



**PLANNING & ZONING
COMMISSION MEETING
TUESDAY, MARCH 21, 2017 AT 6:30 P.M.
JUSTIN CITY HALL
415 NORTH COLLEGE STREET
JUSTIN, TEXAS 76247**

I. CALL TO ORDER:

Invocation and Pledge of Allegiance.

II. PUBLIC COMMENT

In order to expedite the flow of business and to provide all citizens the opportunity to speak, the Planning & Zoning Chair may impose a three-minute limitation on any person addressing the Planning & Zoning Commission.

III. PRESENTATION ITEMS

1. Presentation by City Manager, Cori Reaume, regarding ongoing and future developments.

IV. ACTION ITEMS

2. Discuss, consider, and act on the Fence ordinance draft
3. Discuss, consider, and act on ordinances specific to Old Town.
4. Discuss, consider, and act on reprioritization of ordinance review/revision.

V. FUTURE AGENDA ITEMS

VI. ADJOURNMENT

Prepared and posted, this 17th day of March 2017, in accordance with the Texas Local Government Code.

Cori Reaume, City Manager

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JUSTIN, DENTON COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF JUSTIN, BY AMENDING ARTICLE 3.500 TO PROVIDE FOR THE REGULATION OF FENCES WITHIN THE CITY; PROVIDING A REPEALING CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that the regulation of the type, size and location of a fence within the City of Justin is necessary in the interest of the public health, safety and welfare;

Commented [CR1]: Do we need to clarify this further?

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JUSTIN, DENTON COUNTY, TEXAS, THAT;

SECTION 1. The Code of Ordinances of the City of Justin, Texas, is hereby amended by amending Chapter 3.500

SECTION 2. That all provisions of the Code of the City of Justin, Texas in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. That should any word, sentence, paragraph, subdivision, clause phrase, or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. Any person violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Justin, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day and such violation shall continue shall constitute a separate offense.

Commented [CR2]: Can we remove from this section?
Rob - Is there a specific format we must follow for the ordinance that lays out the fees up front, etc.

Definitions

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section:

City. The City of Justin, Texas

Easement. A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another dedicated by plat or implied by right. It is either for the benefit of appurtenant land, including but not limited to land for the right to cross, or egress, such as a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive bounds.

Fence. An artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

Game court. A structure having a playing surface, paved, or unpaved, with or without enclosing fences, designed to be used for playing or practicing tennis, badminton, volleyball, paddle tennis handball, baseball, batting, handball, racquet ball, squash, basketball, or similar uses.

Lot key. A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and not separated by an alley.

Opacity. The degree of openness which light or views are blocked measured perpendicular to the fence for each fence section between supports.

Public Right of Way. A strip of land which is used as a roadbed for a street, alley, or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

Repair. A repair to a fence shall be defined as maintenance to a fence where replacement of materials does not exceed fifty percent (50%) of the total length of the fence and does not change the scope, location, or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, size, shape, and quality of the original fence to which the repair is being made.

Residential district. A district where the primary purpose is residential use and is defined in the comprehensive zoning ordinance excluding multifamily.

Retaining wall. A wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

Street. Any dedicated public thoroughfare that affords the principal means of access to abutting property.

Vision or visibility triangle. The corner visibility triangle is defined at an intersection by extending the two right-of-way/property lines at the corner of a property from their point of intersection to a distance. These two points are connected with an imaginary line to form the corner visibility triangle. This distance shall be ten (10) feet at the intersection of residential streets and forty (40) feet for streets of collector size or larger.

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and not obstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear. The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side. The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Add definitions for posts, columns, etc.

Permitting requirements

(a) **Permit required.**

It is unlawful for any person to construct or replace, or cause to be constructed or replaced, a fence or any part of a fence in the city without first obtaining a fence permit from the city. No permit is required for repairs as defined by this article. In residential zoning districts on tracts or lots that are five (5) acres or greater in area, a permit is not required except for fences located in the front yard, along the side or rear property lines, or fences required to enclose swimming pools as required by city code or state federal law.

(b) **Permit fees.** The fee for a permit shall be in the amount established in appendix A to this code. When a person begins any work for which a permit is required by this article without first obtaining a permit, the permit application fee shall double. Payment of the fee shall not exempt any person, from compliance with all other provisions of this ordinance nor from any penalty prescribed by law.

