

TOWN OF FLOWER MOUND,

TEXAS ORDINANCE NO. 67-19

AN ORDINANCE OF TOWN COUNCIL THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS" OF THE TOWN'S CODE OF ORDINANCES, SECTION 14-513, "DEFINITIONS" TO ADD THE DEFINITION FOR A GLOBAL FENCE PERMIT, AND AMEND THE DEFINITION FOR PERIMETER FENCE; AMENDING SECTION 14-541, "ENUMERATION" PROVIDING ADDITIONAL STANDARDS; AMENDING CHAPTER 74, "GENERAL PROVISIONS" OF THE TOWN'S CODE OF ORDINANCES, SECTION 74-3, "DEFINITIONS" TO ADD A DEFINITION FOR ESTABLISHED FRONT YARD; AMENDING CHAPTER 98, "ZONING" OF THE TOWN'S CODE OF ORDINANCES, THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, SECTION 98-1142, "FRONT YARD FENCE HEIGHT AND VISIBILITY" TO RENAME THE SECTION TO "FENCE HEIGHT AND VISIBILITY", AND AMENDING THE SECTION TO PROVIDE ADDITIONAL STANDARDS FOR KEY LOT FENCES, AND PROVIDE AN EXCEPTION FOR FENCE HEIGHT OR MATERIALS; AMENDING SECTION 98-1143, "PERIMETER AND OPEN SPACE WALLS AND FENCES", PROVIDING A REPLACEMENT OPTION FOR FENCES AND WALLS IN NEIGHBORHOODS WITHOUT AN ESTABLISHED HOA OR PLANNED DEVELOPMENT STANDARDS; AMENDING APPENDIX A, "FEE SCHEDULE", PROVIDING A FEE OF \$150.00 FOR A GLOBAL FENCE PERMIT; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the Town Council of the Town of Flower Mound previously adopted Article XIII of Chapter 14 to the Code of Ordinances, as amended, establishing minimum standards for property maintenance in the Town; and,

WHEREAS, the Town Council of the Town of Flower Mound previously adopted Chapter 98, Zoning, of Subpart B, Land Development Regulations, of the Town of Flower Mound Code of Ordinances, as amended, establishing regulations for zoning and uses of land and development of real property within the Town; and,

WHEREAS, the Town Council finds and determines that fence and wall maintenance requirements, and standards should allow affordable options for repair and replacement for property owners in neighborhoods without established HOAs or Planned Development (PD) standards; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on December 9, 2019, and the Town Council of the Town of Flower Mound,

Texas, held a public hearing on December 16, 2019, with respect to the amendments described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Texas Local Government Code, Chapter 78 of the Town's Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Land Development Regulations Amendment;

WHEREAS, the Town Council finds that the amendment to Chapter 98 as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

That Section 14-513, "Definitions," of Division 1, "Generally," of Article XIII, "Property Maintenance Standards," of Chapter 14 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add a definition of "*Global Fence Permit*" and to modify the definition of "*Perimeter Fence*" to be added and inserted alphabetically to read as follows:

"Sec. 14-513. – Definitions.

Global Fence Permit means a permit for the repair or replacement of any fencing and/or masonry screening walls located within the same subdivision, to be constructed on two or more contiguous lots without interruption. Interruption may be, but is not limited to, a street, another lot, an open space, or an easement.

Perimeter fence means any fence as defined for the purposes of this article that is adjacent to an arterial or collector road as defined in the town's thoroughfare plan, and does not meet the requirements of section 98-821 perimeter screening of this Code. This definition does not include any fence allowed under the town's urban design plan or any barbed wire or metal/wire livestock fencing allowed by this Code in A, agricultural district.

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SECTION 2

That Section 14-541, "Enumeration," of Division 2, "Minimum Standards," of Article XIII, "Property Maintenance Standards," of Chapter 14 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended both subsection (3) and subsection (5) to read as follows:

"Sec. 14-541. – Enumeration.

- (3) Maintain fences and related appurtenances in good condition and not as a dilapidated or deteriorated fence. Fences shall not be propped up or leaned against a pole, piece of lumber or other similar object as a means of support. If 25 percent or more of the perimeter fence is determined to be dilapidated or deteriorated, it may not be repaired; instead the perimeter fence that is adjacent to a town arterial or collector road shall be completely replaced and constructed in accordance with section 14-542;

- (5) Maintain all perimeter walls, carports, awnings, patio covers, garages and garage doors, sheds, storage buildings, outbuildings, and other accessory buildings or structures in a structurally sound condition, and free of deterioration;

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SECTION 3

That Section 74.3, "Definitions," of Chapter 74, "General Provisions," of Subpart B – "Land Development Regulations," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add a definition of "*Established Front Yard*" to be added and inserted alphabetically to read as follows:

“Sec. 74.3. – Definitions.

Established front yard means the required front yard located between the street and the front of the house on lots having two required front yards.

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SECTION 4

That Section 98-1142, "Front yard fence height and visibility," of Division 7, "Fences and Walls," of Article IV, "Supplementary District Regulations" of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to rename Section 98-1142, amend subsection (a), and add two new subsections (e) and (f) to read as follows:

“Sec. 98-1142. – Fence height and visibility.

- (a) Except in A, agricultural district and Key Lots as defined by this code, no fence or wall within a required front yard shall exceed four feet in height above the adjacent grade.

- (e) No fence or wall within the established front yard for key lots shall exceed four (4) feet in height above the adjacent grade. Fences constructed within the additional required

front yard shall not exceed eight (8) feet in height, but must be setback a minimum of 10 feet from the property line. Fences constructed within the first 10 feet of the additional required front yard shall not exceed four (4) feet in height.

- (f) Town Council may grant an exception for maximum fence height or fencing materials for individual lots in situations where a new subdivision perimeter fence caused compatibility concerns with an existing residential fence due to topography and/or location.”

SECTION 5

That Section 98-1143, “Perimeter and open space walls and fences,” of Division 7, “Fences and Walls,” of Article IV, “Supplementary District Regulations” of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add a new subsection (c) to read as follows:

“Sec. 98-1143. – Perimeter and open space walls and fences.

- (c) Property owners replacing existing masonry walls in neighborhoods where HOAs were not established and/or designated to provide ongoing fence/wall maintenance and that have no applicable Planned Development standards, shall either match original construction materials or meet the perimeter fence standards established in Section 14-542 of the Town’s Code of Ordinances.”

SECTION 6

That Appendix A, “Fee Schedule,” of Subpart B, “Land Development Regulations,” of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add an associated fee of \$150.00 for a “Global Fence Permit” in the Fee Schedule chart to be added and read as follows:

“Appendix A. – Fee Schedule.

Type of Construction	Permit Fee
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Retaining wall, Screening wall, or Global Fence Permit	150.00
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SECTION 7

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 8

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

SECTION 9

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 10

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein 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 11

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 12

This Ordinance shall be in full force and effect from and after the date of its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF

FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 16TH DAY OF DECEMBER, 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY