

ORDINANCE NO. 1255

AN ORDINANCE ADDING ARTICLE V. "FENCE REGULATIONS" TO CHAPTER 14 OF THE CITY OF LIVE OAK CODE OF ORDINANCES PERTAINING TO: APPLICABILITY, DEFINITIONS, PERMIT REQUIREMENTS, GENERAL REGULATIONS, REGULATIONS ACCORDING TO ZONING DISTRICT, MAINTENANCE, NONCONFORMING FENCES, ENFORCEMENT AND PENALTIES; AND PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LIVE OAK, FLORIDA:

Section 1. That Article V is added to Chapter 14 of the Code of Ordinances, City of Live Oak, Florida to read as follows:

Sec. 14-121 Applicability.

1. This Ordinance shall apply to all lands within the corporate city limits, as amended, of the City of Live Oak, Florida.
2. It shall be unlawful for any person to: erect, construct, enlarge, alter, repair, replace, remove, maintain, demolish, or permit the ongoing utilization of any fence regulated by this Ordinance, in a manner which is in violation of any part of this Ordinance, unless otherwise provided for herein.

Sec. 14-122 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Barrier: Shall mean a fence, wall or other structure built to bar passage.
2. Commercially Utilized: Shall mean that commercial activity on the parcel is taking place by evidence of the issuance of a current City Occupational Tax License, except in the case where the activity is considered a Home Business or Home Occupation.
3. Corner: Shall mean the space between intersecting streets, the intersection of a street and an alley, the intersection of a driveway and an alley or the intersection of a street and a driveway.
4. Curb Break or Curb Cut: Shall mean a driveway or other opening for vehicles entering from or to a public street.
5. Fence: Shall mean an enclosing barrier that prohibits through passage.
6. Fence face: Shall mean the finished side having no structural posts or supports.
7. Fence, protective measures: Shall mean all fencing greater than 4 feet in height, proposed to be installed at a non-residential location, erected for the purpose of the protection of an area or building on the property, and its contents, or to prevent or deter the crossing of the fence onto or off of said property. Opaque fencing, erected on a property boundary with an abutting parcel, which contains no security, barbed or razor wires, which is to serve the purpose of a buffer as

required in the Land Development Regulations, shall not be construed to be a protective measures fence.

8. Intersection: Shall mean a point where streets, roads, highways, alleys and driveways meet or cross.
9. Member: Shall mean a structural component part of a fence.
10. Visibility range: Shall mean distance required to afford proper vision for pedestrian and vehicular traffic at intersections and/or corners.
11. Yard: Shall mean a required open space unoccupied and unobstructed from the ground upward provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to requirements herein.
12. Yard, front: A front yard extends between side lot lines across the front of a lot adjoining a public street. Through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, have front yards on all frontages. Corner lots and reverse frontage lots have two front yards of the required depth.
13. Yard, rear: A rear yard extends across the rear of the lot between inner side yard lines. Through and corner lots have no rear yards but only front and side yards.
14. Yard, side: A side yard extends from the rear line of the required front yard to the rear lot line or, in the absence of a clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with a public street. Side yards of through lots extend from the required rear lines of front yards. Corner lot yards remaining after front yards have been established on both frontages are considered side yards.
15. Zoning atlas map or districts: Shall mean the district lines as shown on the Official Zoning Map of the City of Live Oak, as amended.

Section 14-123 Permit Requirements.

1. It shall be unlawful for any person to erect, construct, enlarge, alter, or replace any fence regulated by this article without first obtaining a separate permit for each fence from the City Building Official. A fence permit shall not be required if it is determined by the Building Official that only minor repair or painting is necessary.
2. Permits shall be applied for on forms provided by the City.
3. Proposed fences shall be subject to the prior review and approval of a minor site plan and building plan.
4. The fee for permits issued regarding fences shall be \$30.00 for any residentially zoned or utilized property and \$50.00 for any non-residentially zoned or utilized property.
5. Permits for any fences over 6 feet in height shall also require the submittal of sealed engineered plans for construction and wind loads.
6. Required plans shall be drawn to scale and shall include the following:

- a. Building locations and area to be fenced.
 - b. Legal description of land to be fenced.
 - c. Height of fence and type of materials to be used.
 - d. Intersections of streets, roads, highways, alleys and driveways.
 - e. Zoning.
 - f. Corner "visibility range," when required, shall be shown.
7. In cases where a fence is to be erected within 10 feet of a property line, or of an adjacent public right-of-way, and said property line cannot be substantiated by the property owner by method of existing property boundary markers, rods, monuments, or other acceptable measures, at the discretion of the Building Official, a certified survey of the property shall be a requirement as part of the necessary documents in order to secure a permit.
 8. The Building Official may require the applicant to provide the manufacture's standards to establish the intended use of a proposed fencing material.
 9. Prior to the submission of an application for a fence permit, the property owner shall indicate with flags, string, paint or other acceptable method, the proposed location of the fence on the property.
 10. An application for a fence permit shall be evidence and certification that the applicant has or will notify all required utility owners who may have under-ground or above-ground wires, pipes or other improvements, giving required notice for location and marking, prior to any construction commencing.
 11. The issuance or granting of a permit under this article, or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this article or any other code or ordinance of the city.
 12. Every permit issued by the Building Official under the provisions of this article shall expire by limitation and become null and void if the authorized work is not commenced within 60 days from the date of permitting, or if the authorized work is not completed within 90 days from permit issuance, or is abandoned for a period of 90 days from permit issuance. Before the work can be recommenced, a new permit shall be first obtained.

Section 14-124 General Regulations.

1. No fence, fence component, or guy wire, shall be constructed upon, or extend over, property that the City or has control over, owns as an easement over or under, or which is designated as any public, utility or transportation right-of-way.
2. In all zoning districts where additional criteria regarding buffers, outside storage of material, equipment, goods and supplies, or other applicable requirements exist, all fencing shall further comply with the general Land Development Regulations.
3. That side of any fence considered to be its face shall always be directed towards and seen from abutting or adjacent properties or all public rights-of-way.
4. No person shall construct a fence out of used, damaged or unsafe materials.

5. All fences shall have a minimum of one gate for emergency ingress and egress and a curb-break and driveway approach shall be required for all vehicle gates or vehicle access within 50 feet of the right-of-way.
6. All fences shall be constructed to be no higher than the height restrictions for the associated location where it is proposed to be located. Height measurements shall be from normal grade of the land, exclusive of any retaining walls or berming which may have taken place. If fill material has been removed, the new grade shall be the lowest point along the area which has been excavated.
7. No physical damage of any kind shall occur to abutting or adjacent property during construction.
8. Provisions shall be made for gas, water or other utility meters or sources to be readily accessible for examination, reading, replacement or necessary maintenance as required by: the Code of Federal Regulations, the National Fuel Gas Code, or any necessary action by City staff or contracted designees.
9. Any property, neighborhood or association deed restrictions which are in effect, which are more restrictive than this Ordinance, shall be followed by any person seeking to erect a fence on property covered by those applicable restrictions or regulations.
10. Any existing or future fence which may be located across an easement or other publically controlled area, if said area requires maintenance or construction by the controlling private or public entity, said fence and any related components shall be removed and subsequently replaced at the expense of the individual or agency, who erected, owns or controls the fence.
11. All applicants for, and/or recipients of, a fence permit, property owners or occupants thereof, whose property a fence permit is issued for, adjacent, abutting or other property owners, home owners associations and similar entities, or agents thereof, shall indemnify and hold the City harmless from any and all liability or damages which may occur or result from any construction of or on a fence, or related components, within the Corporate City Limits.
12. Any instance where the intent, scope or applicability of the Land Development Regulations is to be determined shall be evaluated and decided by, and at the discretion of, the Development Manager for the City.
13. All fences, or instances where a fence may be a requirement, such as around a pool structure, shall adhere and conform to all applicable State of Florida Building Codes in effect at the time of construction. Instances where codes require a fence, and no satisfactory fence was erected, shall be enforced as a violation as provided for in all applicable regulations, codes, ordinances or statutes.
14. Protective measure fencing: The permit for such a fence shall only be granted after demonstration of the need of such a fence and through approval by the City Development Manager. The Development Manager shall consider the current zoning, future land use, current and proposed utilization of the property, the location and height of the proposed fence and the adjacent land uses and character of the area. Approval shall only be granted if such a fence at the proposed location would not be inconsistent with the intent of the City Comprehensive Plan, Land Development Regulations and general character of the area. Whenever said protective measures fence employs barbed wire, said fence shall only be permitted in a side or rear yard area, said barbed wire shall be located along the uppermost edge of such fence. The minimum height for

such fence below the barbed wire extension shall be 6 feet, provided that security barbed wire installed at an angle shall not extend over or beyond any portion of the public walkways or public streets. Areas within the side or rear yards may also be vinyl, PVC, or composite materials specifically manufactured as fencing.

15. Fence allowances proposed on Conservation and Public Zoning Districts, as well as on all publically held or controlled lands shall be determined at the discretion of the Development Manager in comparing the current and proposed land use with the intent of the Comprehensive Plan and the adjacent land uses.

Section 14-125 Regulations according to zoning district.

1. All zoning districts:

a. Visibility at intersections and curb breaks.

- (1) **Visibility at intersections:** No fence shall be erected on a corner lot in such a manner as to obstruct vision between a height of 2 1/2 feet and six feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of intersection of the public right-of-way line.
- (2) **Visibility at curb breaks:** No fence shall be erected where a curb break intersects a public right-of-way in such a manner as to obstruct cross-visibility between a height of 2 1/2 and six feet within the areas of property on both sides of the curb break formed by the intersection of each side of the curb break and public right-of-way lines with two sides of each triangle being ten feet in length from the point of intersection and the third being a line connecting the end of the two other sides.

2. Residentially zoned parcels, unless otherwise provided for:

- a. Permitted materials are: wood, metal tubing, wrought iron, stone, masonry, and chain link. Vinyl, PVC or fiberglass composite materials may be utilized if the material is listed, designed and constructed for fencing materials. Woven metal field-fence 14 or thicker gauge shall be permissible within any side or rear yard area.
- b. Prohibited materials are: rope; string; wire products not otherwise permitted, including: chicken or poultry netting, barbed wire, razor ribbon; chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials, not listed as permitted, including any that are not designed and manufactured specifically as fencing materials.
- c. No fence shall be permitted to be electrified or otherwise modified in such a way as to cause harm to any living thing which may come into contact with it.
- d. Except in areas bounded by the intersection of street lines of right-of-way intersections, or by the intersection of a driveway curb-break and a street right-of-way, fences shall be limited in height to 8 feet along side or rear yard areas and 4 feet in all front yard areas.

3. Commercially zoned or utilized parcels, unless otherwise provided for:

- a. Permitted materials are: wood, metal tubing or wrought iron, stone, masonry and chain link. Vinyl, PVC or fiberglass composite materials may be utilized if the material is listed, designed and constructed for fencing materials.
- b. Protective measure fences: when proposed and approved as provided for herein, shall be permitted only in CG, CI and CSC zoning districts.
- c. Prohibited materials, unless otherwise permitted, are: rope; string; wire products not otherwise permitted, including: chicken or poultry netting, woven metal field-fence, barbed wire, razor ribbon; chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials, not listed as permitted, including any that are not designed and manufactured specifically as fencing materials.
- d. No fence shall be permitted to be electrified or otherwise modified in such a way as to cause harm to any living thing which may come into contact with it.
- e. Except in areas bounded by the intersection of street lines of right-of-way intersections, or by the intersection of a driveway curb-break and a street right-of-way, fences shall be limited in height to 10 feet along side or rear yard areas and 6 feet in all front yard areas.

4. Industrially zoned parcels, unless otherwise provided for:

- a. Permitted materials are: wood, metal tubing or wrought iron, stone, masonry and chain link. Vinyl, PVC or fiberglass composite materials may be utilized if the material is listed, designed and constructed for fencing materials.
- b. Protective measure fences: when proposed and approved as provided for herein.
- c. Prohibited materials, unless otherwise permitted, are: rope; string; wire products not otherwise permitted, including: chicken or poultry netting, woven metal field-fence, barbed wire, razor ribbon; chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials, not listed as permitted, including any that are not designed and manufactured specifically as fencing materials.
- d. No fence shall be permitted to be electrified or otherwise modified in such a way as to cause harm to any living thing which may come into contact with it.
- e. Except in areas bounded by the intersection of street lines of right-of-way intersections, or by the intersection of a driveway curb-break and a street right-of-way, fences shall be limited in height to 12 feet along side or rear yard areas and 8 feet in all front yard areas.

5. Agriculturally zoned parcels, unless otherwise provided for:

For the purposes of this section, any residentially zoned parcel, 2 or more acres in size, which is an existing nonconforming agriculturally utilized parcel, shall be allowed fencing as allowed in this sub-section.

- a. Permitted materials are: wood, metal tubing or wrought iron, stone, masonry and chain link, wire products including: chicken or poultry netting, woven metal field-fence, hog

and horse wire; chain, netting, Vinyl, PVC or fiberglass composite materials may be utilized if the material is listed, designed and constructed for fencing materials. Barbed wire may be utilized so long as it is located a minimum of 10 feet from: all shared property lines with residentially zoned property and from all public rights-of-way.

- b. Protective measure fences: when approved as provided for herein.
- c. Prohibited materials, unless otherwise permitted, are: wire products not otherwise permitted, including: razor ribbon; cut or broken glass, paper. Fencing materials within 25 feet of a public right-of-way or a property zoned residential or commercial, shall be limited to only that listed under the permitted materials Sec. 14-125(5) (a).
- d. An electrified fence may be utilized, so long as a commercially produced fence energizer is utilized and must be listed by a national testing agency such as UL or ETL. Said fence must be located a minimum of 10 feet from: all shared property lines with residentially zoned property and from all public rights-of-way and 300 feet from any church, school, playground or park, or day care facility, otherwise, no fence shall be permitted to be otherwise modified in such a way as to cause harm to any living thing which may come into contact with it.
- e. Except in areas bounded by the intersection of street lines of right-of-way intersections, or by the intersection of a driveway curb-break and a street right-of-way, fences shall be limited in height to 12 feet along side or rear yard areas and 8 feet in all front yard areas.

Section 14-126 Maintenance.

1. All fences, both existing and new, and all parts or sides thereof, shall be maintained in a safe and aesthetically pleasing condition, and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Graffiti and other ornamentations or signage shall be removed immediately upon notification. All devices or safeguards which are required by this article shall be maintained operable.
2. The owner or his designated agent shall be responsible for the maintenance of the fence, and to determine compliance of this section; the Building Official may cause any fence to be re-inspected.

Sec. 14-127 Nonconforming fences.

1. It is the intent of this section to allow the continuation of such nonconforming fences until they are discontinued as provided herein. However, it is not the intent of this section to encourage the survival of nonconforming fences as such fences are declared to be incompatible with permitted fences within the city. Such fences shall be regulated by the following:
 - a. An existing fence which was legally erected and permitted, if required at the time, in the past, which would not be permitted by this Ordinance, except when required to do so by law, shall not be enlarged, extended, relocated, reconstructed, replaced or structurally altered, unless such fence is applied for, reviewed, approved, and permitted to be altered in a manner which would bring the entire structure into conformance with the current regulations.

- b. Maintenance of a nonconforming fence will be allowed, however, limited to necessary repairs and incidental alterations which do not expand or intensify the non-conforming nature of the fence.

Sec. 14-128 Enforcement and Penalties.

1. Any person, firm or corporation erecting or maintaining any fence within the city who shall neglect or refuse to comply with the provisions of this ordinance, or who erects or maintains any fence which does not comply with the provisions set forth, shall be enforced and punishable as is provided for in all local, state and federal ordinances and statutes, including Florida Statute 162.06.

Secs. 14-129 - 14-154 Reserved.

Section 2. Severability. If any provision of the Ordinance is declared by any Court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in force and effect.

Section 3. Conflict. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. Effective Date: This Ordinance shall become effective upon adoption.

Read and adopted on its first reading this 14th day of April 2009.

Noticed in Suwannee Democrat for final adoption May 1st and 8th, 2009.

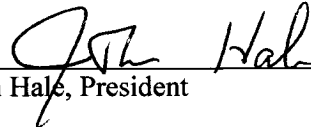
PASSED AND DULY ADOPTED UPON SECOND AND FINAL READING, in regular session with a quorum present

and voting, by the City Council this 12th day of May 2009.

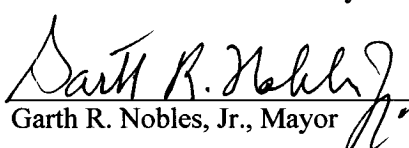
Attest:


William J. McCullers, City Clerk

CITY COUNCIL OF THE
CITY OF LIVE OAK, FLORIDA


John Hale, President

READ AND APPROVED by me this 12th day of May 2009.


Garth R. Nobles, Jr., Mayor