(c) **Application for permit.** Any person making application for a fence permit shall complete a permit application on a form prescribed by the city showing the following information.

(1) Applicant's name, address, phone number and if the applicant represents a corporation, the name, address and phone number of the registered agent of the corporation, or if

the applicant represents as association, the name, address and phone number of a high managerial agent of the association.

- (2) Name of property owner;
- (3) Local address where the fence is proposed to be erected;
- (4) Type of fence construction (material);
- (5) Height of fence;
- (6) Diagram showing proposed location of the fence and listing relevant dimensions between the fence and other structures on the lot and the location of property lines and easements;
- (7) Approximate value of the proposed fence;
- (8) The fence contractor's registration number if a contractor is used;
- (9) The applicant's authorized signature; and
- (10) Other documentation as required by the city manager or his/her designee.

(d) Construction documents. **Construction documents shall not be required of wood, chain link, and pipe and cable fences to be constructed on residential lots.** —Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets, as required by the city manager or his/her designee, with each application for a permit. When required by the city manager or his/her designee, the applicant shall also provide additional information as required by the building code most recently adopted by the city. The construction documents shall be prepared by a registered design professional where required by statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the city manager or his/her designee is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The city manager or his/her designee is authorized to waive the submission of construction documents and other data not required to be prepared by a design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code. ~~Construction documents shall not be required of wood, chain link, and pipe and cable fences to be constructed on residential lots.~~

(e) Availability of plans. One set of approved plans, specifications and a copy of the permit shall be made available, by the applicant, for inspection of the work authorized by the permit.

The said set of approved plans, specifications, and permit shall be kept on the work site by the applicant during the construction process.

(f) Contractor's registration. It is unlawful for any person, to engage in the business of fence contracting without a valid contractor's registration with the City. The owner of a property who is constructing a fence on his/her own property is not required to register as a contractor.

- (1) There is no charge to register a fence contractor provided the applicant completes the required forms furnished for that purpose and files them with the city manager or dis/her designee.
- (2) Any person making an application for a fence contractor's registration shall sign an application for the same showing the following information:
 - (A) Applicant's name, business address, phone number, and if the applicant represents a corporation, the name and address of the registered agent of the corporation, or if the applicant represents an association, the name and address of a high managerial agent of the association;
 - (B) The fence contractor's authorized signature.
- (3) Every contractor registration provided for this code shall expire on the first day of January and shall be renewed by the city manager or his/her designee upon application.
- (4) The city manager or his/her designee may revoke or suspend a fence contractor's registration for a twelve-month period for either of the following reasons:
 - (A) The registrant violates the requirements of this article twice within a twelve-month period.
 - (B) The registrant fails to obtain permits and/or inspections twice within a twelve-month period.

General Requirements

- (a) Encroachment on city or public right-of-way. No person shall construct a fence guy wire, brace or any fence post upon or protruding over any city or public right-of-way.
- (b) Fence not to create a traffic hazard. It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this article.
- (c) Fence orientation. Fence sections essentially parallel with a public street shall have their backside (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public.
- (d) Gate required. Each fence constructed under the provisions of this article shall include in its perimeter at least one gate with a minimum width of three (3) feet.
- (e) Fence not to be located in right-of-way or easement. No fence shall be erected within, on, or across any public right-of-way, drainage easement, or vision or visibility triangle unless otherwise authorized in writing by the city manager or his/her designee. Property owners that allow a fence to be constructed in a utility easement on their property do so at their own risk. Unless the terms of a specific easement state otherwise, fences constructed within utility

easements may be removed by a utility company with rights to the easement and such utility company shall not be responsible for replacement of the fence or liable for damage to the fence that occurred during its removal.

(f) Fence materials. Fences may be constructed of materials or products such as chain link, wood planks and boards, commercial or livestock grade vinyl (supported by the manufacturer's specifications), masonry as defined by the building code, pipe and cable, wrought iron or ornamental iron. Materials or products such as rope; string; barbed wire; razor ribbon wire; corrugated metal panels; plywood; or a fence that has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals are prohibited. Wood, metal, or plastic products that are designed specifically for use other than fence construction are also prohibited.

Commented [CR3]: Need to add exception for industrial area – both for screening in the chain link fencing for junk yards, etc., and for barbed wire, etc.

(g) Temporary fences. Temporary fences are prohibited, except where required by city code or state or federal law for construction, excavation, or life safety issues. Temporary fence materials include, but are not limited to, rope; string; wire products such as chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; live bamboo; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other material that are not manufactured specifically as fencing materials. The city manager or his/her designee may require the applicant to provide the manufacturer's standard to establish the intended use of a proposed fencing material. Exceptions shall include:

(1) A dog window may be installed in a fence no larger than two hundred eight-eight (288) square inches with corrosion resistant material capable of restraining the dog.

(2) Temporary fences made of wire, with heights not in excess of thirty-six (36) inches, in residential districts are permitted for residential garden uses only.

(3) Temporary fences or panels used for corrals, pens, or chutes are permitted for the purpose of corralling or confining livestock.

(h) Perimeter walls. Where a fence intersects a screening wall and the height of the fence exceeds the height of a screening wall, the height of the fence shall transition to the height of the screening wall over a distance of twenty (20) feet or greater.

(i) Pool or spa enclosures. A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot tub, or spa shall comply with the minimum requirements of the building code, as it exists or may be amended.

(j) Retaining walls. Retaining walls greater in height than thirty-six (36) inches shall be in compliance with a design submitted by a registered engineer.

(k) Determining fence height and opacity.

(1) Height. Fence height is measured to include the body of the fence, plus allowing a maximum of six (6) inches (on average between posts) above the natural grade (i.e., for drainage purposes). When a fence or wall is placed atop a retaining wall, the height of the fence shall be

determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finish grade. Fence posts are permitted to extend a maximum of four (4) inches above the body of the fence. Columns are permitted to extend a maximum of twelve (12) inches above the body of the fence. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.

Fences in residential areas

- (a) Fences and gates in front yards. All fences, walls, gates, or other enclosures constructed in the front yard of a residential property shall:
- (1) Not exceed forty-eight (48) inches in height.
 - (2) Allow a minimum of 50% percent opacity.
 - (3) Not encroach into a vision or visibility triangle.
- (b) Fences and gates in side yard. It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any side yard or along any side yard lot line which fence exceeds eight (8) feet in height. On key lots, where side yards are required adjacent to the street to conform to minimum front yard setback of lots fronting upon such street, within the same block and upon the same side, no fence shall be constructed or maintained within such required side yard.
- (c) Fences and gates in rear yards. It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any rear yard or along any rear lot line which fence exceeds eight (8) feet in height.
- (d) Decorative gate embellishments. Ornate gates may exceed the maximum height of a fence by up to two (2) feet.
- (e) Vertical support posts. Vertical support posts may extend up to four (4) inches above the top of a fence.
- (f) Electrically charged fences in residential districts. It is unlawful for any person to erect, maintain, or permit a fence that is electrically charged in any manner, except single-strand wires designed to conduct electricity through a low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.

Fences in non-residential zoning districts.

- (a) Height. A fence in a non-residential zoning district may not exceed eight (8) feet in height.
- (b) Vertical support posts. Vertical support posts may extend up to four (4) inches above the top of a fence.
- (c) Columns. Columns are permitted to extend a maximum of twelve (12) inches above the body of the fence.

(d) Opacity. Where fencing is constructed in the front yards of nonresidential and multifamily projects, the opacity of the fencing shall be fifty (50) % or greater.

Exemptions. The following items are exempt from meeting criteria set forth in this ordinance. Clarify C.-

(a) Federal or state law. Fences that are required by federal or state law or regulation shall be exempt from the requirements of this ordinance.

(b) Game court fences. Notwithstanding any other regulation set forth in the ordinance, game court fencing may be constructed up to sixteen (16) feet in height, except that such fencing shall not be constructed in the front yard of a property. All game court fencing shall set back from a neighboring property line in a distance equal to or greater than the height of the fence.

(c) Large lot residential lots. Notwithstanding any other regulation set forth in the ordinance, fences of up to five (5) feet in height.

(d) Fences used to contain livestock. In addition to the materials permitted, fences used to contain livestock and/or fences that are located on properties of five (5) acres or greater in area and used for agricultural purposes may be constructed of barbed wire, smooth or non-climb wire, and/or contain electrical current.

