

FENCE ORDINANCE

#216-98

(As amended by Ordinance #246-2001)



This is the most current ordinance adopted by the City of Venus. There may be other state laws and ordinances that should be upheld on an individual basis.

ORDINANCE NUMBER NO. 216-98

AN ORDINANCE OF THE CITY OF VENUS, TEXAS, PROHIBITING FENCING NOT IN COMPLIANCE WITH THIS ORDINANCE; DEFINITIONS; REGULATING RESIDENTIAL, NONRESIDENTIAL AND MISCELLANEOUS USES; REGULATING RESIDENTIAL SUBDIVISION ENCLOSURES; OFFICE, BUSINESS OR INDUSTRIAL PARK ENCLOSURES; REGULATING FENCING AROUND SWIMMING POOLS WITH PENALTY; REGULATING FENCING AROUND GRAVEL PIT PONDS WITH PENALTY; REQUIRING A PERMIT; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A ENGROSSMENT AND ENROLLMENT CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Venus, Texas, is a general law city operating pursuant to the laws of the State of Texas, by and through the action of its duly elected council members;

WHEREAS, the City is authorized and empowered to enforce ordinances necessary to protect welfare of its inhabitants (51.012, Texas Local Government Code),

WHEREAS, the City Council deems it necessary to regulate fences within the city limit; and

WHEREAS, the City Council has determined that it is necessary to enact this ordinance to protect the health and welfare of its residents.

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

SECTION 1: FENCE PROHIBITION

- A. No fence, wall or outdoor area enclosure structure, may be erected, placed or altered within the city unless such fence, wall or outdoor area enclosure is in conformance with the provisions set forth herein. Existing fences in violation of this ordinance may remain, but may not be remodeled, repaired or replaced except in compliance with this ordinance.
- B. Non-conforming fences that are damaged by accident, fire and/or act of nature may be temporarily repaired without a permit from the city. Permanent repairs to non-conforming fences of more than fifty percent requires and compliance with this ordinance.

SECTION 2: DEFINITIONS.

- A. For the purposes of these regulations, the following definitions shall apply:

Alternate orientation: Created when a structure located on a corner lot is constructed to face the street frontage not normally associated to be the front of the lot.

Barrier: A fence, wall, building wall or combination thereof that completely surrounds the swimming pool and obstructs access to the swimming pool.

Corner lot: A lot, tract or parcel which abuts two (2) streets at their intersection, with the longer street frontage being the side of the lot.

Corner orientation: Created when a structure located on a corner lot is constructed to face the intersection, diagonally across a lot, rather than a traditional orientation toward one (1) of the intersecting streets. In cases of corner orientation, both sides of the lot along the street frontages are to be treated equally as front yards.

Electrical fence: An outdoor area enclosure consisting of an electrically charged or partially charged metallic material designed to discourage crossing by either man or animal.

Fence: An outdoor area enclosure of wood, chain link or other approved building material serving to enclose, divide or protect an area. Fences shall be defined as walls when the average construction thickness exceeds three (3) inches.

Front building setback: Minimum required front yard setback as specified under Venus Zoning Ordinance.

Front yard: That portion of a lot lying between the required front yard setback(s) and the property line(s) adjacent to the street right-of-way or access easement.

Interior lot: A lot, tract or parcel which is bounded by one (1) or more lots, tracts or parcels along both sides of the lot lines (not a corner lot).

Key lot: An interior lot, tract or parcel which sides to the rear of one (1) or more lots, tracts or parcels.

Non-residentially zoned areas: Any land within the city zoned for nonresidential uses: A, C-1, C-2, C-3, I-1, and I-2.

Office: Business or industrial park complex enclosure (including entry features): A wall of masonry or masonry and pressure-treated timber, plaster, iron or other approved building material serving to enclose or protect an office, business or industrial park complex. Park/complex enclosures are limited to application along the perimeters of platted non-residential subdivisions containing four (4) or more lots.

Outdoor area enclosure: Any fence, wall or structure of various materials designed to serve as an enclosure of an outdoor area, a barrier or boundary, or to otherwise divide or protect an area.

Privacy/security enclosures: Fences, walls or structures located on individual lots, tracts or parcels for the purpose of enclosing an outdoor area for privacy or security purposes.

Rear lot line: The boundary line of any lot, tract or parcel opposite the front yard of the lot, being the rear property boundary.

Residential subdivision enclosures (including subdivision entry features): A wall of masonry or masonry and pressure-treated timber, plaster, iron or other approved building material serving to enclose, divide or protect a residential subdivision. Residential subdivision enclosures are limited to application along the perimeters of platted residential subdivisions containing ten (10) or more lots.

