

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTER 3, "BUILDING REGULATIONS," OF THE TOWN'S CODE OF ORDINANCES, BY ADDING A NEW ARTICLE 3.19, "FENCE REGULATIONS"; REPEALING ORDINANCE NO. 12-01; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in adopting recent revisions to the International Building Code and International Residential Code on or about July 22, 2014, both Codes to be effective on October 1, 2014, certain provisions regarding fence construction and related issues, contained in a separate ordinance, Ordinance No. 12-01, were not addressed; and

WHEREAS, the Town Council desires to retain the fence regulations contained in Ordinance No. 12-01, and in an effort to facilitate the public's accessibility to the Town's fence regulations, by the adoption of this Ordinance, the Town has re-codified such fence regulations in Chapter 3, "Building Regulations," of the Code of Ordinances of the Town of Prosper, Texas.

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

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Chapter 3, "Building Regulations," of the Town's Code of Ordinances is hereby amended by adding a new Article 3.19, "Fence Regulations," to read as follows:

"ARTICLE 3.19 FENCE REGULATIONS

Sec. 3.19.001 Fence Requirements

Fences in all zoning districts shall meet the following requirements:

(a) A fence permit must be obtained from the Building Inspection Division prior to installation. It shall be unlawful for any person to install or cause to be installed, or to permit any person to install a fence, or to make any alterations, additions or changes to a fence, without first having procured a permit to do so from the Building Official. Notwithstanding the foregoing, a permit shall not be required for alterations, additions or changes if repairs do not exceed sixteen (16) linear feet of the area of the fence over a twelve (12) month period.

(b) No fence shall be constructed within any drainage easement in the corporate limits of the Town unless the Town Engineer shall have first determined and advised the

Building Official, in writing, that he believes such fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement.

(c) Fences around tennis courts may exceed eight feet (8') in height, but shall not exceed fifteen feet (15').

(d) Fence arms shall not be constructed.

(e) Chain-link fences in residential districts shall have the finished edge of the material on the top of the fence. Chain-link fences shall be vinyl-coated, unless used in conjunction with athletic fields on property owned by an Independent School District or the Town of Prosper.

(f) *Gate required.* Every fenced enclosure constructed under the provisions of this article shall have at least one (1) gate in its perimeter a minimum of three feet (3') in width.

(g) *Wooden Fence Standards.* All wooden fences must meet the following standards:

(1) All vertical posts shall be galvanized steel, a minimum of sixteen (16) gauge thickness and spaced at a maximum of eight feet (8') on center, set in a concrete footing. Picket fences, split rail fences, ranch style or agricultural fences, or other types of open decorative fences approved by the Building Official or his/her designee shall be permitted to use wooden posts.

(2) All pickets shall be a minimum 1/2 inch (1/2") thickness.

(3) Wood material shall be an insect-resistant wood such as cedar or pressure treated yellow pine. Spruce is not a permitted wood material.

(4) The fence shall have its back side (the side with exposed posts or rails) oriented away from view from the adjacent street or right-of-way.

(5) All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rot, rust, vandalism, and other sources of decay.

(6) The bottom of the fence shall be designed to prevent ground-to-wood contact. This can be achieved through the use of a concrete strip poured between the fence supports or by raising the pickets to provide a minimum of three inches (3") between the bottom of the pickets and the ground. A two inch by six inch (2" x 6") kick board may be used to cover the gap between bottom of pickets and ground. This kick board may have ground contact.

(h) *Protective treatment.* All wood material shall be stained, pressure-treated, painted, or adequately sealed to prevent decay. All exterior surfaces of fences shall be maintained in good condition. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and

corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

- (i) Fences may not contain and/or be:
 - (1) Continuous electrical current, although single-strand wired designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior base line;
 - (2) Constructed to contain barbed wire;
 - (3) Plywood;
 - (4) Fiberglass or fiberglass panels;
 - (5) Corrugated steel or sheet iron; and/or
 - (6) Razor wire.
- (j) Fences on parcels being used for agricultural purposes may contain barbed wire or other agricultural fences approved by the Building Official or his/her designee.
- (k) Fences located in the required front yard of a lot in a residential zoning district shall have a minimum of fifty percent (50%) through vision."

SECTION 3

Town of Prosper Ordinance No. 12-01, adopted on February 14, 2012, is hereby repealed in its entirety, and shall be of no further force and effect.

SECTION 4

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 5

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense. The penal provisions imposed

under this Ordinance shall not preclude the Town from filing suit to enjoin the violation, and the Town retains all legal rights and remedies available to it.

SECTION 7

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF JANUARY, 2015.



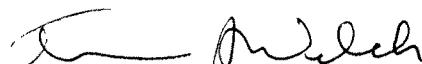
Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney