

ORDINANCE NO. 2008-06

AN ORDINANCE OF THE CITY OF McLENDON-CHISHOLM, TEXAS, AMENDING THE ZONING ORDINANCE BY AMENDING ARTICLE 6, SUPPLEMENTAL DISTRICT REGULATIONS, BY ADDING A NEW SECTION 6-15, FENCE REGULATIONS; PROVIDING FOR DEFINITIONS; PROVIDING REGULATIONS FOR RESIDENTIAL USES; PROVIDING REGULATIONS FOR NONRESIDENTIAL USES; PROVIDING REGULATIONS FOR MISCELLANEOUS USES; PROVIDING FOR A PERMIT REQUIREMENT FOR THE CONSTRUCTION OF NEW FENCES; PROVIDING THAT A PERMIT IS NOT REQUIRED FOR THE REPAIR OF EXISTING FENCES OR FENCES BEING ERECTED WITHIN AN EXISTING FENCE; PROVIDING THAT PLANNED DEVELOPMENT DISTRICTS SHALL BE ADDRESSED BY DEVELOPER; PROVIDING A REPEALING CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City Of McLendon-Chisholm wishes to adopt regulations governing the construction and repair of fences within the City; and

WHEREAS, such regulations have been prepared and presented to the City Council for consideration; and

WHEREAS, after discussion and consideration, the City Council has determined it is in the best interest of the City to amend the Zoning Ordinance to add Section 6-15, Fence Regulations, **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS:

SECTION 1. That the City of McLendon-Chisholm Zoning Ordinance be, and the same is, hereby amended by amending Article 6, Supplemental District Regulations, by adding a new Section 6-15, Fence Regulations, which shall read as follows:

SECTION 6-15 FENCE REGULATIONS

A. Generally

No fence, wall, or outdoor area enclosure structure may be erected, placed, or altered within the town unless the fence, wall, or outdoor area enclosure is in conformance with the provisions of this section.

B. Definitions

For the purposes of this section, the following definitions shall apply:

1. *Alternate orientation.* Created when a structure located on a corner lot is constructed to face the street frontage not normally associated to be the front of the lot.
2. *Approved Fence Materials:* Wood, Pipe, Barbed Wire, Masonry, Chain Link, Wrought Iron, Welded Wire, Plaster, Plastic Vinyl Post and Rail.
3. *Corner lot.* A lot, tract, or parcel which abuts two streets at their intersection, with the longer street frontage being the side of the lot.
4. *Corner orientation.* Created when a structure located on a corner lot is constructed to face the intersection, diagonally across a lot, rather than a traditional orientation toward one of the intersecting streets. In cases of corner orientation, both sides of the lot along the street frontages are to be treated as front yards.
5. *Decorative fence.* A fence or outdoor area enclosure constructed for aesthetic purposes only constructed of material such as wood pickets, lattice work, decorative metal, masonry or stone, meeting the requirements of this section.
6. *Electrical fence.* An outdoor area enclosure that contains an electrically charged or partially charged metallic material designed to discourage crossing by either man or animal.
7. *Fence.* An outdoor area enclosure of masonry, wood, chain link, plaster, or other approved building material no more than three inches in thickness, serving to enclose, divide, or protect an area.
8. *Front building setback.* Minimum required front yard setback as specified under McLendon Chisholm Residential Regulations.
9. *Key lot.* An interior lot, tract, or parcel which sides to the rear of one or more lots, tracts, or parcels.
10. *Nonresidentially zoned areas.* Any land within the City zoned for nonresidential uses: NC, GB, CP, O1, O2 or L1.
11. *Office, business, or industrial park / complex enclosure (including entry features).* A wall of masonry or a combination of masonry and pressure-treated timber, plaster, iron, or other approved building material serving to enclose or protect an office, business, or industrial park/complex.

12. *Outdoor area enclosure.* Any fence, wall, or structure of various materials designed to serve as an enclosure of an outdoor area, a barrier or boundary, or to otherwise divide or protect an area.
13. *Privacy/security enclosures.* Fences, walls, or structures located on individual lots, tracts, or parcels for the purpose of enclosing an outdoor area for privacy or security purposes.
14. *Residential subdivision enclosures (including subdivision entry features).* A wall of masonry or a combination of masonry and pressure-treated timber, plaster, iron or other building material as approved by the City serving to enclose, divide, or protect a residential subdivision.
15. *Residentially zoned areas.* Any land within the City zoned for residential uses: SF1.5, SF2.5, SF5, MH and PD.
16. *Wall.* An outdoor area enclosure of masonry, wood, plaster or other approved building material that exceeds three inches in thickness, serving to enclose, divide, or protect an area.
17. *Visibility triangle.* An area as defined in the subdivision ordinance of the City, located at the intersection of two streets, access easements or alleys or any combination thereof where no structure, growth, or object shall exceed two feet in height.

C. Residential uses

In residentially zoned districts, fences, walls, and outdoor area enclosure structures may be erected if in accordance with the following regulations:

1. Privacy/ security enclosures
 - (a) Privacy/security enclosures may be fences or walls.
 - (b) Privacy/security enclosures shall not exceed eight feet in height.
 - (c) Privacy/security enclosures may be erected upon the rear lot line of any lot.
 - (d) Privacy/security enclosures may be erected upon the side lot lines of any interior lot.
 - (e) Private/security enclosures can be no closer than 75' from front lot line.

2. Decorative fences
 - (a) Decorative fences shall not be walls.
 - (b) Maximum height of decorative fences shall not exceed six feet.
 - (c) Solid surface area of any decorative fence shall not exceed 30 percent of the total surface area.
 - (d) Decorative fences may be erected upon any residential lot line; however, no decorative fence may encroach upon any right-of-way, drainage or access easement, or floodway.
 - (e) Decorative fences may be allowed within the visibility triangle with a maximum height of two feet.
 - (f) Decorative fences shall be constructed of approved materials.
3. Residential subdivision enclosures, including subdivision entry features
 - (a) All residential subdivision enclosures shall be walls or a combination of decorative fences as approved by the city staff.
 - (b) All residential subdivision enclosures shall be constructed with minimum 10 inch by 20 inch brick columns set on piers with a maximum spacing of 10 feet on center. Infill material between brick columns shall be brick, pressure-treated lumber, plaster, iron, or other material as approved by the city.
 - (c) Maximum height of subdivision enclosures shall not exceed eight feet.
 - (d) Walls enclosing residential subdivisions may be erected along rear property lines and along the side property lines exceeding the required front yard setback, provided that such encroaching structure does not exceed the required two foot maximum height limit within the visibility triangle, and the enclosure does not encroach upon any right-of-way, drainage or utility easements, or floodway.
 - (e) Plans for all residential subdivision enclosures shall be reviewed and approved by the city staff.

D. Nonresidential uses

In nonresidential zoning districts, fences, walls, and outdoor area enclosures may be erected if in accordance with the following regulations:

1. Privacy/security enclosures
 - (a) Privacy /security enclosures may be fences or walls.
 - (b) Maximum height of privacy/security enclosures shall not exceed eight feet.
 - (c) Privacy/security enclosures may be erected on the rear lot line of any lot, tract, or parcel.
 - (d) Privacy/security enclosures may be erected upon the side lot line of any lot, tract, or parcel provided that no fence may be erected to extend into the required front building setback without specific city staff approval.
 - (e) No privacy/security enclosure may be erected to encroach upon any visibility triangle, right-of-way, access or drainage easements or floodway.
2. Decorative fences
 - (a) Decorative fence shall not be walls.
 - (b) Maximum height of decorative fences shall not exceed six feet.
 - (c) Solid surface area of any decorative fence shall not exceed 30 percent of the total surface area.
 - (d) Decorative fences may be erected upon any nonresidential lot line; however, no decorative fence may encroach upon any right-of-way, drainage or access easements, or floodway.
 - (e) Decorative fences may be allowed within the visibility triangle with a maximum height of two feet.
 - (f) Decorative fences shall be constructed of approved material.
3. Office, business, or industrial park or complex enclosure, including entry features
 - (a) Maximum height of all enclosures shall be eight feet.
 - (b) Walls enclosing nonresidential developments may be erected along rear property lines.

- (c) Walls enclosing nonresidential developments may be erected upon rear property lines and along the front and side property lines to extend into the required front yard setback; provided that such encroaching structure does not exceed the required two foot maximum height limit within the visibility triangle, and the enclosure does not encroach upon any right-of-way, drainage or utility easements, or floodway.
- (d) Plans for park or complex enclosures shall be reviewed and approved by the city staff.

E. Miscellaneous uses

The following regulations shall apply to zoning districts of the City as applicable:

1. *Screening.* Live screening using natural growth or planted vegetation shall be allowed within the City under the following provisions:
 - (a) No tree, shrub, hedge, or other vegetation shall be so planted, pruned or otherwise maintained to exceed a height of two feet within the defined visibility triangle or street right-of-way.
 - (b) Any tree, shrub, hedge, or other form of vegetation located within the public right-of-way, utility easement, or visibility triangle shall be subject to removal (without compensation) by the authority of the City for the purpose of utility maintenance and public safety.
2. *Barbed wire.* Will be permitted at the Front Property Line (in front yard)
 - (a) In the 2.5 Residential Zoning Districts by Special Use Permit (SUP)
 - (b) In all Other Residential Classifications when land is used for animal husbandry.
 - (c) Not allowed in the 1.5 Residential Zoning Districts.
3. *Electrical fences.* Except as provided below, the use of electrical fencing is prohibited within the City:
 - (a) Electric fences are allowed within the NC, GB, CP, O1, O2 and L1 zoning districts and within the R zoning districts Ag, SF5, and SF2.5 if the land is used for animal husbandry.
 - (b) Electrical fences shall be UL-approved and installed and maintained as per manufacturer's instructions.

F. Permits required

Prior to construction of any outdoor area enclosure, a permit shall be obtained from the City. Upon approval of the application by the city staff and payment of the permit fee, a permit shall be issued for construction. If the permit holder fails to comply with the provisions of this ordinance, the permit shall be revoked, the fence will be considered a nuisance per se, and must be immediately removed.

G. Permit not required

Where fences to be erected are associated with new residential permit, new pool permit, or in SF2.5, SF5, and Ag zoning districts.

Where an existing fence is being repaired or where fences are erected within an existing fence.

H. Enclosures

In Planned Developments shall be addressed by the developer.”

SECTION 2. That all provisions of the Comprehensive Zoning Ordinance and of the Ordinances of the City of McLendon-Chisholm in conflict with the provisions of this ordinance be and the same are hereby repealed and all other provisions of the ordinances of the City of McLendon-Chisholm not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That the Zoning Ordinance of the City of McLendon-Chisholm, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That if any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, the Comprehensive Zoning Ordinance, or the Code of Ordinances as an entirety, it being the legislative intent that the provisions of this ordinance are severable and that the ordinance shall continue in effect notwithstanding the invalidity of such section, sentence, clause, or phrase.

SECTION 5. That any person, firm or corporation violating any of the provisions of this ordinance or the Comprehensive Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of McLendon-Chisholm, Texas, shall be punished by a fine to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

DULY ADOPTED AND APPROVED by the City Council of the City of McLendon-Chisholm, Texas, on this the 27th day of May, 2008.

APPROVED:

Original signed
Michael Donegan, Mayor

ATTEST:

Original signed
Deborah Sorensen, City Secretary