

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBSECTIONS (10), "OPEN FENCING REQUIREMENTS," AND (11), "PROHIBITED," OF SECTION 3.19.001, "GENERAL REGULATIONS," OF ARTICLE 3.19, "FENCE REGULATIONS," OF CHAPTER 3, "BUILDING REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER BY AMENDING PROVISIONS RELATED TO OPEN FENCING AND PROHIBITED FENCING; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that maintaining certain standards is critical to preserve the image of the Town; and

WHEREAS, the Town Council has also determined that modifications to certain fences adjacent to parks, trails, thoroughfares, and collectors do not enhance the image of the Town.

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

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, existing Subsections (10), "Open Fencing Requirements," and (11), "Prohibited," of Section 3.19.001, "General Regulations," of Article 3.19, "Fence Regulations," of Chapter 3, "Building Regulations," of the Code of Ordinances of the Town of Prosper Texas, ARE hereby amended to read as follows:

"ARTICLE 3.19 FENCE REGULATIONS

Sec. 3.04.001 General Regulations.

* * *

(10) *Open fencing requirements.* Fences adjacent to public or private open space, public or private parks, hike and bike trails, or a thoroughfare/collector street, as so designated by the Town on its Thoroughfare Plan, as amended, shall be ornamental metal, tubular steel or split rail with a minimum 50 percent (50%) through vision. Wooden fences legally installed on or before October 7, 2015, may be replaced with a wooden fence in compliance with the wooden fence standards as they exist or as may be amended.

(11) *Prohibited.* Fences may not contain and/or be:

(A) Continuous electrical current, although single-strand wire designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior base line;

(B) Constructed to contain barbed wire;

(C) Plywood;

(D) Fiberglass or fiberglass panels;

(E) Corrugated steel or sheet iron;

(F) Razor wire; and/or

(G) Altered to contain screening material on the fence that does not maintain a minimum of 50 percent (50%) through vision. Except for living screens, screening material may not be placed within the building setback area of any lot. For purposes of this Article, "living screen" shall include trees, bushes, shrubbery or other living plant material.

* * *

SECTION 3

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5

Any person, firm, corporation, or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

SECTION 6

This Ordinance shall become effective after its adoption and publication as required by law.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS, ON THIS 10TH DAY OF OCTOBER, 2023.**

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney