

CITY OF LAVON, TEXAS
ORDINANCE NO. 2019-06-07

Fences

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 4, “BUILDING REGULATIONS”, ARTICLE 4.06, “FENCES”, TO AMEND THE RULES, REGULATIONS, AND PROCEDURES FOR REGULATING FENCES, INCLUDING ADDING PROVISIONS FOR VARIANCES AND AN APPEALS PROCESS; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THE ORDINANCE.

WHEREAS, on April 5, 2016, the City Council of the City of Lavon, Texas (the “City Council”) adopted Ordinance No. **2016-04-01** thereby adopting uniform standards for the erection and maintenance of fences that promote the health, safety, welfare, convenience and enjoyment of the public, improve the long-term sustainability of residential structures, and promote the safety of persons and property (the “Revised Fence Ordinance”); and

WHEREAS, the City Council has reviewed the amendments herein and finds and determines that the adoption of this Ordinance is in the best interest of the City and its citizens to provide a variance and appeals process that prevents unnecessary hardship in applying a literal enforcement of the provisions of the Revised Fence Ordinance thereby ensuring that the spirit of the ordinance would be observed and substantial justice done; and

WHEREAS, the City Council further finds and determines that the amendments imposed by this Ordinance are characterized as reasonable, necessary, and proper for the good government of the City and for the protection of the public health, safety and welfare of its citizens.

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

SECTION 1. RECITALS:

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. AMENDMENT:

Chapter 4, "Building Regulations", Article 4.06, "Fences", of the Code of Ordinances of the City of Lavon, Texas is hereby amended by the addition of Section 4.06.053, "Right of appeal; variances" and Section 4.06.054, "Appeal Procedure" to read as follows:

ARTICLE 4.06 FENCES

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Division 2. Permit

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Sec. 4.06.053 Right of appeal; variances

(a) Upon denial of a fence permit application by the building official, an applicant may appeal in writing to the board of adjustment for consideration of variances. The board of adjustment shall have the power to authorize upon appeal in specific cases such variances from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following considerations:

- (1) Constitutes waste or inefficient use of land or other resources; and
- (2) Does not serve its intended purpose, is not effective or necessary.

(b) Areas that warrant a hearing before the board of adjustment would be fence materials, fence setbacks and overall height of the fence. These are the only areas that may be considered for a variance by the board of adjustment.

Sec. 4.06.054 Appeal procedure

(a) After denial of a fence permit, the applicant may file an application for appeal for a variance public hearing with the city administrator to be considered or scheduled for a public hearing before the board of adjustment.

(b) An appeal fee as provided for in the city's fee schedule shall accompany such application.

(c) Site plan drawings and elevations of the proposed fence shall accompany the application.

(d) Before the tenth day prior to the public hearing on the variance, the city shall send notice via regular mail to all property owners, as indicated by the most recent tax appraisal roll, within 200 feet of the property on which the variance is requested.

(e) The board of adjustment shall hear the appeal from the applicant and render a decision.

(f) The board of adjustment shall render a permanent written report regarding the actions of the board of adjustment and shall file the same with the city administrator within two (2) weeks from the date of the action.

(g) The board of adjustment shall decide the appeal within a reasonable time. Upon the public hearing, any party may appear in person or by agent or attorney. The board of adjustment may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken. The decision of the board of adjustment shall be final and binding upon the applicant.

SECTION 3. SAVINGS/REPEALING CLAUSE:

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4. SEVERABILITY:

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. Lavon hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, 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. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 6. OPEN MEETINGS:

That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 18th day of June 2019.



Vicki Sanson, Mayor

ATTEST:



Kim Dobbs
City Administrator/ City Secretary

