

ORDINANCE NO. 19-4-18-14

FENCE AND SCREENING REGULATIONS AMENDMENT

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE BEING A PART OF THE CITY OF CORINTH UNIFIED DEVELOPMENT CODE ("UDC"), BY AMENDING SUBSECTION 4.02 "FENCE AND SCREENING REGULATIONS", OF SECTION 4, "SIGN AND FENCE/SCREENING REGULATIONS" OF THE UDC; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR VIOLATIONS THEREOF AS MORE SPECIFICALLY SET FORTH HEREIN; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Corinth, Texas is a home rule municipality located in Denton County, Texas created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City is authorized to adopt regulations governing the development of land within the City and its extraterritorial jurisdiction in the interest of the public health, safety and welfare of its citizens; and

WHEREAS, the City adopted the Unified Development Code ("UDC") which specifies size, placement, and materials fences and screening walls within the City; and

WHEREAS, the Planning and Zoning Commission held a public hearing at which persons with interest were provided an opportunity to provide public input and comments and reviewed proposed amendments to existing regulations for fences and screening walls, including without limitation, changes to standards and procedures for appeal; and

WHEREAS, after holding the public hearing, the Planning and Zoning Commission voted to recommend approval of the proposed amendments to the City Council; and

WHEREAS, after holding a public hearing at which persons with interest were provided an opportunity to provide public input and comments, the City has reviewed the proposed amendments to the regulations and procedures for fences and screening walls in the UDC and has determined that the incorporated amendments are appropriate to aid with the placement of fences and screening walls on a property and ensure their continual maintenance; and

WHEREAS, the City has determined that the amendments proposed relating to fences and screening walls will be beneficial to the public safety and welfare; and

WHEREAS, upon review and consideration of the foregoing factors, the City

Council has determined that the City's fences and screening walls standards should be amended as set forth below;

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

**SECTION 1.
INCORPORATION OF PREMISES**

The above and foregoing recitals are found to be true and correct and are incorporated into the body of this Ordinance for all purposes.

**SECTION 2.
AMENDMENTS**

2.01. That the Comprehensive Zoning Ordinance, being a part of the City of Corinth Unified Development Code, Subsection 4.02 "Fence and Screening Regulations" of Section 4, "Sign and Fence/Screening Regulations" of the UDC is hereby repealed in its entirety and a new Subsection 4.02, "Fence and Screening Regulations" of Section 4 of the UDC is hereby adopted to be and read in its entirety as follows.

"4.02.01. - Purpose

- A. General. The requirements set forth in this Subsection 4.02 Fence and Screening Regulations are intended to promote safety; protect the character and stability of residential, commercial, and industrial areas; to conserve the value of land, buildings, and neighborhoods, and enhance the aesthetic and visual image of the City.
- B. Compliance. The construction, modification and maintenance of fences shall comply with the requirements of the City Code of Ordinances.

4.02.02. - Applicability

- A. These regulations shall be applicable to:
 - 1. All new development, and
 - 2. Any proposed building remodeling, alteration, addition, or expansion which either:
 - a. Increases the current appraised value of the existing structure (excluding the value of the land), or
 - b. Increases the overall square footage of any existing structure by thirty percent (30%) or more.

4.02.03. - Fence Regulation Definitions

For the purpose of this Subsection 4.02, certain terms, words and phrases are defined as follows:

- A. Agricultural Use. Land where the production, keeping, or maintenance for sale, lease, or personal use of plants and animals useful to man, including, forages and sod crops; grains and seed crops, dairy animals, poultry and livestock, including but not limited to ostriches, emus, buffalos, beef cattle, sheep, goats, mules, horses, and ponies.
- B. Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.
- C. Masonry. Brick, stone, pre-cast concrete, poured-in-place concrete, and split-face concrete masonry unit unless otherwise prohibited by this Subsection 4.02.

- D. Nonconforming Fence. Any fence lawfully existing or approved for construction prior to the date of this UDC, and amendments thereto, that fails to conform to the present requirements of this Subsection 4.02.
- E. Residential. A single family and/or a multi-family dwelling.
- F. Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

4.02.04. - Fence Building Permit

- A. Fence Building Permit Required. No fence or screening wall/fence may be constructed, erected, installed, enlarged, altered, replaced, removed or demolished unless a Fence Building Permit has first been obtained from the Building Official. The Fence Building Permit Application must attach four (4) sets of plans of the proposed fence or screening wall/fence to include:
 - 1. Building locations and area to be fenced;
 - 2. Dimensions and description of materials being used;
 - 3. Intersections of streets, roads, highways, alleys and driveways with subject property;
 - 4. Corner open space easements (i.e., visibility triangles) per Section 3.05.07. C. Triangular Sight Visibility Easements (see also Figure 35);
 - 5. Site and adjacent properties zoning classifications; and
 - 6. Such other data as deemed necessary by the Building Official. The fee for the permit shall be established in the City's Fee Schedule. No permit fees shall be refunded.
- B. Exception to Permitting Requirements. Up to fifty percent (50%) of an existing fence or screening wall/fence on a single family residential property, as measured by linear foot, may be replaced, removed, or demolished without submitting an application and plans and obtaining a permit. This exception may only be applied one time in a two (2) year period for the entire single family residential property.
- C. Offense. A person commits an offense if the person intentionally, knowingly or recklessly erects or causes to be erected on his or her property a fence without obtaining a Fence Building Permit as required by this Section and other applicable ordinances of the City.

4.02.05. - Fence Building Permit Expiration

- A. Expiration Every Fence Building Permit issued by the Building Official under the provisions of this Subsection 4.02 shall expire if the building or work authorized by such permit is not commenced within one hundred eighty (180) calendar days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned for a period of one hundred eighty (180) calendar days at any time after the work is commenced.
 - 1. Before such work can recommence, a new Fence Building Permit meeting the current regulations shall be obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year.
 - 2. In order to renew action on a Fence Building Permit after one (1) year, the permittee shall pay a new full permit fee.
- B. Extension. Any permittee holding an unexpired Fence Building Permit may apply for an extension of the time within which work may commence.

1. The Building Official may extend the time for action by the permittee for a period not exceeding 180 calendar days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.
2. No Fence Building Permit shall be extended more than once.

4.02.06. - Suspension or Revocation of a Fence Building Permit

The Building Official may, in writing, suspend or revoke a Fence Building Permit issued under the provision of this Subsection 4.02 whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation, or any of the provisions of this Subsection 4.02.

4.02.07. - Fence Variance

Any Applicant for a Fence Building Permit whose request is denied by the Building Official for noncompliance with this Subsection 4.02, or whose permit is suspended or revoked, may (within thirty (30) business days from the date of written notification) appeal such decision via a Fence Variance to the Zoning Board of Adjustments.

A. Authority and Public Hearing.

1. The Zoning Board of Adjustments may grant a Fence Variance from the requirements of this Section in accordance with this Section.
2. The Zoning Board of Adjustments may grant a Fence Variance following a public hearing by an affirmative vote of a majority of the members present and voting on the matter.

B. Fence Variance Grounds or Reasons.

1. The Applicant for a Fence Variance shall file an Application that specifically describes the grounds or reasons upon which the Fence Variance request is based.
2. The Applicant shall provide exhibits showing the proposed elevations and materials for the alternative fencing and shall be shown on the Site Plan or if no Site Plan is required then at the time of building permit application.

C. Fees and Sign Posting for Fence Variance. At the time the Fence Variance application is filed, the Applicant shall pay a fee as set forth in the City's Fee Schedule to defray the costs of handling and processing the Application.

1. This fee shall not be refundable regardless of the disposition of the Application.
2. The Applicant shall erect and maintain a sign upon the subject property noticing the public hearing.
3. The continued maintenance of the sign shall not be a condition precedent to the holding of a public hearing or any other official action concerning such Fence Variance.

D. Mailed Notice to Property Owners. Notice shall be sent by United States mail, first class postage, not less than 10 calendar days before the public hearing, to all property owners (as the ownership appears in the most current tax rolls for the City) whose property abuts any portion of the boundary of the property where a fence is to be erected and for which a Fence Variance has been requested.

E. Finding of Unreasonable Hardships.

1. In order to grant a Fence Variance, the Zoning Board of Adjustments must find that unreasonable hardships or difficulties may result from strict enforcement of these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal.

2. The Zoning Board of Adjustments may approve variances to the regulations so that substantial justice may be done and the public interest secured; provided that the variance shall not have the effect of nullifying the intent and purpose of these regulations.
- F. Specific Terms and Conditions. The Zoning Board of Adjustments may require specific terms and conditions applicable to the approval of the Fence Variance.
- G. Time Limitations. No other Fence Variance of like kind relating to the same building or proposed building, shall be considered or acted upon by the Zoning Board of Adjustments for a period of six (6) months subsequent to the denial.

4.02.08. - General Fence Requirements

- A. Primary Use Exists.
 1. Fences, except silt or erosion-controlling types, shall not be constructed, erected, or installed on a lot unless the primary use/facility have been constructed.
 2. Temporary construction fences shall not be allowed on residentially zoned properties longer than sixty (60) calendar days after issuance of a Certificate of Occupancy.
- B. Height Maximum. No fence shall exceed eight (8) feet in height measured from the finished grade of the lot or property upon which the fence is being erected, except as otherwise provided for in this Section.
- C. Placement.
 1. Fences may be placed up to the property line except when deemed physically impractical by the property owner and the Director of Planning.
 2. If a fence is offset from the property line, provisions shall be made to prevent vegetation from growing between any existing fence and the new fence.
- D. Construction Material.
 1. Construction material may be wood or simulated wood (excluding landscape timbers, railroad ties or latticework panels), vinyl, tubular metal (meeting the vertical spacing requirement for swimming pool barrier fences), masonry, or chain link (industrial uses only when not visible from a public right of way), except in the case where a screening wall/fence is required.
 2. Decorative metal with a solid vegetative screen shall be permitted in industrial districts. Vegetation must provide a solid screen within 2 years of installation.
 3. A maximum one (1) foot section of lattice constructed atop a wood or simulated wood fence for decorative purposes shall be permitted.
- E. Visibility and Safety
 1. Fences constructed on corner lots shall conform to the corner public open space easement (i.e., visibility triangles) per 3.05.07. C. Triangular Sight Visibility Easements (see also Figure 35).
 2. Fences along winding streets may be prohibited by the Building Official if deemed that the structure materially obstructs visibility for vehicular traffic.
- F. Fence Gate. All fences shall have a minimum of one gate for emergency ingress and egress.
- G. Property Owner's Expense and Responsibility.
 1. In the event any construction or landscaping on the easement requires removal in whole or in part for service access purposes, the same shall be replaced or repaired at the sole expense of the property owner; the City or any utility or other company duly authorized to install lines or equipment within such easement, shall not be held liable for damages.

2. All Applicants shall be responsible for calling the affected utilities for line locations (i.e., "Dig Test") before constructing a fence across any easement.
- H. Fences Installed within an Easement. For ease of access for service purposes, any fence installed within an easement of the City shall provide a gate or panel with an opening of not less than ten feet (10') in width when opened or removed, unless waived by the Director of Public Works.
- I. Drainage Easements and Floodways.
 1. Fences may cross drainage easements, but shall not cross nor encroach into any Floodway nor obstruct or in any way hinder the safe transfer of water through drainage easements or drainage ways.
 2. The City shall have the right to remove fences that encroach into a drainage easement and any other easements in a manner that interfere with the predominant use of that easement.
- J. Hazardous Fence No fence shall be erected or permitted to remain when deemed by the Building Official or his/her authorized representative to be hazardous to the health, safety, and welfare or the general public.
- K. Hazardous Fences in High Density Areas
 1. Residential Areas In residential areas with one or more dwellings per acre, no barbed wire, glass imbedded, spiked, electrified, or any other fence deemed hazardous to the health, safety, and welfare of the general public shall be permitted.
 2. Commercial and Industrial Areas. In commercial and industrial areas, fences with barbed wire along the top portion are permitted, provided the fences exceed eight (8) feet in height.
- L. Any Vertical Element of the Fence Not including fence posts, wooden or tubular metal pickets or similar elements of the fence shall extend from one inch (1") above grade to the top of the fence.

4.02.09. - Agricultural Fences

- A. Compliance and Exception. Lots or parcels of land zoned Single Family having a land area of three (3) acres or more and being developed with one single family residence or single family-zoned land having an established agricultural use as defined herein shall comply with the provisions of this UDC, except for the construction of cross-fencing interior to the lot or parcel.
- B. Perimeter Fencing Materials In addition to the permitted fencing materials listed in 4.02.08. General Fence Requirements, properties described in 4.02.09. A above, may also use pipe and cable, wire fence, and sucker rod pipe for perimeter fencing needs.
- C. Interior Cross-fencing Materials In addition to the fencing materials permitted in 4.02.09. B above, properties described in 4.02.09. A above may also use the following types of fencing for interior cross-fencing needs: T-posts and electric fence meeting the minimum specifications of the Underwriters' Laboratory and installed in accordance with the National Electric Code adopted by the city and ElectroBraid™ or similar product (i.e., braided fabric and wire combination affixed to posts that are attached to a low-voltage regulator).
- D. Pre-Existent Fences In cases where there are fences on lots or parcels of land as described in 4.02.09. A above, constructed on or before May 15, 2002, and the fences do not comply with the provisions of this UDC at the time of its adoption, said fences shall be allowed to continue to exist until:
 1. They are deemed injurious to the health, safety and welfare of the general public;
 2. They are destroyed or fifty percent (50%) or more damaged; or

3. The land is sold and/or further subdivided and developed.

4.02.10. - Residential Fences

A. Fence Construction

1. Fences that are erected abutting streets, parks, trails, Denton County Transit Authority (DCTA) trails, public property may be constructed of wood or simulated wood (with horizontal members facing the interior yard) or tubular metal, meeting the vertical spacing requirement for swimming pool barrier fences.
 - a. Where a tubular metal fence is in place, a wood fence may not be constructed along streets immediately behind the tubular metal fence.
2. Fences that are erected abutting property used for open space or agricultural use may be constructed of wood or simulated wood (with horizontal members facing the interior yard), or tubular metal meeting the vertical spacing requirement for swimming pool barrier fences.
3. All residential fences shall be constructed with the finished surface (i.e., the smooth side) facing outward from the property. The finished surface (i.e., the smooth side) may have a horizontal cap, architectural detail, or molding located at the top of the fence that extends beyond the surface plane of the fence.

B. Front Yards In front yards, no fence shall be erected in front of the front building line except fences that do not obstruct vision.

1. Fences allowed within front yards shall be constructed of tubular metal, vinyl, simulated wood or wooden rail or picket-style construction and shall be no greater than four feet (4') in height, excluding the posts.
2. Properties with less than one dwelling per acre may have fences in the front yard in excess of four feet (4') provided they do not obstruct vision or hamper safety.

C. Corner Lots Where a corner lot (Lot, Corner) has two (2) front yards and a house is constructed facing one of the two (2) front yards, the second front yard may be fenced in the same manner as any other side yard provided it complies with corner open space easements (i.e., visibility triangles) per 3.05.07. C. Triangular Sight Visibility Easements (see also Figure 35).

D. Alleys At the intersections of driveways with alley access, a visibility triangle extending to the edge of alley pavement a distance of five (5) feet and extending from the edge of driveway pavement a distance of five (5) feet and connecting the two (2) points shall be established and maintained and shall remain free of all obstructions as detailed in figure 34 below.

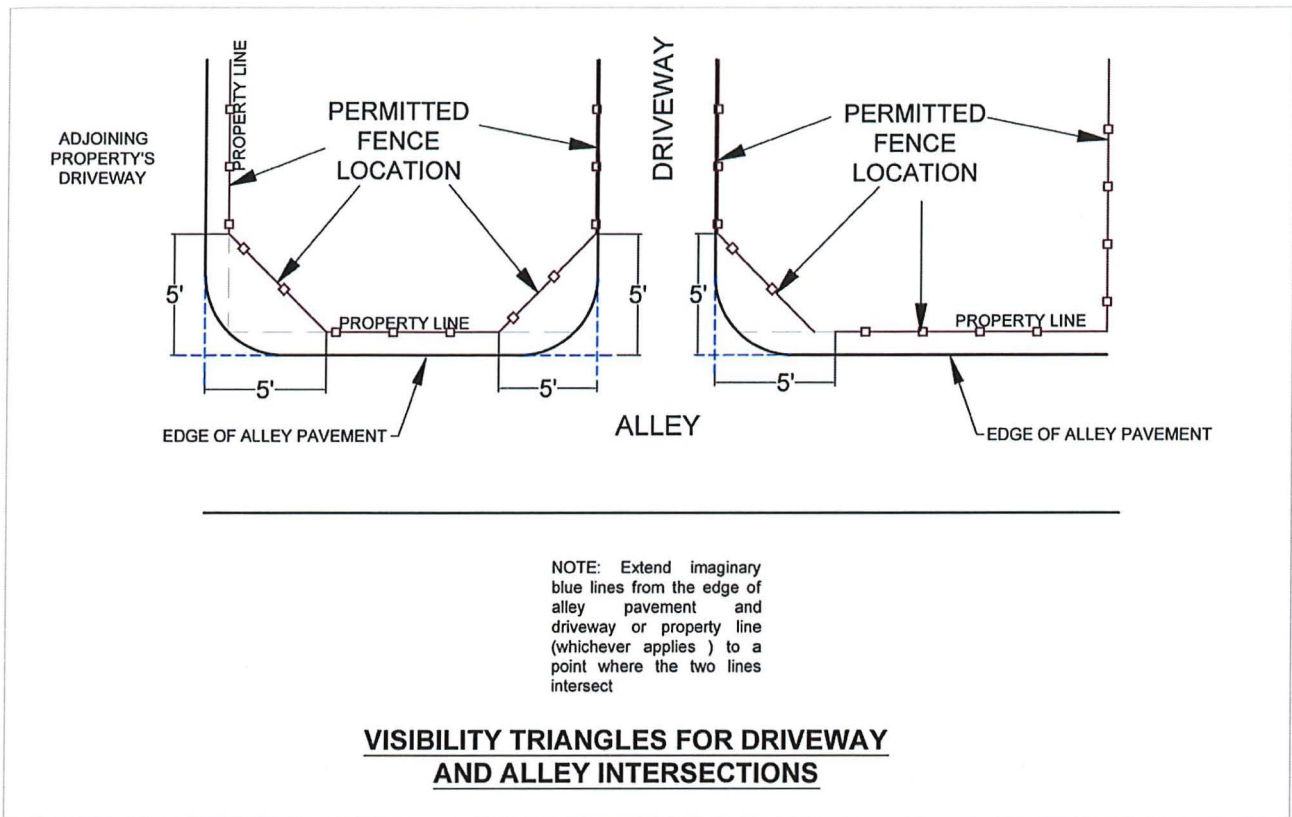


Figure 34 – Alley Visibility

4.02.11. - Screening Requirements for Residential and Nonresidential Properties

- A. Screening Height Between Nonresidential and Residential. Masonry screening walls separating nonresidential used and/or zoned areas from residential uses shall be at least six feet (6') in height, but not more than eight feet (8'), unless otherwise specifically permitted or required by this Section or unless approved by the City Council following a recommendation by the Planning and Zoning Commission in the consideration of a PD, Planned Development rezoning application, Site Plan, or Specific Use Permit.
- B. Masonry Screening Walls. Masonry screening wall shall be placed up to the property line except when deemed physically impractical by the property owner and the Building Official.
- C. Nonresidential Construction Abuts Residential Zoning Classification.
 1. Nonresidential construction which abuts the boundary of any property in a residential zoning classification shall require the Developer of the nonresidential use to erect a minimum six (6) foot high masonry screening wall along the common boundary before public works improvements having been accepted for platting purpose or before the issuance of a Certificate of Occupancy for zoning purposes.
 2. The design and construction material of the screening fence shall be as specified in this Section.
- D. Nonresidential Uses with Loading Docks
 1. Nonresidential uses with loading docks and delivery entrances that front a Collector Street or Arterial Street shall require the Developer to erect a minimum ten-foot (10') high masonry

screening wall to screen views of loading docks and loading spaces intended for tractor/semi-trailer delivery.

2. If such service/loading areas are adjacent to residential uses they shall be screened from view at a height of six feet (6') while standing at the highest grade on the residential property line.

E. Residential Construction Abuts a Collector or an Arterial Street

1. When residential construction abuts a Collector Street or an Arterial Street (as defined in the City's Comprehensive Plan as amended from time to time), the Developer shall erect a minimum six (6) foot high masonry screening wall before the issuance of a Certificate of Occupancy.
2. When required by this section the masonry screening wall shall be placed within a lot owned and maintained by the Homeowners Association. If there is no Homeowners Association then the screening wall shall be placed on the property line between the lot and the required landscape buffer, in this instance the property owner shall be responsible for the maintenance of the required wall.

F. Screening Walls/Fences

1. Any screening fence required by this Section shall be constructed of the following materials:
 - a. Brick, stone, or split-face concrete masonry unit; or
 - b. Pre-cast concrete wall or poured-in-place concrete wall with a similar appearance as brick, stone or split-face concrete masonry unit.
2. All construction materials shall be earth-tone or traditional masonry colors including white.
 - a. An unfinished haydite block wall or a wall with non-traditional masonry colors shall be prohibited.
 - b. Where a masonry screening wall is constructed of split-face concrete masonry units or pre-cast concrete or poured-in-place concrete with a similar appearance as brick, stone or split-face concrete masonry unit, the decorative or split-face side of the wall shall face the adjacent residential properties or street.
 - c. Smooth-faced concrete masonry units (e.g., haydite blocks) shall not be permitted as a construction material for a screening fence.

G. Screening Wall Design

1. All walls shall be constructed with the same materials and same masonry percentages as the main building.
2. The screening wall shall be designed and constructed to prevent any drainage or erosion problems.
3. A minimum five-foot (5') wide screening fence maintenance easement shall be provided on all lots abutting the required screening along the full length of the required screening fence, unless separated by an alley. If platting, such easement shall be shown on the Preliminary Plat and Final Plat.

4.02.12. - Mechanical Equipment Screening Requirements for Nonresidential Properties

A. General

1. In all nonresidential development, all mechanical equipment whether ground-mounted, roof-mounted or otherwise attached to the building shall be screened from view at a height of six feet (6') while standing at the highest grade on the nearby property line(s).

2. Mechanical equipment areas shall be constructed, located and screened to prevent interference with the peace, comfort, and repose of the occupants of any adjoining building or residence.
3. The location, construction, and screening of all mechanical equipment shall be shown on the design drawings.

B. Ground-Mounted Mechanical Equipment

1. Ground-mounted mechanical equipment, with the exception of an electricity delivery provider's distribution voltage of 25 kv (kilovolts) or smaller, shall be screened with a screening fence or living screen equal to or greater than one foot (1') above the height of the unit.
2. The screening fence shall be constructed of masonry or wooden materials.

C. Roof-Mounted Mechanical Equipment

1. Roof-mounted mechanical equipment shall be screened from view with a parapet wall, mansard roof or alternative architectural element.
2. The height of the screening element shall be equal to or greater than the height of the mechanical unit(s) provided that the element shall not extend more than five feet (5') above the roof on a one- or two-and-one-half (2½) story building.
3. When the height of a mechanical unit exceeds the maximum permitted height of the screening feature, an additional roof setback for the unit shall be required at a ratio of two horizontal feet (2') for each additional one-foot (1') of vertical height above the maximum five (5) feet.
4. Screening for mechanical units shall apply to new building construction and renovations exceeding 50% of the structure(s) appraised value or square footage.

4.02.13. - Screening of Outdoor Waste Storage for Nonresidential, Single Family Attached, and Multiple Family Residential Properties

A. General

1. Waste storage areas (refuse containers, etc.) shall be constructed, located and screened to prevent interference with the peace, comfort, and repose of the occupants of any adjoining building or residence.
2. The location, construction, and screening of all waste storage areas (refuse containers, etc.) shall be shown on the design drawings.

B. Incidental Use Requirement and Location Standards Refuse containers, trash dumpsters/containers, trash compactors, box compactors, and other similar containers which are used for waste disposal purposes shall:

1. Only be allowed as an incidental use, and
2. Only be allowed when located behind the building line established by the structure and not within any side or rear yard setback or any required landscaped area. The director may allow minor incursions into a side or rear yard setback provided that it does not hinder vehicular visibility and is conducive to the flow of traffic on the site.

C. Setbacks Refuse containers, trash dumpsters/containers, trash compactors, box compactors, and other similar containers shall be setback from all residential uses a minimum of twenty-five feet (25').

D. Screening Required. Refuse containers, trash dumpsters/containers, trash compactors, box compactors, and other similar containers shall be enclosed on all four sides with a three-sided masonry screening wall and a solid metal gate on the fourth side that shall be constructed to a

minimum height of one (1) foot above the container height, but shall not exceed eight feet (8') in height.

1. The container shall be screened by the masonry wall and a solid metal gate capable of screening the area and shall remain closed at all times except when filling or emptying the container.
2. The screening wall shall be similar to or extensions of the development's architectural design.

4.02.14. - Fence Installation

A. Pre-Existing Fences

1. A Developer, who is required to erect a screening fence under the provisions of this Section, shall be responsible for removing any pre-existing fences that do not meet the requirements of this Section on any properties that abut the new screening fence so as to avoid a gap between the new screening fence and the pre-existing fences.
2. The Developer shall bear the cost of removing the pre-existing fences subject to the provisions in 4.02.14. B and 4.02.14. C, below.

B. Permission of the Adjacent Property Owner. Prior to removing any pre-existing fence and erecting the required screening fence in its place, the Developer shall obtain the permission of the adjacent property owner.

1. If an adjacent property owner withholds his consent, the Developer shall leave the pre-existing fence in place and erect the new screening fence alongside it on the Developer's property.
2. Provisions shall be made to prevent vegetation from growing between the existing and new fence.

C. Liability. The Developer and his contractor shall be liable for any personal or property damage that may occur during the removal of the pre-existing fence and the construction of the new screening fence.

4.02.15. - Barrier Fence Requirements for Swimming Pools, Spas, and Hot Tubs

A. General. The provision of this Section apply to the design and construction of barriers for all new swimming pools located in the City.

B. Definitions. For the purpose of this Section 4.02.15, certain terms, words and phrases are defined as follows:

1. Above-Ground/On-Ground. See definition of Swimming Pool.
2. Barrier. A fence, wall, building wall or a combination thereof, which completely surrounds the Swimming Pool and obstructs access to the Swimming Pool.
3. Grade. The underlying surface such as earth or a walking surface.
4. Hot Tub. See definition of Swimming Pool.
5. In-Ground Pool. See definition of Swimming Pool.
6. Portable Spa. A non-permanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product and which is cord connected (not permanently electrically wired).
7. Spa, Non-Portable. See definition of Swimming Pool.
8. Swimming Pool. Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

- C. Swimming Pool Requirements. An outdoor swimming pool shall be provided with a barrier which shall comply with the following:
1. The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool.
 - a. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches measured on the side of the barrier which faces away from the swimming pool.
 - b. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure.
 - c. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches.
 2. Openings in the barrier shall not allow passage of a four (4) inch-diameter sphere.
 3. Solid barriers that do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
 - a. An existing structure, such as a house or Accessory Building, may be used as part of the enclosure, provided said structure is no less than four feet in height.
 4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-five (45) inches, the horizontal members shall be located on the swimming pool side of the fence or shall be so constructed as to not provide a climbable surface.
 - a. Spacing between vertical members shall not exceed one and three-quarters inches ($1\frac{3}{4}$ ") in width.
 - b. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and three-quarters inches ($1\frac{3}{4}$ ") in width.
 5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of horizontal members is forty-five (45) inches or more, spacing between vertical members shall not exceed four (4) inches.
 - a. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed three-quarter inches ($\frac{3}{4}$ ") in width.
 6. Maximum mesh size for chain link fences shall be a one and one-quarter inch ($1\frac{1}{4}$ ") square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to no more than one and three-quarter inches ($1\frac{3}{4}$ ").
 7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than one and three-quarters inches ($1\frac{3}{4}$ ").
 8. Access gates shall comply with the requirements of items 4.02.15. C.1 through 4.02.15. C.7 (above) and shall be equipped to accommodate a locking device.
 - a. Pedestrian-access gates shall open outward away from the pool and shall be self-closing and have a self-latching device.
 - b. Gates other than pedestrian-access gates shall have a self-latching device.

- c. Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - i. The release mechanism shall be located on the pool side of the gate at least three (3) inches below the top of the gate, and
 - ii. The gate and barrier shall have no opening greater than one-half ($\frac{1}{2}$) inch within eighteen (18) inches of the release mechanism.
- 9. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:
 - a. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or
 - b. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened.
 - i. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities.
 - ii. The alarm shall automatically reset under all conditions.
 - iii. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening.
 - iv. Such deactivation shall last for not more than 15 seconds.
 - v. The activation switches shall be located at least 54 inches above the threshold of the door.
 - c. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by a and b above.
- 10. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then:
 - a. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or
 - b. The ladder or steps shall be surrounded by a barrier which meets the requirements of Items 4.02.15. C.1 through 4.02.15. C.8 (above). When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four (4) inch diameter sphere.
- 11. Barriers shall be located so as to prohibit permanent structures, equipment or similar object from being used to climb the barriers.

4.02.16. - Inspections

Upon completion of work authorized under this Section, it shall be the duty of the permittee to notify the Building Official that such work is ready for final inspection.

4.02.17. - Loss of Nonconforming Status

A. Scenarios. Any nonconforming fence loses its nonconforming status and becomes an illegal fence if:

- 1. The fence is damaged or deteriorated to such an extent that fifty percent (50%) or more of the fence must be rebuilt or repaired;

2. The fence is moved to any extent unless the moving was due to installation, maintenance or repair of public streets or utilities; or
3. The fence has been altered in any way except for normal wear and tear, routine painting or repair, or routine pruning of plant materials.

B. Compliance Required after Loss Should any fence lose its nonconforming status, the illegal fence shall not be reconstructed or rebuilt except in conformance with the provisions of this UDC.

4.02.18. - Maintenance of the Required Screening Fence

- A. Maintenance Responsibility. The owner of the property or Homeowners' or Property Owners' Association, if it is a commonly owned property, with the required screening fence shall be responsible for the maintenance of the screening fence sound condition.
1. This provision does not relieve an abutting property owner of liability for damage caused by such owner or his employees, agents, or contractors.
 2. Any living screen shall be maintained for perpetuity.
- B. Required Documents. The Developer of a subdivision, after constructing the required screening fence, shall create a mandatory Homeowners' or Property Owners' Association, which shall be responsible for maintaining the screening fence.
1. The association's document must indicate that the screening fence is privately owned and maintained by the association, and that the City has no obligation to maintain said screening fence.
 2. If the Homeowners' or Property Owners' Association fails to maintain said screening fence, the City shall have the right to perform necessary repairs or maintenance and to levy an assessment for the expense of the needed repairs or maintenance.
 3. Said assessment shall constitute a lien upon each lot against which the assessment is made.
- C. Homeowners' or Property Owners' Association Alternative Method If a subdivision contains five or fewer lots, the Developer may propose an alternative method for ensuring long-term maintenance of the screening fence.
1. The documents evidencing responsibility for maintenance of the required fence shall be reflected in the plat.
 2. The alternative method must be approved by the Planning and Zoning Commission.
- D. Vertical Alignment Requirement. No fence shall be fifteen (15) degrees or more out of vertical alignment nor have any missing or damaged pickets within any eight-foot (8') section.
- E. Final Authority.
1. The Building Official shall be the final authority of whether repair or maintenance is needed for any fence constructed within the City.

4.02.19. - Illustration of the Corner Public Open Space Easement (i.e., Visibility Triangles)

The following is a graphic depiction of one of the standards within Section 3.05.07. C Triangular Sight Visibility Easements, the Corner Public Open Space Easement:

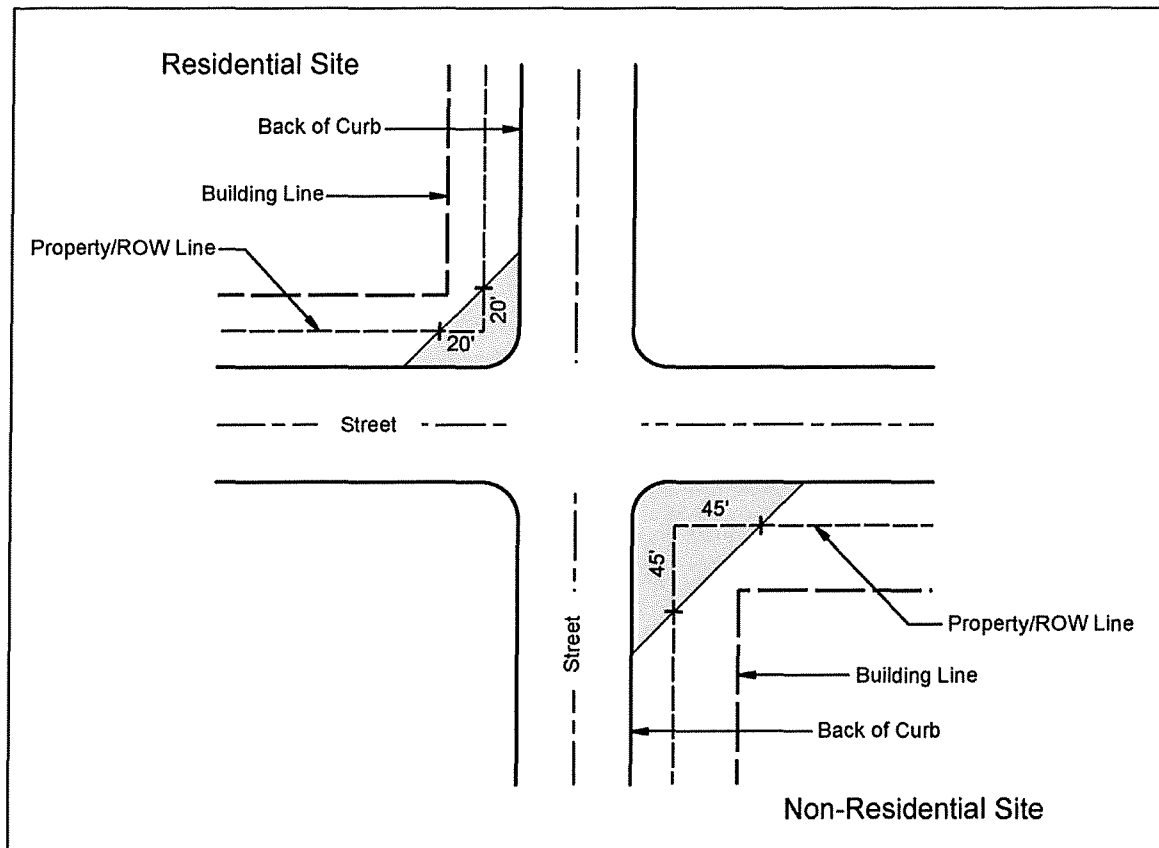


Figure 35: Corner Public Open Space Easement (i.e., Visibility Triangles)

SECTION 4. PENALTY

Any person, firm or corporation who intentionally, knowingly or recklessly violates any provision of this Ordinance or the Code of Ordinances, as amended hereby, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided, however, that in all cases involving violation of any provision of this Ordinance or Code of Ordinances, as amended hereby, governing the fire safety, zoning, or public health and sanitation shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

SECTION 5. CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 6. SAVINGS

All rights and remedies of the City of Corinth, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting zoning which have secured 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 court.

SECTION 7. SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

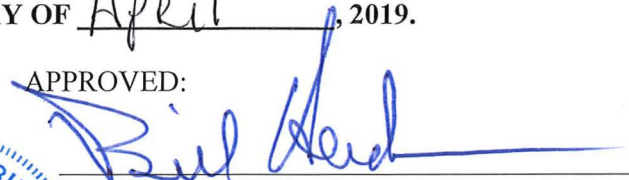
SECTION 8.

EFFECTIVE DATE

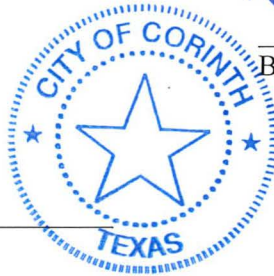
This ordinance shall take effect upon its publication as required by law. The City Secretary is directed to publish the caption and penalty of this ordinance as required by the City Charter and state law.

PASSED AND APPROVED THIS 18 DAY OF April, 2019.

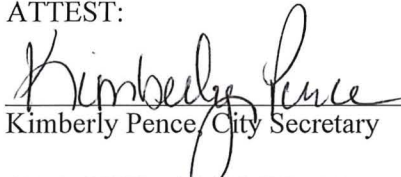
APPROVED:



Bill Heidemann, Mayor



ATTEST:



Kimberly Pence, City Secretary

APPROVED AS TO FORM:



Andy Messer, City Attorney