Maintenance of fences

(a) All fences shall be maintained reasonably plumb and structurally sound. Each structural and decorative member of a fence shall be free of deterioration and be compatible in size, material and appearance with the remainder of the fence.

(b) A fence shall not lean more than one inch out of vertical for each foot of height as measured from the top of the fence.

(c) A fence that has deteriorated to a condition that it is likely to fall shall be repaired, replaced, or completely removed. ~~or replaced.~~

(d) Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members. External braces shall only be temporary in nature and shall be removed within 30 days.

(e) After receiving notice from the city, the owner shall replace broken, damaged, removed or missing parts of a fence with the same material, or material with comparable composition, size, shape and quality of the original fence to which the repair is being made. The owner shall also have the options to completely remove the fence, or to replace the fence with other materials allowed through this ordinance. No permit is required for repairs as defined in this ordinance.

The notice shall include a deadline by which the repairs are to be completed. The deadline shall range from 10 to 30 days after the date of the letter depending upon the extent of the damage and repairs. The city manager or his/her designee may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time at his/her discretion. The owner requesting a replacement time extension shall provide the city

manager or his/her designee a written scope and schedule detailing materials and estimated time period of the completed replacement for approval.

Nonconforming fences

The lawful use of any fence on the effective date of the ordinance from which this ordinance derived may be continued, although such use does not conform to the provisions of this ordinance; provided however, the right to continue such nonconforming use shall be subject to the following regulations:

- (1) Normal repairs and maintenance may be made to a nonconforming fence; provided those repairs do not exceed fifty percent (50%) of the total length of the fence.
- (2) Unless otherwise provided, a nonconforming fence shall not be added to in any manner unless such additions are made to conform to all the requirements of this ordinance
- (3) A nonconforming fence shall not be moved in whole or in part unless every portion of such fence is made to conform to all regulations of the district in which it is located.
- (4) If a nonconforming fence is damaged, destroyed or in disrepair to an extent greater than fifty percent (50%) of the total length of the fence, such fence shall be replaced and must conform to all regulations of the district in which it is located and shall be treated as a new fence.

Variances

The Board of Adjustment shall have the authority to authorize such variances from the terms of this ordinance. In order to approve a variance, the Board of Adjustment shall determine that the requested variance meets three (3) of the following four (4) criteria:

- (1) The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
- (2) The proposed fence is of a unique design or configuration or serves a unique function;
- (3) The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed; or
- (4) The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this ordinance.

Offenses; penalties

- (a) Any person violating any of the provisions of this article shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be fined, except as otherwise provided herein, in a

Commented [CR4]: Need to look into further

sum not to exceed five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

(b) If the city council determines that a violation of this ordinance creates a threat to the public safety, the city may bring suit in district court to enjoin the person, firm, partnership, corporation, or condition to the issuance of injunctive relief.

Planning & Zoning Meeting

March 21, 2017

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: #1

Title: Updates on Developments

Department: Planning & Development

Contact: Cori Reaume, Interim City Manager

Background:

I would like to take a few minutes to quickly lay out the status of some ongoing developments and estimated timelines on future developments. Updates will be provided on Hardeman Estates, the Reserve at the Meadowlands, Legacy Ranch, the Village at Reatta, and Timberbrook.

Line Item: NA

Amount remaining in line item: NA

Expenditure Required: NA

Additional Required: NA

Budget Amendment Needed: NA

City Attorney Review: No

Recommendation:

Attachments:

Planning & Zoning Meeting

March 21, 2017

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: #2

Title: Fence Ordinance

Department: Planning & Development

Contact: Cori Reaume, Interim City Manager, Barry Hudson, Planning Consultant

Background:

At the P&Z meeting in February, we heard public comments and feedback from commissioners on this ordinance. There was still a great deal of review remaining at the close of the meeting so the item was tabled until this month.

I have incorporated some changes based on the comments from the last meeting and have tracked changes in the document, as well as included comments for later review.

Line Item: NA

Amount remaining in line item: NA

Expenditure Required: NA

Additional Required: NA

Budget Amendment Needed: NA

City Attorney Review: No

Recommendation:

Attachments:

(1) DRAFT Fence Ordinance