Residential zoned areas: Any land within the city zoned for residential uses: SF-1, SF-2, SF-3, 2F-D, MF-A and MH.

Side lot line: The boundary line(s) extending between the front and rear lot lines of a lot, tract or parcel, being the side property boundaries.

SPA, nonself contained: A hydromassage pool or tub for recreational or therapeutic use, not located in health-care facilities, designed for immersion of users and usually having a filter, heater and motor-driven blower. It may be installed indoors or outdoors, on the ground or on a supporting structure, or in the ground or in a supporting structure. A nonself-contained spa is tended for recreational bathing and contains water over 24 inches deep.

SPA, self-contained: A continuous-duty appliance in which all control, water-heating and water-circulating equipment is an integral part of the product, located entirely under the spa skirt. A self-contained spa is intended for recreational bathing and contains water over 24 inches deep.

Swimming pool: Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground, and on-ground swimming pools, fixed-in-place wading pools, hot tubs, and spa.

Wall: An outdoor area enclosure of masonry, wood, plaster or other approved building material serving to enclose, divide or protect an area. Fences shall be defined as walls when the average construction thickness exceeds three (3) inches.

Visibility triangle: An area located at the intersection of two (2) streets, access easements of alleys or any combination thereof where no structure, growth or object shall exceed two (2) feet in height, created by measuring 25 feet from the rights-of-way intersection along each right-of-way (ROW).

SECTION 3: RESIDENTIAL USES.

A. In residentially zoned districts, fences, walls and outdoor area enclosure structures may be erected if in accordance with the following regulations:

1. Privacy/security enclosures.

- a. Privacy/security enclosures may be fences or walls as defined herein.
- b. Maximum height shall not exceed six (6) feet.
- c. May be erected upon the rear lot line of any lot.
- d. May be erected upon the side lot lines of any interior lot; however, no fence may be erected along side lot lines to exceed the required front yard setback.

SECTION 4: RESIDENTIAL SUBDIVISION ENCLOSURES (INCLUDING SUBDIVISION ENTRY FEATURES).

A. No residential subdivision enclosures shall be allowed; without prior city council approval.

SECTION 5: NONRESIDENTIAL USES.

A. In nonresidential zoning districts, fences, walls and outdoor area enclosures may be erected if in accordance with the following regulations:

1. Privacy/security enclosures.

- a. Privacy/security enclosures may be fences or walls as defined herein.
- b. Maximum height shall not exceed-eight (6) feet.
- c. May be erected on the rear lot line of any lot, tract or parcel.
- d. May be erected upon the side lot line of any lot, tract or parcel; provided that no fence may be erected on a side lot line to exceed the required front building setback without prior city council approval.
- e. No privacy/security enclosure may be erected to encroach upon any visibility triangle, right-of-way, access or drainage easements or floodway.
- f. Plans for each enclosures shall be specifically reviewed and approved by the city council.

SECTION 6: OFFICE BUSINESS OR INDUSTRIAL PARK OR COMPLEX ENCLOSURE (INCLUDING ENTRY FEATURES).

A. All enclosures shall be walls. Fences, as defined herein, shall not be allowed.

- B. All enclosures shall be constructed with minimum 10" x 20" brick columns set on piers with a maximum spacing of ten (10) feet on center. Infill material between brick columns shall be brick, pressure-treated lumber, plaster, iron or other approved material.
- C. Maximum height of all enclosures shall be eight (8) feet.
- D. Walls enclosing nonresidential developments may be erected along rear property lines.
- E. Walls enclosing nonresidential developments may be erected upon rear property lines and to the front and side property lines and to the front and side property lines exceeding the required front yard setback; provided that such encroaching structure does not exceed the required two (2) foot maximum height limit within the visibility triangle, and the enclosure does not encroach upon any right-of-way, drainage or utility easements or floodway.
- F. Plans for such enclosures shall be specifically reviewed and approved by the city council.

