

ORDINANCE NO. 36

AN ORDINANCE OF THE MUNICIPALITY OF LOWRY CROSSING, TEXAS PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR REGULATION OF THE CONSTRUCTION, ERECTION, ENLARGEMENT, ALTERATION AND MAINTENANCE OF FENCES WITHIN THE MUNICIPALITY, EXCLUDING AGRICULTURAL DISTRICTS; REQUIRING FENCES AROUND SWIMMING POOLS; REQUIRING INSPECTIONS; PROHIBITING CERTAIN USES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF:

WHEREAS, The Building Official has made a study of the Ordinances of Lowry Crossing, and found none which regulate the erection and maintenance of fences within the corporate boundaries; and

WHEREAS, the Building Official recommended to the Board of Aldermen that an ordinance regulating the erection and maintenance of fences be adopted; and

WHEREAS, the Board of Aldermen has reviewed the recommended ordinance and concurs with the Building Official;

NOW THEREFORE: BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF LOWRY CROSSING, TEXAS:

SECTION I. Repealer

All ordinances or parts of ordinances found to be in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION II. Purpose

The purpose of this ordinance is to require fences around all swimming pools, and to regulate the construction, erection, enlargement, alteration, and maintenance of all fences within the boundaries of Lowry Crossing in order to provide a practical safeguarding of life, health, and property from hazards that may arise from improper construction and/or maintenance of such installation. However, except for the requirement for fences around swimming pools, this ordinance and the provisions hereof shall not apply to fences erected or maintained in districts zoned Agriculture.

SECTION III. Permit to Install or Alter

a) Except for normal maintenance actions, it shall be unlawful for any person, firm, company, partnership, corporation or association to install, alter, or make addition to a fence, or to cause or permit said activities, without first having obtained a permit to do so from the Building Official.

b) Permit fees shall be as defined in the latest Schedule of Permit Fees as adopted by the Board of Aldermen of Lowry Crossing.

c) Any application for a fence permit shall contain a plot plan showing the lot size, all improvements on the lot, and the proposed location of the fence to be constructed before a permit will be issued.

d) The Building Official may refuse to issue a permit under this section to any person who has been convicted of a violation of any provision of this ordinance.

SECTION IV. Swimming Pools

a) Every swimming pool or excavation designed or intended to ultimately become a swimming pool shall, while under construction as well as after completion, be continuously protected by an enclosure surrounding the pool or excavated area in such a manner as to make such pool or excavated area reasonably inaccessible to small children or animals.

Exceptions to Section IV a) above:

1) This provision shall not apply to a) bodies of water other than swimming pools, such as farm ponds and stock tanks; and b) bodies of water located in natural drainageways.

2) In single-family occupancies, the enclosure may surround the entire single-family premise.

3) In multi-family occupancies, the enclosure may include the courtyard which surrounds the pool.

b) An enclosure shall be a fence, wall, or building not less than forty-eight inches (48") in height with no openings, holes or gaps larger than four inches (4") across measured in any direction, except that any measurement for a picket fence composed primarily of vertical members shall be measured in a horizontal direction between members.

c) Gates and doors opening directly into such an enclosure shall be equipped with self-closing and self-latching devices designed to keep and capable of keeping such doors or gates securely closed, said latching device to be attached to the gate or door not less than thirty-six inches (36") above the grade or floor.

Exceptions to Section IV c) above:

1) The doors of any building forming a part of the enclosure need not be so equipped.

d) Swimming pools in existence on the effective date of this ordinance shall be fenced in accordance with the requirements of this section within 180 days of the effective date.

e) All applications submitted to the Town of Lowry Crossing for swimming pool permits shall show compliance with the requirements of this section.

SECTION V. Height Limits

No fence shall be constructed at a height exceeding the following:

a) Forty-eight inches (48") between the front building line and the street right-of-way.

All such fences shall have a minimum of fifty percent (50%) through-vision. Shrubbery or other plantings shall not be allowed to reduce through-vision below this minimum. Wire fencing (other than chain-link) shall not be permitted between the front building line and the street right-of-way.

b) Ninety-six inches (96") on any side or rear property lines in districts zoned Residential or Commercial, where the property line is not in or along a street.

c) Forty-eight inches (48") on corner lots, between the side building line and the street right-of-way, or between the front building line of adjacent property and the street right-of-way, whichever is more stringent. The same through-vision requirements as for front fences shall apply.

d) Ten feet (10') around tennis courts and in districts zoned Light Industrial.

SECTION VI. Sight Barriers

No fence shall be constructed in the triangle formed by measuring twenty feet (20') back from the intersection of two streets, or from the intersection of a driveway and a street, or fifteen feet (15') back from the intersection of an alley and a street.

SECTION VII. Gates

Every fenced enclosure shall have at least one gate in its perimeter.

SECTION VIII. Fence Arms and barbed-wire

Neither barbed-wire nor fence arms shall be permitted on fences in districts zoned Residential (including tennis courts), and Commercial. Fence arms may be permitted in districts zoned Light Industrial providing that they do not extend beyond the property line.

SECTION IX. Chain-link fences

Chain-link fences less than five feet (5') in height shall have the finished edge of the material on the top of the fence.

SECTION X. Location on or Protrusion over Town Property or Road Easements Prohibited

No privately owned fence or guy wires, braces, or any other part of a privately-owned fence shall be constructed on nor protrude over public-owned property, nor over easements for a road right-of-way or a public utility.

SECTION XI. Fences in Drainage Easements

No fence shall be constructed across or within any drainage easement unless the Building Official believes that such fence will not interfere with nor impair the natural flow of water along the drainage easement.

SECTION XII. Inspections

When any fence for which a permit has been issued under this ordinance is completed, it must be inspected. The Building Official shall be notified by the permit holder upon completion of the fence. The Building Official will certify acceptance if the fence complies with the provisions of this ordinance or reject the fence if it does not comply.

SECTION XIII Maintenance

All fences constructed under the provisions of this ordinance shall be maintained so as to comply with the requirements of this ordinance at all times. The Building Official may order the repair or removal of any fence, whether constructed following adoption of this ordinance or not, if it is more than five percent (5%) damaged, or leaning more than ten (10) degrees from vertical. Fences shall be repaired or replaced in compliance with the provisions of this ordinance.

SECTION XIV. Appeals

Any appeal from an interpretation by the Building Official of the provisions of this Ordinance shall be made to the Board of Aldermen of the Town of Lowry Crossing.

SECTION XV. Severability Clause

If any part of this ordinance should be declared unconstitutional or invalid by any judgement of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining clause, sentence, paragraph, or section of the ordinance.

SECTION XVI. Publication and Effective Date

The caption of this ordinance shall be published one (1) time in a newspaper having general circulation in the Town of Lowry Crossing, and shall be effective upon publication.

PASSED AND APPROVED this 6th day of March, 1990

15/ Peggy Simpson
Mayor

ATTEST:

15/ Palinda Amstutz
City Secretary