

ORDINANCE 19-2020
Fence Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARION, TEXAS PROVIDING FOR RESIDENTIAL YARD FENCING REGULATIONS WITHIN THE CITY; REQUIRING A PERMIT FOR RESIDENTIAL AND COMMERCIAL YARD FENCES; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that regulating all fencing within the City serves a public purpose by providing a practical safeguard from hazards that might arise from improper placement and construction of such fences; and

WHEREAS, the City Council has determined that all fence ordinance serves a public purpose by providing uniform placement and construction of such fences, which improves neighborhoods and property values; and

WHEREAS, Texas municipalities are authorized and empowered to enforce ordinances necessary to protect the welfare of their inhabitants pursuant to Texas Local Government Code, Sec. 51.012; and

WHEREAS, the City Council has determined that a residential and commercial yard fence ordinance is necessary for the health, safety, and welfare of city inhabitants.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS that the following ordinance is hereby adopted:

I. Enacted.

YARD FENCE ORDINANCE

Sec. 1. Definitions.

Corner lot means a lot, tract or parcel which abuts two streets at their intersection, with the longer street frontage being the side of the lot.

Yard means the open space on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided, and as defined herein:

Front Yard means the part of the Yard that extends the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

Rear Yard means the part of the Yard that extends the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the furthest line of the main building.

Sec. 2. Fence height.

(a) It shall be unlawful for any person to install a front yard fence on residential or commercial property in the city at a height greater than four (4) feet.

(b) It shall be unlawful for any person to install a rear yard fence on residential or commercial property in the city at a height greater than eight (8) feet.

(c) Fence height shall be measured vertically from the inside natural or mean grade elevation of the yard.

(d) Any variance requests for fence height must be acceptable to all owners of property abutting the parcel where the fence is to be constructed. The property owner or fence builder must contact all adjacent property owners and provide the City with written evidence that the adjacent property owners have expressed no opposition to the proposed fence. If one or more adjacent property owners expresses opposition, the Council may grant permission for construction and placement of the fence in accordance with Sec. 7(b) of this Ordinance.

Sec. 3. Fence material.

(a) Front and rear yard fences on residential and commercial properties must be built of wood, metal, brick, or masonry material. No more than two materials may be used to construct a fence.

(b) It shall be unlawful for any person to use barbed or razor wire in construction of any fence.

(c) A property owner may submit a variance request for use of any other material or number of materials to Planning and Zoning Commission for review in accordance with Sec. 7(b) of this Ordinance.

Sec. 4. Fence setback.

All yard fences on residential and commercial property shall be set back into the property as provided below:

(a) a minimum of four (4) feet from a city sidewalk or multi-purpose trail, for those properties with city sidewalks or multi-purpose trails;

(b) a minimum of eight (8) feet from a street curb, for those properties with street curbs; or

(c) a minimum of four (4) feet from a city utility easement or right of way, if no sidewalk, multi-purpose trail, or street curb is present on the property.

Sec. 5. Prohibited locations.

- (a) No fence or part of a fence shall be constructed upon or caused to protrude over public property.
- (b) No fence shall be located within a comer lot such that it obstructs the view of traffic. For purposes of this prohibition, no fence may be constructed within the triangular area beginning at the precise corner of the intersection of the two streets and extending twenty feet along each street right of way from the comer, the third side of the triangle being a straight line joining the ends of the twenty feet extensions.
- (c) No fence shall be located within a drainage easement unless the city shall first determine, in writing, that such fence shall not interfere with or impair the flow of water through or across the easement.

Sec. 6. Permit required.

No fence shall be installed in a residential or commercial yard without a city permit. The city shall require a site plan showing the lot size, all improvements on the lot, and the proposed location of the fence to be constructed, before a permit shall be issued. A hand-drawn site plan may be accepted, at the city's discretion. A fence permit is valid for six (6) months from the date of its issuance.

Sec. 7. Appeals and variances.

- (a) An applicant may appeal a decision of the city staff under this ordinance to the Planning and Zoning Commission. After a hearing on the application, the Planning and Zoning Commission shall make a recommendation to the City Council.
- (b) Variance requests under this Ordinance are to be made to the Planning and Zoning Commission which will make a recommendation to the City Council. The City Council may authorize a variance to the regulations of this Ordinance in order to permit reasonable development and improvement of property where, in its judgment, the literal enforcement of the regulations would result in unnecessary hardship, public convenience and welfare will be substantially served, and the use of neighboring property will not be substantially injured.

II. Repealer: All other ordinances, sections, or parts of ordinances heretofore adopted by the City of Marion in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

III. Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity or any other portion, provision or regulation.

IV. Penalty: Any person who violates a provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$100.00 or not more than \$2000.00 plus court fees. Each day that a violation continues shall constitute a separate and distinct offense.

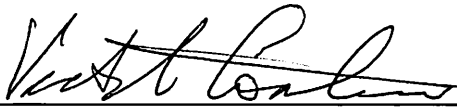
V. Publication: The City Secretary is directed to cause this ordinance caption to be published in a newspaper of general circulation according to law.

VI. Effective Date: This ordinance shall become effective after publication.

PASSED, APPROVED and ADOPTED this the 9th day of September, 2020.

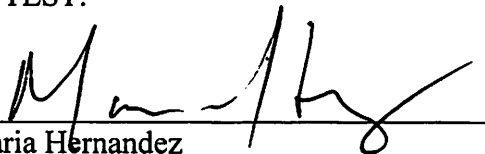


CITY OF MARION



Victor A. Contreras, MAYOR

ATTEST:



Maria Hernandez
CITY SECRETARY

