

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING SEC. 53-994 “SCREENING.”, OF CHAPTER 53 “ZONING”, OF THE CITY OF KYLE CODE OF ORDINANCES, BY CREATING NEW DEFINITIONS, CLARIFYING APPROVED TECHNIQUES, ESTABLISHING MAXIMUM HEIGHTS, REQUIRING PROPER MAINTENANCE, AND CREATING EXEMPTIONS FOR FENCES ERECTED ON BOTH RESIDENTIAL AND NON-RESIDENTIAL LOTS INSIDE KYLE’S CORPORATE LIMITS.

WHEREAS, the City of Kyle is authorized to regulate property development by establishing the strict guidelines for the time, manner, and place of certain improvements; and

WHEREAS, the City of Kyle is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City’s regulatory mechanism for the regulation of fences and other screening in Section 53-994, of Article V, of Chapter 53 of the City Code currently has provisions for their construction and placement; and

WHEREAS, the City of Kyle seeks to provide direct guidance regarding the establishment of certain types of fencing and screening within the public and private realm; and

WHEREAS, the City seeks to expand and clarify the rules and regulations for constructing and maintaining certain types of fencing and screening; and

WHEREAS, in order to provide greater specificity in allowable heights and locations of fences; and

WHEREAS, in order to provide exemptions to specific fencing and screening requirements; and

WHEREAS, the regulation of these structures established within Kyle’s corporate limits is a reasonable and lawful police power of Texas home rule jurisdictions; and

WHEREAS, the City of Kyle encourages constant evaluation of regulatory practices, procedures and allowances to ensure conformance with the previously established visions, goals, policies, and objectives outlined in the various master plans; and

WHEREAS, the Mayor and City Council have reviewed these recommended changes to the Kyle Zoning Ordinance and find that it furthers the City’s intended provisions for health, safety and welfare; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

Section 2. Definitions Section Created. The Ordinance regulating the establishment of fences and screening is hereby amended by creating a specific set of definitions to be used only when regulating fences and screening.

Section 3. Amendment of Approved Techniques. City of Kyle Ordinance No. 438, as amended, the City of Kyle Landscaping Ordinance No. 912 (Landscaping and Screening Requirements), is hereby modified and amended by clarifying certain aspects of fence and screening construction, such as fence heights, materials, locations, maintenance requirements, and in some instances, these aspects taken in combination.

Section 4. Conditions and Standards. Those changes noted in the attached Exhibit A are affected by this text amendment.

Section 5. Effective Date. This Ordinance language will be in full force and effective on the date of final approval by the City of Kyle Mayor and City Council.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed, was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 51, Texas Local Government Code.

PASSED AND APPROVED on first reading, this the ____ day of _____, 2018.

PASSED AND APPROVED on second reading, this the ____ day of _____, 2018.

Jennifer A. Vetrano, City Secretary

Date: _____

Travis Mitchell, Mayor

Date: _____

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EXHIBIT A

Sec. 53-994. - Screening.

Definitions. The following terms are defined for their use in this section only.

Common property boundary means all lawfully platted private property and lot lines, that are coincident with platted property lines of directly adjacent privately-owned properties of identical land use.

Fence means a barrier, railing, or other upright structure, typically built from wood, metal, wire, masonry, or some combination of those materials, purposefully erected to enclose an area, occlude a view shed, mark a boundary, control access, and/or prevent intrusion and/or escape.

Fence height means a measurement of the vertical distance of a fence structure, from the bottom where it emerges from the ground, to the top of its highest structure. All mixes of media used in the construction of a fence will be included in the fence height measurement, including artificial earthen berms or other foundation accents.

Front Yard means a space extending forward of the primary structure for the full width of the lot to the front property line.

Side Yard means a space extending from the front yard to the rear yard between the primary structure and the side lot line.

Rear Yard means a space extending across the full width of the lot between the principal building and the rear lot line.

The following requirements shall be in addition to the landscaping and planting requirements in this article:

- (1) *Required to be screened.* All off-street parking lots serving five or more spaces, loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, mechanical equipment, and the rear of structures on reverse frontage lots, must be screened from view from the street or public rights-of-way.
- (2) *Approved techniques.* Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.
 - a. Fences shall not be constructed of trash, rubbish, re-purposed household or commercial sundries, waste and/or hazardous materials, including barbed or concertina wire, or other dangerous components.
 - b. Fences surrounding hazardous and sensitive facilities including, but not limited to, electrical substations, wireless telecommunication facilities, public utility facilities and substations, swimming pools, correctional facilities, chemical or equipment storage yards may incorporate barbed and/or concertina wire, only along a portion of their fence eight (8) feet or more above the adjacent grade.
 - c. Fencing that surrounds livestock yard(s) is not restricted to its use of barbed or concertina wire.
- (3) *Privacy fences.*

- a. All fences ~~required~~ enabled by this subsection and along a common property boundary shall be ~~a minimum of six feet in height no more than eight feet in height, unless otherwise restricted by this section.~~
 - b. Fences up to ~~eight~~ ten (10) feet in height, but not less than six feet, shall be allowed for impeding access to hazardous and sensitive facilities including, but not limited to, electrical substations, wireless telecommunication facilities, public utility facilities and substations, swimming pools, correctional facilities, and chemical or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages 20 percent or more on either side of the fence over a distance no less than 15 feet, or where the fence forms a continuous perimeter around a subdivision. All lots zoned for one- or two-family residential use, or used for one- or two-family residential use, that share a common property boundary inside the parent boundary of a subdivision, may provide screening along those common property boundaries of the side and rear yards with vegetative screening and/or fences of no more than six feet in height, and the design of said perimeter fence is approved by the planning and zoning commission.
 - c. Only fences less than or equal to three feet in height shall be allowed in the front yards of properties zoned for and/or used for one- and two-family residential uses.
 - d. No fence, berm, vegetation, or other structure more than 30 percent solid ~~or~~ and more than three feet high shall be located within 25 feet of the intersection of any rights-of-way.
 - e. All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations. All fences must be maintained in good repair at all times.
 - f. The finished side of all fences built to comply with these regulations shall face away from the screened object.
- (4) *Evergreen vegetative screens.* Evergreen plant materials shall be shrubs, at least 30 inches in height and at a minimum spacing of 48 inches at the time of installation. Shrubs may be used in combination with landscape trees to fulfill the requirements of this article.
- (5) *Landscape berms.* Landscape berms may be used in combination with shrubs and trees to fulfill the screening requirements of this article if the berm is at ~~least~~ most three feet in height, and in any case, has a maximum side slope of four feet of horizontal run for every one foot in vertical rise.
- (6) *Native vegetation.* Existing vegetation, demonstrating significant visual screening capabilities and as approved by the planning and zoning commission may fulfill the requirements of this article.
- (7) *Exemptions.* Temporary fencing, not permanently affixed to the ground or any object upon the ground, may be used to secure property or control access to temporary,

permitted activities such as construction sites, outdoor sales of merchandise, or special event gatherings. Such fencing is only permissible while there is an active development permit or operator's permit associated with the parcel where the fencing has been erected.