

ORDINANCE O-19-2089

AMENDING CHAPTER 3, SECTION 3.26 – FENCES, FREE STANDING WALLS, AND SCREENING MATERIALS, SUBSECTION E – FENCE AND FREE STANDING WALL SETBACK REQUIREMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Colleyville approved Ordinance O-00-1214 on April 18, 2000, adopting the Land Development Code; and

WHEREAS, the City of Colleyville desires to amend Chapter 3, Section 3.26 – Fences, Free Standing Walls, and Screening Materials, Subsection E – Fence and Free Standing Wall Setback Requirements of the Land Development Code as part of a comprehensive review of the Land Development Code; and

WHEREAS, notice of a public hearing before the City Council was published in a newspaper of general circulation in Colleyville at least 15 days before such hearing.

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

- Sec. 1. THAT *Chapter 3, Section 3.26 – Fences, Free Standing Walls, and Screening Materials, Subsection E – Fence and Free Standing Wall Setback Requirements* of the Land Development Code are hereby amended to read as depicted in the attached Exhibit "A".
- Sec. 2. THAT any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Colleyville, and upon conviction shall be punishable by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

- Sec. 3. THAT if any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.
- Sec. 4. THAT in addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.
- Sec. 5. THAT this ordinance shall take effect immediately from and after its passage.
- Sec. 6. THAT all other provisions of the Land Development Code shall remain in full force and effect, except as amended herein.

AND IT IS SO ORDERED.

The first reading and public hearing being conducted on the 6th day of August 2019.

The second reading and public hearing being conducted on the 20th day of August 2019.

PASSED AND APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 20TH DAY OF AUGUST 2019.

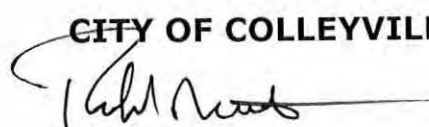
Mayor Richard Newton	<u>Aye</u>	Mayor Pro Tem Bobby Lindamood	<u>Aye</u>
Place 1, Tammy Nakamura	<u>Aye</u>	Place 5, Chuck Kelley	<u>Aye</u>
Place 3, Kathy Wheat	<u>Aye</u>	Place 6, Callie Rigney	<u>Aye</u>
Place 4, George Dodson	<u>Aye</u>		

ATTEST:



Christine Loven, TRMC
City Secretary

CITY OF COLLEYVILLE



Richard Newton
Mayor

APPROVED AS TO FORM:



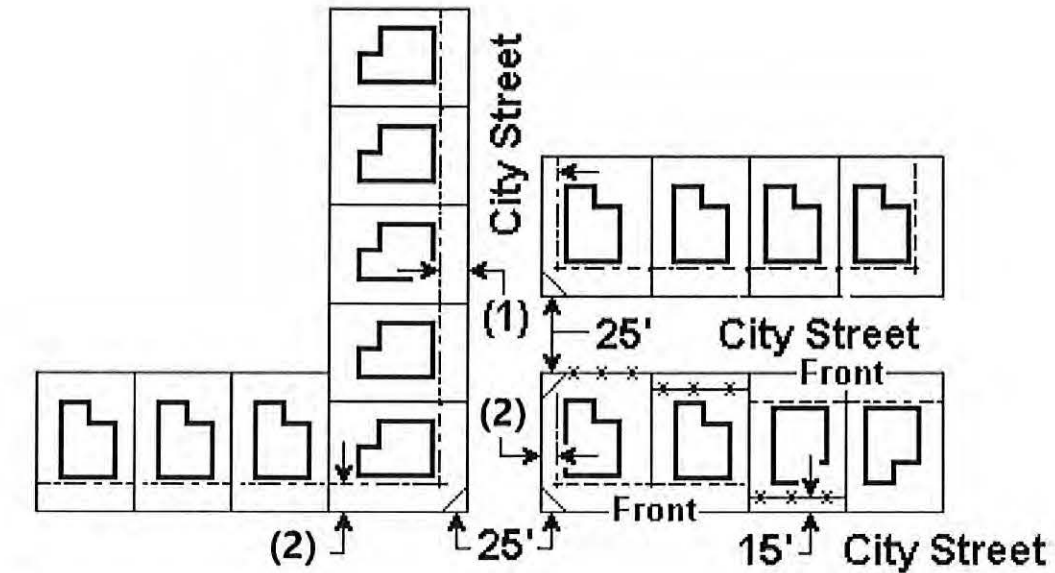
Whitt L. Wyatt
City Attorney

Exhibit "A"

