for a drive gate.
 - b) All drive gates directly adjacent to a public street must be inset a minimum distance of twenty-five (25') from the edge of the curb or pavement, and
 - c) All drive gates directly adjacent to a thoroughfare as shown on the Thoroughfare Plan must be inset for a minimum of fifty feet (50') from the edge of the curb or edge of pavement.

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- L. *Requirements for Chain Link Fencing.* Chain link perimeter fencing is generally prohibited in all zoning districts with the following exceptions:
1. Fencing of dog runs and athletic enclosures on residential properties are allowed as follows:
 - a) Galvanized chain link is allowed when the fence cannot be seen from the street or adjacent properties.
 - b) If the chain link fence can be seen from adjacent properties at grade level, the fence shall be vinyl clad in black, green or tan.
 - c) Refer to "B(1)(e)" of this Code for height requirements of athletic enclosures.
 2. Existing chain link perimeter fencing on residential properties if no more than sixty percent (60%) of the fence is being replaced and no other replacement of fencing has been done in the previous twenty-four (24) months.
 3. Galvanized chain link fencing may be allowed with a permit on a temporary basis for construction purposes or special events and must be removed before the request of the final inspection of the building and/or site at the end of the special event, respectively.
 4. Temporary Construction fences shall comply with the following requirements:
 - a) Galvanized chain link fencing is allowed on a temporary basis for non-residential projects and residential projects of five or more lots while under construction, with a permit. The fence adjacent to a street shall be four feet (4') inside of the property line and shall not encroach the Right-of-Way nor impede the vision of traffic.
 - b) Fence wrap (mesh screening) eighty percent (80%) or greater opacity is required in conjunction with chain link fencing on the following types of projects:
 - 1) Non-residential projects;
 - 2) Residential subdivision projects of five (5) or more lots;
 - 3) All projects which are adjacent to or visible from a thoroughfare.
 5. Advertisement may be allowed to be printed on fence wrap in lieu of a Development Sign and must be listed on the fence permit application. Proposed advertising graphics shall be included as part of the permitting process for the fence wrap and chain link fence. If mesh screening is utilized for advertisement, a development sign is not required. Advertisement of project name, project elevation, construction company, lending agency, and all other companies related to the project may be allowed on every other panel, but no more than fifty percent (50%) of the fence wrap may be utilized for this purpose. The background of the fence wrap shall be white.
- M. *Exceptions and Requirements for Agricultural Use Fences.* Fences for Agricultural Use, as defined in Art. 3, Sec. 3.01, located in SF-36 Zoning District and having two acres or greater are as follows:
1. Fences may be constructed of barbed wire, electrical fencing, slick wire, pipe fencing, pipe and cable fencing, composite decking, and utility fencing panels or any combination thereof. White vinyl fencing is only allowed in the SF-36 zoning district in accordance with the requirements of Section 8.11(A)(4).
 2. Fence height requirements are as specified in "B" of this Code.
 3. Temporary enclosures such as "round pens" and "bullpens" that are used for the purpose of temporary confinement of farm animals or training of farm animals and are easily relocated within the property are not required to obtain a permit

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4. A permit is required when installing a new agricultural fence on the perimeter of the property, or replacing more than fifty percent (50%) of the total linear feet of an existing perimeter fence. Interior agricultural fences that separate pastures and paddocks do not require a permit.

(Ord. No. 1960, § 2(Exh. A), 12-17-2019; Ord. No. 1999 , § 2(Exh. A), 1-5-21)