

ORDINANCE NO. 2017-2557

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AN ORDINANCE AMENDING CHAPTER 54 OF THE CODE OF ORDINANCES OF THE CITY OF WHITE SETTLEMENT BY AMENDING CHAPTER 54 "ZONING" SECTION 5.214 "ERECTION AND MAINTENANCE OF SCREENING DEVICES" AND SECTION 54.215 "Fences"; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of White Settlement has previously adopted Chapter 54 "Zoning" of the Code of Ordinances; and

WHEREAS, It has been determined that a need exists revise certain sections of Chapter 54; and,

WHEREAS, the City Council has reviewed the recommended revision, and has determined the need for said revision to the Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE SETTLEMENT, TEXAS, that:

SECTION I

Chapter 54 "Zoning" Section 54.214 "Erection and maintenance of screening devices" of the Code of Ordinances is now amended to read as follows:

- (a) *Responsibility.* When a screening device is required under the terms of section 54-213, it shall be the responsibility of the user of the multifamily, commercial or industrial property to erect the required screening device, and the same shall be a condition precedent to the issuance of a certificate of occupancy for the premises on which said device is located.
- (b) *Perpetually maintained.* All screening devices required by this chapter or action of the board of adjustments and appeals shall be perpetually maintained by the user of the property on which said device is located.
 - 1. All fences required by a city ordinance, regulation or approval for screening, buffering or other requirement shall be perpetually maintained, repaired or replaced by the owner.
 - . All portions of fences required or not, in a dilapidated state shall be repaired or replaced by the owner of the property upon which the fence is located. Fences not required by city ordinance or approval may be removed. For the purpose of this title, a dilapidated fence shall be defined as:
 - A. Any masonry wall and/or masonry fence with loose, cracked or broken brick, stone, rock, mortar or similar materials;

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- B. Any masonry wall and/or masonry fence with brick, stone, rock, mortar or similar materials that is discolored from the predominant original fence color in an amount that comprises ten percent or more of the total fence area of a property;
 - C. Any eight-foot section of any fence that is more than fifteen degrees out of vertical alignment; or
 - D. Any eight-foot section of a wood fence that has ten percent of its pickets or structural elements damaged, missing, or rotted.
- 3. Repairs and partial replacements of any nature shall be made with materials of comparable composition, color, size, shape, quality and otherwise similar appearance of the original fence to which the repairs or replacements are being made. Products manufactured for other uses such as plywood, corrugated steel or fiberglass panels are prohibited as fence materials.
 - 4. Fences may not be braced by guy wires, braces, or any other material that may be viewable from any public street, right-of-way, alleyway, or property and easements controlled by the city.
 - 5. If an owner of land fails to correct a violation of this Section, a city official may give notice to the owner of the land to abate a violation within thirty days of the date of the notice.
 - 1. The notice must be hand delivered to the owner in writing, or by letter addressed to the owner at the owner's post office address as shown on the latest tax roll.
 - 2. If personal service cannot be obtained or the owner's post office address is unknown, notice may be given;
 - a. By publication in the city's official newspaper at least twice within ten days; or
 - b. By posting the notice on or near the front door of the main building on the property to which the violation relates; or
 - c. If the property contains no building, by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
 - (c) *Height.* No fence or other screening device, whether required or not, shall exceed eight feet in height, without proper board approval.

SECTION II

Chapter 54 "Zoning" Section 54.215 "Fences" is now amended to read as follows:

- (a) *Permit required.* It shall be unlawful for any person to construct a fence on any lot without having first obtained a building permit therefor from the office of the building inspector.
- (b) *Permit fees.* Permit fees shall be as prescribed in chapter 22.

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- (c) *On public property.* No fence, guy wires, braces or any part of such fence shall be constructed upon or protrude over property owned by the city.
 - (d) *In rear yard.* No fence shall be constructed at a height exceeding eight feet along the rear yard or alley line.
 - (e) *In side yard.* No fence shall be constructed at a height exceeding eight feet on any side yard line up to the building line of the house proper. All such fences constructed on side yard lines must be vertical.
 - (f) *In front yard.* No fence over three feet in height shall be permitted from the front building line to the front property line, except that fences along the side lot lines may taper from six or eight feet to three feet within the last eight feet of the required front yard building line setback. All fences must be constructed parallel with lot or property lines as hereinafter specifically referred to. On lots or property used or zoned for other than one- or two-family purposes, the placement of fences, hedges or walls shall be subject to the approval of the building official and the issuance of a building permit based on requirements set forth in this chapter and other applicable ordinances. All fences adjacent to public street rights-of-way must be maintained in good repair.
 - (g) *Corner lot exceptions.* On all corner lots which have adjacent rear lot lines, fences may be constructed not to exceed eight feet in height along the side and rear yard lines except that such fences shall be restricted to a height of three feet for a distance equal to the front yard building line setback from the front property line parallel and adjacent to any side street. On all corner lots where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line, no fence exceeding three feet in height shall be constructed along the side yard line which is next to the street for a distance equal to the side yard building line setback from the side property line parallel and adjacent to any side street.
 - (h) *Enclosure of swimming pool.*
 - (1) Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than six feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension except for doors and gates. A dwelling house, or accessory building may be used as part of such enclosure.
 - (2) All personnel gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
 - (3) This requirement shall be applicable to all new swimming pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have a depth of 24 inches or more of water at any point. No person in possession of land within the city, either as owner, purchaser, lessee, tenant, or a licensee, upon which is situated a swimming pool having a depth of 24 inches or more of water at any point shall fail to provide and maintain such fence or wall as herein provided.
 - (4) The board of adjustments and appeals may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the

fence, wall gates or latches, or the necessity therefor, provided the protection as sought hereunder is not reduced thereby. The board of adjustments and appeals may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the substitute fence, gates and latch described herein. The building official shall allow a reasonable period within which to comply with the requirements of this subsection.

- (5) The term "swimming pool" as used herein shall mean a body of water in an artificial or semi-artificial receptacle or other container located outdoors, used or intended to be used for public, semipublic, or private swimming by adults or children, or both adults and children, operated and maintained by any person, whether he is an owner, lessee, operator, licensee, or concessionaire, and shall include swimming pools used or intended to be used solely by the owner or friends invited to use it without payment of any fee; however, the requirements of this section shall not apply to a swimming pool constructed, operated, and maintained in conjunction with a motel, hotel, or private dormitory, or like business which operated on a 24-hour-per-day basis and which provides such pool for the use of its tenants and their guests.

(i)

Barbed wire fence. It shall be unlawful for any person, or agent or employee thereof, to build or permit or allow to be built any barbed wire fence on or around any property or premises owned or controlled by such person within the limits of the city; provided, however, that any fence including top grade construction barbed wire the lowest strand of which is not less than 6½ feet above ground level, shall be permitted only on commercial use fences with arms. Fence arms may be permitted on fences six feet or more in height. Barbed wire may be constructed on such arms above six feet in height, and may not extend beyond any property line or fence setback line provided in this or other sections. The building official may issue a permit for the maintenance and reconstruction of barbed wire fences at the time of the passage of the ordinance from which this section is derived, provided that such fence or portion of such fence cannot economically be replaced with nonhazardous materials and that such fence is located more than 200 feet from any area that is zoned residential. The building official shall have the authority to refuse to issue a permit for the maintenance or reconstruction of a barbed wire fence based on the safety and welfare of adjacent residents and the degree of attractive nuisance inherent in such fence.

(j) Fence Materials:

1. 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 International Building Code.
2. Metal posts shall be used for the vertical fence supports. The posts shall be set in concrete with a minimum of three feet into the ground.

(k). Prohibited Materials:

1. Electrical fences or electrical attachments of any type, dimension or compositions shall not be constructed within the legal limits of the city.
 2. Products manufactured for other uses such as plywood, corrugated steel or fiberglass panels are prohibited as fence materials.
 3. Permanent fences with razor wire of any type or dimensions shall not be constructed within the legal limits of the city, except where required by other state and federal regulatory agencies
- (l). Fence Orientation: When any stockade fence or other screening device, whether required or not, is located on a lot adjacent to a public street, right-of-way, public park, or other city-owned property, said fence shall have its back side oriented away from view from the adjacent public area. For the purpose of this section, the back side of a stockade fence shall be the side with exposed posts or rails.
- (m). Temporary Fences: Temporary fencing for the purpose of protecting or securing construction sites may be allowed. A time schedule for the use of temporary fencing must be 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 official.
- (n). Inspection: When a fence that requires a building permit is completed it must be inspected. The office of the building inspector shall be notified upon completion of the fence. The building inspector will issue an electronic letter of final approval, if the fence complies with the provisions of this chapter or it will be rejected. All fences constructed under the provisions of this chapter shall be maintained so as to comply with the requirements of this title at all times.

SECTION III

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of White Settlement, Texas, as amended. Where the provisions of this Ordinance are in direct conflict with the provisions of all earlier ordinances and Code provisions, then the conflicting provisions of such earlier ordinances and Code provisions are hereby repealed.

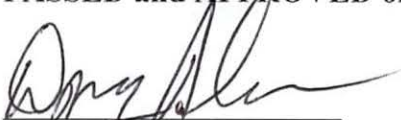
SECTION IV

The City Secretary of the City of White Settlement is hereby directed to publish in the official newspapers of the City of White Settlement, the caption, publication clause and effective date clause of this Ordinance as required by the Charter of the City of White Settlement.

SECTION V

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED and APPROVED on the 12th day of September, 2017



Ronald A. White, Mayor

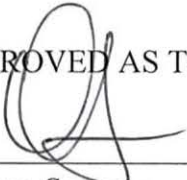
BY DANNY ANDERSON
MAYOR PRO TEM

ATTEST:



Amy Arnold, TRMC, CMC
City Secretary

APPROVED AS TO FORM:



Warren Spencer,
City Attorney