E. Fence and Free Standing Wall Setback Requirements

1. *Front Yards:* No fence or free standing wall greater than thirty (30) inches in height and no greater than twenty-five (25) percent opaque construction shall be located beyond the front façade of the primary residential structure.
 - a. The primary fencing material shall be of wrought iron, pre-formed concrete, poured in place concrete, concrete masonry unit (CMU), brick, approved wood rail construction, a combination thereof or other similar material approved by the City Building Official. All poured in place concrete and CMU shall contain an architectural finish.
 - b. On a corner lot, a house shall be deemed to face on that street on which it has its least dimension unless otherwise determined by the Building Official.
 - c. *Vehicle Gate setback:* Any vehicle gate shall be set back a sufficient distance from the property line to allow vehicle queuing space in order to maintain safety and to prevent backup along the street pavement. Sufficient distance shall be determined by the Building Official.
 - d. *Exceptions to front yard requirement:* Lots containing a minimum of 40,000 square feet, and subdivisions, shall be allowed to construct a perimeter fence within the front yard setback. Said fencing shall be no greater than eight (8) feet in height and shall have no greater than twenty-five (25) percent opaque construction within the front yard. Allowed construction materials shall be the same as paragraph "1.a" above. **This exception shall not apply to properties zoned as a PUD district.**
2. *Corner Side Yards:* Except where allowed elsewhere in this chapter, no fence or free standing wall greater than thirty (30) inches in height and no greater than twenty-five (25) percent opaque construction shall extend into the required street side yard. The regulations of 1.a through 1.d above shall apply.

A decorative wall or fence (which is defined as any wall or fence not greater than thirty inches in height and not greater than twenty-five percent opaque construction) within a required street side yard shall not be placed less than three feet (3') from the side property line, and shall not be subject to the provisions of the preceding paragraph.
3. *Adjacent to Undeveloped Property:* Except for perimeter subdivision fencing meeting the requirements above, no fence or wall greater than thirty (30) inches in height that is greater than twenty-five (25) percent opaque construction, shall be located less than fifteen (15) feet from the side property line adjacent to the street which leads into undeveloped property. See Exhibit "3-4".
4. *Rear Fence and Free Standing Wall Setbacks:* Fences and walls meeting all of the construction requirements of paragraph "1.a" above and other adopted standards may be erected on the rear property line except; however, lots whose rear property line abuts a public street on which one of the immediate adjacent lots maintains its required front yard, then no fence nor wall greater than thirty (30) inches in height shall be located within fifteen (15) feet of the subject lots rear property line. See Exhibit "3-4".



(1) Shall not be located beyond the front façade of the primary residential structure

(2) Set-back established by district regulations

Exhibit "3-4"
Fence Setbacks

5. *Twenty-five Percent Opaque Construction:* The intent of this provision in Subsection E is to discourage barriers that resemble a compound or fortress and the calculation shall be as follows: Every eight (8) linear feet of fencing shall be at least 75% open to view from the street or public way. The 25% opaque construction shall be calculated based on the area of each eight (8) foot linear segment of the barrier.
6. *Non-Conforming Fences/Walls:* Where a fence (to include a wall) exists at the effective date of adoption or amendment of this Section that could not be built under the terms of this Section, such fence may remain so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such non-conforming fence may be enlarged or altered in a way which increases its nonconformity.
 - b. Should a non-conforming fence or non-conforming portion of a fence be repaired, removed, or destroyed by any means to an extent of more than fifty (50) percent, it shall not be reconstructed except in conformity with the provisions of this Section, or as modified by a Special Use Permit approved by the City Council per this Section.
 - c. Should such fence be moved for any reason any distance whatever, it shall thereafter conform to the regulations of this Section after it is moved.
7. *Special Use Permit Provision:* Any request for a building permit for a fence/wall which does not meet the criteria in this Section shall only be authorized after approval of a Special Use Permit by the City Council using the procedures contained elsewhere in this Land Development Code.

F. Administration

1. Fence Permit Required - It shall be unlawful for any individual, partnership, company or corporation to erect or have erected a fence or any part of a fence of permanent construction in the city limits without first obtaining a fence permit from the Community Development Department.
2. Application for Permit - Any individual, partnership, company or corporation making application for a fence permit must sign an application for same showing the following information:
 - a. Applicants name, address, and in addition, if the applicant represents a company or corporation, the name and address of the supervisor or foreman of said company or corporation and the name of its president.
 - b. Name and owner of the property.
 - c. Local address where fence is proposed to be erected.
 - d. Materials and type of fence construction.
 - e. Height of fence.
 - f. Applicant shall provide engineering plans and specifications for those types of fences where such engineering is deemed appropriate by the Building Official. The engineering plans shall be reviewed and approved by the Building Official prior to issuance of a fence permit.
 - g. Survey showing lot on which the fence is proposed to be erected and the location of adjoining or adjacent lots showing existing structures and fences. The proposed fence shall be delineated by a dark heavy line. In AG zoning districts a scaled plot plan can be submitted in lieu of a survey.