

ORDINANCE NO. 622

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF KENNEDALE, TEXAS BY AMENDING ARTICLE 10, GENERAL PROVISIONS FOR ALL DISTRICTS, SECTION 10.17 WALLS AND FENCES; BY AMENDING ARTICLE 13, LANDSCAPING, SCREENING, AND LIGHTING, SECTION 13.6 BUFFERING AND SECTION 13.8 SCREENING; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has adopted a Unified Development Code that regulates the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan and that otherwise regulates the development and use of properties within the city limits of the City of Kennedale; and

WHEREAS, in order to promote the public health, safety and general welfare the City Council desires to amend the Unified Development Code as provided in this ordinance; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on February 16, 2017, and the City Council of the City of Kennedale, Texas held a public hearing on February 27, 2017, with respect to the amendments described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, Article 22 of the Unified Development Code, and all other laws dealing with notice, publication, and procedural requirements for amending the Unified Development Code.

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

SECTION 1.

Sub-section 10.17.G.1."Materials" of Article 10, "General Provisions for All Districts" of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended by amending sub-section a, to read as follows:

- a. Wood fences must have metal posts and metal brackets.

SECTION 2.

Sub-section 10.17.G.1. "Materials" of Article 10, "General Provisions for All Districts" of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended by amending sub-section d, to read as follows:

- d. Walls and fences, including gates, shall be constructed of new, durable, weather-resistant, rustproof, and easily maintainable materials customarily used in the construction of walls and fences, such as wood, wrought iron, exposed aggregate tilt wall, fired masonry, or wood rail construction. This shall not preclude the use of decorative metal materials when consistent with the intent of this section, the character of the area in which the fence is to be placed, and as approved by the Administrator.

SECTION 3.

Sub-section 13.6.A "General Requirements" of Article 13, "Landscaping, Screening, and Lighting" of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended by adding sub-section 7 to read as follows:

- 7. For development within an "I" Industrial zoning district or within a "C-2" general commercial zoning district adjacent to a Type 1 zoning district (as shown in Table 13.6), a solid screening fence is required, and the minimum landscaping requirement shall be reduced by in accordance with Section 13.6.C.3.
 - a. The fence shall have a minimum height of six (6) feet and a maximum height of eight (8) feet.
 - b. The fence shall be of the following materials: wood, exposed aggregate tilt wall, fired masonry, or other approved masonry material. Wood screening fences must have metal framing.
 - c. A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot.
 - d. Compliance with the buffering and screening requirements shall be the responsibility of the owner or property owner of the development within the "I" Industrial or "C-2" general commercial district.
 - e. The fence shall extend downward to within three (3) inches of the

ground and shall test plumb and square at all times.

SECTION 4.

Sub-section 13.6.C.3 "Privacy Fence" of Article 13, "Landscaping, Screening, and Lighting" of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended to read as follows:

3. Privacy Fence.

a. A privacy fence may be used to supplement landscaping. For the linear footage a privacy fence is used, the minimum landscaping requirement shall be reduced by 75 percent for "C-1" Restricted commercial zoning districts and by 50 percent for "C-2" General commercial and "I" Industrial zoning districts. Minimum buffer width must be maintained.

b. To qualify for the reduction in minimum landscaping requirement, privacy fences must meet all of the following requirements:

- i. Six (6) foot minimum height.
- ii. Placed at least five (5) feet from the property line.
- iii. Gaps between pickets must be no greater than one-half ($\frac{1}{2}$) of an inch.
- iv. Materials shall be as required under 13.6.A.7.b regardless of zoning district.
- v. A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot. Wood fences shall have metal posts and framing.
- vi. The privacy fence shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.

SECTION 5.

Sub-section 13.8.F.3 "Fences" of Article 13, "Landscaping, Screening, and Lighting" of the Unified Development Code of the City of Kennedale, Texas, as amended, is hereby amended as follows:

Fences. Fences shall be constructed of materials as described in Section 10.17.G.1.

SECTION 6.

Section 13.8 "Screening" of Article 13, "Landscaping, Screening, and Lighting," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to add sub-section H and sub-section I, to read as follows:

H. Materials. Unless otherwise required by this code, fences or walls shall be constructed of materials as described in Section 10.17.G.1 of this code.

I. Height of screening materials. Height of materials used for screening shall not exceed eight feet; however, when changes in grade or topography allow materials or property that are required to be screened to be visible from the public right-of-way even after installation of the required screening fence, then the fence shall be placed on a berm or retaining wall meeting city regulations to ensure the materials or property are not visible from the right-of-way. The berm or retaining wall and fence shall be installed so that the top and bottom fence lines are even and consistent at all times. In spite of the requirement that a berm or retaining wall shall be used, in no case shall the berm or retaining wall exceed a height determined by the building official to be safe.

SECTION 7.

This Ordinance shall be cumulative of all provisions of ordinances and of the Unified Development Code of the City of Kennedale, Texas (2016), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 8.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 9.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 10.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing development that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or

not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

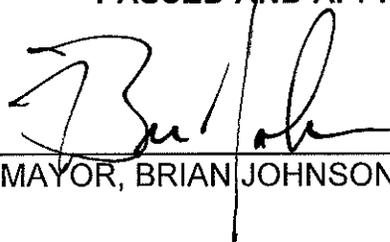
SECTION 11.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, the penalty clause, the publication clause, and the effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

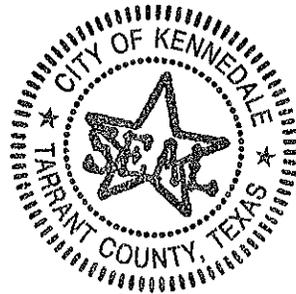
SECTION 12.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 27TH DAY OF FEBRUARY, 2017.



MAYOR, BRIAN JOHNSON



ATTEST:



CITY SECRETARY, LESLIE GALLOWAY

EFFECTIVE: MARCH 10, 2017

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY