

CITY OF LAKEWAY, TEXAS

ORDINANCE NO. 2019-02-19-04

AN ORDINANCE OF THE CITY OF LAKEWAY, TEXAS, AMENDING THE CODE OF ORDINANCES, TITLE II: BUILDING AND DEVELOPMENT REGULATIONS; CHAPTER 24: BUILDING REGULATIONS; ARTICLE 24.02 BUILDING CODE; DIVISION 12: FENCES, ADDITIONS AND ACCESSORY STRUCTURES; SEC. 24.02.433: FENCES; AND PROVIDING FOR SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lakeway, Texas (“City”) seeks to provide for the health, safety and welfare of its citizens and provide for the orderly development of land within its corporate limits and its extraterritorial jurisdiction; and

WHEREAS, the City Council seeks to promote orderly and safe use of property within the City by regulating fences, and the regulations established are in furtherance of the public interest, for the good government, peace, and order of the City.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Lakeway, Texas:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Title II (Building and Development Regulations) Chapter 24 (Building Regulations); Article 24.02 (Building Code), Division 12 (Fences, Additions and Accessory Structures), Sec. 24.02.443 (Fences) of the City of Lakeway Code of Ordinances is hereby amended as follows:

“Sec. 24.02.443 Fences

(a) General standards.

(1) A building permit is required for the following: ~~any fence or screening structure construction.~~

(A) Any new fence or screening structure construction.

(B) Any fence or screening structure repair that alters the location, design, or specifications of the existing fence or screening structure.

(2) No fences of any type shall be placed on any lot which by reason of high walls, excessive height, etc., will unreasonably obscure the view from a dwelling located or reasonably likely to be located upon an abutting lot. (For this purpose, “abutting lot” includes a lot separated only by a street from an adjacent lot.)

(3) No fence of any type, including invisible fences installed to prohibit animals from leaving private property, shall encroach into the street or golf course setbacks except for required safety railing and guardrails.

(4) Wood fences are prohibited on lots abutting a golf course where the wood fence would be visible from the golf course.

(5) All fences shall be constructed so that all fence runs are finished ~~and identical~~ on both sides of the fence. Stringers shall have pickets on both sides. Fence posts that are placed on the inside of a fence that encloses a yard do not have to be matched on the outside of the fence.

(6) Masonry supporting structures shall be constructed of rock, brick or stucco and shall be a minimum of fourteen (14) inches by fourteen (14) inches and shall be at least as high as the approved fence height, but will not exceed the approved fence height by more than six (6) inches.

(7) Masonry supporting structures shall be placed on steel reinforced concrete footings. Such footing shall be placed into virgin soil or solid bearing and shall be at least two (2) inches larger on all sides of the masonry structure and a minimum of eight (8) inches in depth.

(8) Fences located over dedicated utility/drainage easements may have to be removed should access to such easements be required by any authorized utility company or be required to provide adequate drainage from areas of higher elevation. Replacement of fences shall be at the owner’s expense.

(9) For those fenced developments or projects which have keyed or coded access through a gate, the developer or owner shall provide keys or codes to the city police department and a key switch for the Travis County ESD #6 Fire Department.

(10) Lattice materials may be used for privacy screening (such as the screening of a hot tub, patio or porch) provided they extend no more than twelve (12) feet in length, are no more than eight (8) feet in height, ~~and do not encroach into any building setbacks~~. Lattice fences must use panels with a minimum thickness of 3/8 inches. Each lattice panel shall be framed.

(11) Plans for masonry walls, or any portion thereof, four (4) feet or greater in height shall be signed and sealed by a registered professional engineer or architect. Masonry walls are measured from the base of the footing to the top of the wall. Dry stack walls are measured from the grade under the lowest layer to the top of the wall.

(12) All fences shall be maintained in good condition.

(13) All fences, including wood, wrought-iron, and ornamental fencing, shall be continuous flat-topped without spikes or sharp points.

(b) Subdivision perimeter fencing.

(1) Subdivision perimeter fencing is fencing that is installed with the development of a

subdivision with the intent to provide a uniform border around the perimeter of the subdivision.

(2) Subdivision perimeter fencing up to six (6) feet in height may be approved administratively. Subdivision perimeter fencing up to eight (8) feet in height may be approved by the CBC as a waiver.

(c) Yard fences.

(1) Yard fences are those which enclose a yard to provide security and/or to provide privacy.

(2) Yard fences shall be constructed of wood, wrought iron, masonry or pre-cast concrete.

(3) Yard fences up to six (6) feet in height may be approved administratively. Yard fences up to eight (8) feet in height may be approved by the CBC as a waiver.

(4) At least one end of a yard fence shall terminate at the residential unit with which it is associated.

(5) Yard fences should be located on property lines whenever possible. Yard fences shall not encroach in the streetside setbacks.

(A) Exception: The code official may approve a waiver for encroachment of a yard fence into a setback when such fence is extended to connect with a subdivision perimeter fence.

(6) (A) Yard fences constructed of wood shall have masonry supporting structures spaced at least every twelve (12) feet along those portions of the fence facing the street or lake beginning with one column at the fence end on the side setback.

(B) Exception: For duplexes constructed prior to 1995 and located within R-4, duplex zoned districts, masonry supporting structures shall be located:

(i) Along fence runs facing a street at the point one property line meets another; and

(ii) At the corners of those fences facing two streets.

(7) Areas used for the storage of materials or equipment in nonresidential areas shall be screened from view from the street and all adjoining properties through the use of wood, masonry or pre-cast concrete yard fences.

(8) Masonry or pre-cast concrete yard fences may be required in nonresidential areas to abate noise.

(d) Swimming pool enclosures.

(1) These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools.

(2) All outdoor swimming pools shall be provided with a barrier constructed of wood, wrought iron, masonry or pre-cast concrete which shall comply with the following:

(A) The top of the barrier shall be at least forty-eight (48) inches above grade

measured on the side of the barrier which faces away from the swimming pool. 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. Where the top of the pool structure is above grade, the barrier may be at ground level. Where the barrier is mounted on top of the pool structure or patio (hard surface), the maximum vertical clearance between the top of the pool structure or patio and the bottom of the barrier shall be four (4) inches.

(B) Openings in the barrier shall not allow passage of a four (4)-inch diameter sphere.

(C) Solid barriers which 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.

(D) 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. Spacing between vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches.

(E) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-five (45) inches or more, spacing between vertical members shall not exceed four (4) inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches.

(F) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches.

(G) Access gates shall comply with the requirements stated above and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. 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 0.5 inch within eight (8) inches of the release mechanism.

(H) Where an elevated 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 by steps, then:

(i) The steps shall be capable of being secured, locked or removed to prevent access; or

(ii) The steps shall be surrounded by a barrier which complies with the

above enclosure requirements.

(3) No water shall be placed in a newly constructed swimming pool until an approved pool enclosure final has been obtained.

(4) Owners of swimming pools on properties annexed into the city shall have two (2) years from the date of annexation to comply with the pool barrier requirements in subsection (2) above.

(5) Spas and hot tubs with hard, childproof covers located on single-family residential property are exempt from this section.

(6) Removable, portable, or temporary barriers are permitted but do not replace required barriers as described above.

(e) Safety railings.

~~(1) Safety railing shall be constructed along a drop-off or overhang to prevent a person from falling off or over the edge.~~

~~(2)~~(1) Exterior wood, rock, or concrete walkways, driveways, retaining walls, pool aprons, or other accessible areas which exceed thirty (30) inches but less than six (6) feet above grade shall have safety railings or plants substantial in size and density to serve the same purpose. Continuing steps or walkways with slopes exceeding fifteen (15) percent shall be provided with safety railing. Safety railing installed within the floodplain must be metal and may have to be removed during flooding situations. This type of safety railing is a rail or obstruction no more than forty-two (42) inches high with one horizontal member located approximately thirty-six (36) inches" above grade. Safety railing will not take the place of required handrails or guardrails.

~~(3)~~(2) Exterior wood, rock, or concrete walkways, driveways, retaining walls, pool aprons, or other accessible areas which exceed six (6) feet above grade shall have safety railings which meet the requirements of a guardrail. This type of safety railing shall be a minimum of thirty-six (36) inches in height, with vertical pickets spaced less than four (4) inches, and meet all other code requirements.

~~(4)~~(3) Stormwater detention and water quality ponds holding a water level of twenty-three (23) inches or more shall be protected with a fence for public safety. This fence shall be a minimum of forty-eight (48) inches in height with vertical pickets spaced less than four (4) inches apart and shall be constructed of solid wood, masonry, stone or wrought iron. All fences shall have at least one gate for maintenance access and shall be equipped to accommodate a locking device that will remain locked at all times.

(f) Guardrails.

(1) Porches, balconies or raised floor surfaces located more than thirty (30) inches above the floor or grade below shall have guardrails not less than thirty-six (36) inches in height.

(2) Required guardrails shall be constructed of wrought iron, wood (finished and identical on both sides), steel, or a pre-cast concrete railing system. Materials not approved for guardrails include welded fabric, hog or chicken wire, or similar products. Guardrails shall be constructed in accordance with current code requirements.

(3) Guardrails do not meet the requirement for pool enclosures.

(g) Equipment screening fences.

(1) Air-conditioning compressors, heat pumps, pool, spa, and hot tub equipment, fuel storage tanks, trash receptacles, and other similar equipment shall be screened with wood or masonry fencing that is one (1) foot higher than the top of the equipment that is being screened. Screening shall not be located within any building setback or utility easement. Lattice panels do not qualify as an approved screening material.

(2) Equipment screening shall leave an opening just large enough to facilitate maintenance. The maintenance access shall be gated with material matching or complementary to that of the screening material, so that the equipment is fully enclosed and screened from view.

(h) Garden and electric fences.

(1) Garden and electric fences are allowed to protect gardens and other sensitive vegetation.

(2) Electric fences shall contain no more than three (3) strands and shall not exceed three (3) feet in height.

(3) Each improved residential property may have one (1) garden fence located in the back yard and constructed of heavy gauge welded wire with green steel or metal supports no more than five (5) feet in height to enclose a garden no more than three hundred (300) square feet.

(4) Newly planted trees, hedges, etc., may have temporary protective devices installed in accordance with the material requirements listed above. A permit is not required for a temporary protective device.”

3. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

4. REPEALER

All Ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

6. PROPER NOTICE & MEETING

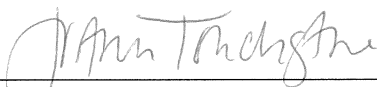
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, and Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 19th day of February, 2019, by the City Council of Lakeway, Texas.

CITY OF LAKEWAY:

By: 
Sandra L. Cox, Mayor

ATTEST:


Jo Ann Touchstone, City Secretary

