

TOWN OF LITTLE ELM

ORDINANCE NO. 1151

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN, BY AMENDING CHAPTER 106 (ZONING), BY AMENDING SECTION 84 (RESIDENTIAL FENCES), IN ORDER TO MODIFY FENCE STANDARDS; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town of Little Elm possesses all the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses and provide for development standards under Chapter 211 of the Texas Local Government Code; and

WHEREAS, Town Council and the Planning & Zoning Commission of the Town of Little Elm, in compliance with the laws of the State of Texas and the ordinances of the Town of Little Elm, have given the required notices and held the required public hearings regarding the amendments contained in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning & Zoning Commission and staff and any other information and materials received at the public hearing, the Town Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the Town of Little Elm.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ADOPTION. That Chapter 106 (Zoning) of the Town of Little Elm Code of Ordinances is hereby amended, in part, by amending Section 84 (Residential Fences), in part, per the attached regulations.

SECTION 3. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town affecting planning related applications and reviews and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

SECTION 4. PENALTY. Any person, firm, or corporation violating any of the provision of this ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5. SEVERABILITY. The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason held invalid or unconstitutional by a court of competent Jurisdiction, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 6. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.

SECTION 7. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED this the 4th day of June, 2013.

The Town of Little Elm, Texas

David Hillock, Mayor

ATTEST:

Kathy Phillips, Town Secretary

**ARTICLE III.
SUPPLEMENTARY REGULATIONS.
DIVISION I.
SUPPORTING REGULATIONS.**

Sec. 106-84. Residential Fences.

A. General requirements.

1. Permits.

- a. Fence construction or repair requires a permit. Repairs with a total length of less than one full run (side or back yard) may be completed without a permit with materials matching the existing.
- b. Plot plan showing exact materials, location, height, dimensions from property lines, sidewalks, curbs, and location of gates must accompany a completed application form.

2. Inspections.

- a. A footing inspection is required. The footing inspection must be completed prior to pouring concrete.
- b. A final inspection is required and must be scheduled within one week (five business days) of completion.
- c. All fence installers are required to be registered with the Town of Little Elm.
- d. Fences that fail inspection through the Rental Registration program shall be repaired or replaced accordingly.

3. Regulations.

- a. Fences shall not be over eight (8) feet in height, excluding a maximum 6" allowance for ground clearance and a decorative cap.
- b. No fence material shall be used to construct a fence except for those listed and regulated in this chapter. Generally, residential fences should only be wooden or black tubular steel (powder coated ornamental iron).
- c. Barbed wire, electric, and/or other injurious material is prohibited in the Town, unless the property is an agricultural district over five acres in size with a current AG-exemption tax status, legitimately needed for industrial purposes, or otherwise approved by the Director.
- d. Fence sections shall have their back side (the side with exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public.
- e. Fences and walls are allowed in front yards up to thirty inches (30") in height and must be either: split-rail, wrought iron, picket fence, or decorative masonry wall. Lots over 1 acre in size are exempt from this regulation, subject to review and approval by the Director. All front yard fences should generally be 50% open,

except for walls when allowed.

- f. Fences cannot encroach upon any property line (front, side, or rear).
- g. On all corner lots fences shall not be closer than 15 feet from the face of any curb, unless otherwise approved by the Director or when the building setback line is closer than 15 feet to the curb.
- h. No fence shall be erected on public right-of-way or within any drainage easement, unless otherwise authorized by the Director.
- i. All fences erected on side yards of corner lots and reverse corner lots or backing to a right-of-way of 60' or wider shall be cedar, board-on-board, with a decorative cap.
- j. All fences installed adjacent to a floodplain, creek, or dedicated open space shall be black tubular steel.
- k. Properties that have exterior fences improved by the Town through the Neighborhood Integrity Grant program shall maintain, repair, and replace the fence to the same standard as it was installed by the Town.

B. *Wooden fence standards.*

- 1. All vertical posts shall be galvanized steel with a minimum two and three-eighths inch diameter, a minimum CS 20 (.095) thickness, and set in a concrete footing.
- 2. Concrete footings shall be a minimum of eight inches in diameter and must be at least six inches deeper than the post depth.
- 3. For fences less than seven feet in height, posts shall be spaced at a maximum of eight feet on center, set in a concrete footing of no less than 24 inches deep.
- 4. For fences that are seven feet or greater in height, posts shall be spaced at a maximum of six feet on center, set in a concrete footing of no less than 36 inches deep.
- 5. Wood material shall be western red cedar. White wood, if pre-stained or stained a natural brown or earth tone color, is allowed. .
- 6. All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rot, rust, vandalism, and other sources of decay.
- 7. The bottom of the fence shall be designed to prevent ground to wood contact. This can be achieved through the use of a concrete mow strip poured between the fence supports or by installing a 2x6 pressure treated kick board to cover the gap between the bottom of pickets and the ground. This kick board may have ground contact.
- 8. Perimeter walls adjacent to a subdivision. A fence that is parallel to, perpendicular to, approximately parallel to, or approximately perpendicular to such wall shall not exceed the height of the adjacent subdivision wall. A fence that is separated from the subdivision screening wall by a public alley or right-of-way is deemed to not be

adjacent to the subdivision screening wall. If abutting, the height of the fence may be allowed to transition or increase in height from the height of the subdivision screening wall to the maximum allowable height of the fence, provided that the transition does not exceed an even or smooth rate of increase over a span of not less than 16 feet in length.

C. Exceptions.

1. The use of chain link, vinyl, split-rail, and composite materials may be allowed, if constructed to manufacturer's specifications, subject to discretionary review and approval by the Director. Otherwise, they are generally prohibited. Existing non-conforming chain link fences may replace with similar material.
2. Dog runs, swimming pool fences, and other similar situations within the interior of a back yard can be constructed of alternate materials, as long as all exterior and shared fence lines are built to compliance and the alternate interior materials are shorter than the exterior fence and not visible to the public, subject to discretionary review and approval by the Director.
3. Decorative gate embellishments are allowed. They shall not exceed the height of the fence by more than two (2) feet.
4. Alternate materials and methods that deviate from the fence standards listed above may be submitted, subject to discretionary review and approval by the Director.