

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 53-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING SUBPART A, CHAPTER 14 OF THE CODE OF ORDINANCES, ENTITLED "BUILDINGS AND BUILDING REGULATIONS" THROUGH THE AMENDMENT OF ARTICLE XIII, ENTITLED "PROPERTY MAINTENANCE STANDARDS" THROUGH THE AMENDMENT OF DIVISION 1, ENTITLED "GENERALLY" BY THE AMENDMENT OF SECTION 14-513, ENTITLED "DEFINITIONS" BY ADDING A DEFINITION FOR THE PHRASE "PERIMETER FENCE" AND THROUGH THE AMENDMENT OF DIVISION 2 ENTITLED "MINIMUM STANDARDS" BY THE AMENDMENT OF SECTION 14-542, ENTITLED "PERIMETER FENCE STANDARDS" BY REPLACING SAID SECTION IN ITS ENTIRETY; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after due deliberation and consideration, the Town Council of the Town of Flower Mound, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town Code of Ordinances as set forth herein.

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

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Flower Mound, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 14-513 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Definitions," is hereby amended by adding a definition for the phrase "Perimeter Fence," to be inserted in alphabetical order with the existing definitions, to read as follows:

Perimeter fence means any fence as defined for the purposes of this article that is adjacent to an arterial or collector road as defined in the town's thoroughfare plan, and does not meet the requirements of Section 98-821 Perimeter Screening. This definition does not include any

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fence allowed under the Town's Urban Design Plan or any five-foot fence allowed under Section 98-1142(b).

SECTION 3

From and after the effective date of this Ordinance, Section 14-542 of the Code of Ordinances of the Town of Flower Mound, Texas, entitled "Perimeter fence standards," is hereby amended and replaced in its entirety to read as follows:

Sec. 14-542. Perimeter fence standards.

Any perimeter fence found to be in violation of subsection 14-541(3) must be repaired or replaced, as applicable, in conformity with the standards set forth below. In addition, any new perimeter fence shall be constructed in conformity with the standards set forth below. Perimeter fence repair, replacement and construction must meet the following minimum standards:

- (1) Fences shall be a minimum of six-feet (6') in height and a maximum of eight-feet (8') in height. The height of the fence shall not extend above any masonry column. The style of the fence shall be board on board, with a nominal size one by four (1"x4") trim board at the top of the fence. Fences located within front yard setbacks must be constructed of tubular steel and may not exceed four-feet in height.
- (2) All vertical posts shall be two-and-three-eighths-inch ($2\frac{3}{8}$ ") minimum outside diameter, .095 gauge galvanized metal. Vertical posts shall be spaced at no greater than eight-feet on center, set a minimum of eighteen-inches (18") deep into two-foot (2') deep, ten-inch (10") diameter concrete post footings.
- (3) For a six-foot (6') tall fence, a minimum of three (3) rails shall be used. For an eight-foot (8') tall fence, a minimum of four (4) rails shall be used. The fence pickets shall be attached to the horizontal rails running from vertical post to post as described in paragraph 4 below. The size of the rails shall be no less than nominal size two-inches by four-inches (2"x4") and shall be bolted to steel posts with noncorrosive metal anchor straps and one-fourth inch ($\frac{1}{4}$ ") noncorrosive bolts or screws.

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- (4) All nails or fasteners shall be of non-rusting, non-corrosive metal such as hot-dipped galvanized steel. All nails or fasteners shall be of the type (such as screw shank, ring shank, or divergent-point staples) that when properly driven, will not work free due to wind vibration, or shrinkage of members.
- (5) All materials shall be securely fastened, vertical pickets to horizontal rails, rails to vertical posts, trim board to 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 picket contact. A nominal size two-inch by six-inch (2"x6") kick board shall be used to cover the gap between bottom of pickets and ground. This kick board may have ground contact; however, the kickboard may not impede drainage patterns or create a gap of more than two-inches (2") above grade.
- (7) Posts and rails must be placed on the inside of the fence so that they are not facing a street.
- (8) The perimeter wood fence shall be constructed with pre-stained western red cedar in medium brown color or composite material in redwood color. Composite material is produced by combining wood fiber and polyethylene plastic, whereby the plastic encapsulates the wood.

SECTION 4

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses,

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sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 17th DAY OF DECEMBER, 2009.

APPROVED:



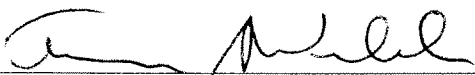
Jody A. Smith, MAYOR

ATTEST:



Paula J. Paschal, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, TOWN ATTORNEY

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