SECTION 7: MISCELLANEOUS USES

- A. The following regulations shall apply to zoning districts of the city as applicable:
 - 1. **Screening:** Live screening using natural growth or planted vegetation shall be allowed within the city under the following provisions:
 - a. No tree, shrub, hedge or other vegetation shall be so planted, pruned or otherwise maintained to exceed a height of two (2) feet within the defined visibility triangle or street right-of-way.
 - b. Any tree, shrub, hedge or other form of vegetation located within the public right-of-way, utility easement, or visibility triangle shall be subject to removal (without compensation) by the authority of the city for the purpose of utility maintenance and public safety.
 - 2. **Barbed wire:** Except as provided herein, the use of barbed wire as an enclosing material is specifically prohibited within the city:
 - a. Authorized in the A, agricultural zoning when existing at the time of annexation.
 - b. Authorized when attached to the top of a minimum six-foot high security fence in the C-1, C-2, C-3, I-1 and I-2 zoning district classifications.
 - c. Authorized in all zoning district classifications if the use of the land is that of animal husbandry.
 - 3. **Electrical fences:** Except as provided herein, the use of electrical fencing is specifically prohibited within the city:
 - a. Electric fences are allowed only within the C-1, C-2, C-3, I-1, and I-2 zoning districts and within the A zoning districts if it is associated with land that is used for animal husbandry.\
 - b. The electrical fence must be located a distance of at least six (6) inches inside a non-electric fence.
 - c. Electrical fences shall be UL approved and installed and maintained as per manufacturer's instructions.
 - d. Electric fences not in compliance with the above are hereby declared a nuisance per se and must be immediately removed.
 - 4. The following regulations provide for the maximum safety of persons using sidewalks and streets. On any corner lot, no wall, fence, sign, structure, plant growth, or any other object, whether movable or stationary, which obstructs the vision at elevations between two (2) feet and ten (10) feet above the crown of the adjacent roadway shall be placed or maintained within a visibility triangle, created by measuring 25 feet from the rights-of-way (ROW).

SECTION 8: PERMITS REQUIRED.

- A. Prior to construction of any outdoor area enclosure, a permit shall be obtained from the building official. An application shall be accompanied by a plot plan and shall accurately reflect all proposed outdoor area enclosure structures, all easements, building setback lines and visibility triangles. Residential subdivision enclosures, office, business or industrial park/complex enclosures and any privacy/security enclosure constructed as a wall within any nonresidential zoning district shall have detailed drawings submitted with an application. Upon approval of the application, approval by the development review committee (when applicable) and payment of the permit fee, as set by the city council, a permit shall be issued for construction. If the permit holder fails to comply with the provisions of this ordinance, the permit shall be revoked, and the so-constructed fence shall be considered a nuisance per se and must be immediately removed.

SECTION 9: REQUIREMENTS FOR SWIMMING POOLS; PENALTY

An outdoor swimming pool shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

- A. The top of the barrier shall be at least six (6) feet above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to 4 inches when grade is a solid surface such as a concrete deck, or when the barrier is mounted on the top of the aboveground pool structure. When barriers have horizontal members spaced less than 45 inches apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.
- B. Openings in the barrier shall not allow passage of a 1 ¾ inch-diameter sphere.

Exceptions:

1. When vertical spacing between such openings is 45 inches or more, the opening size may be increased such that the passage of a 4-inch-diameter sphere is not allowed.
 2. For fencing composed of vertical and horizontal members, the spacing between vertical members may be increased up to 4 inches when the distance between the tops of horizontal members is 45 inches or more.
- C. Chain link fences used as the barrier shall not be less than 11 guage.
 - D. Access gates shall comply with the requirements of Items 1 through 3. Pedestrian access gates shall be self-closing and have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, (1) the release mechanism shall be located on the pool side of the barrier at least 3 inches below the top of the gate, and (2) the gate and barrier shall have no opening greater than ½ inch within 18 inches of the release mechanism. Pedestrian gates shall swing away from the pool. Any gates other than pedestrian access gates shall be equipped with lockable hardware or padlocks and shall remain locked at all times when not in use.
 - E. Where a wall of a Group R, Division 3 Occupancy dwelling unit, triplex (as defined in the 1997 Uniform Building Code) serves as part of the barrier and contains door openings between the dwelling unit and the outdoor swimming pool that provide direct access to the pool, a separation fence meeting the requirements of Items A, B, C, and D of Section 9 shall be provided.

Exceptions: When approved by the building official, one of the following may be used:

1. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 54 inches above the floor.
2. An alarm installed on all doors with direct access to the pool. The alarm shall sound continuously for a minimum of 30 seconds within seven seconds after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less than 85 dBA when measured indoors at 10 feet. The

alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as a touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last no longer than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the door.

3. Other means of protection may be acceptable so long as the degree of protection afforded is not less than that afforded by any of the devices described above.
- F. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (1) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (2) the ladder or steps shall be surrounded by a barrier that meets the requirements of Items A through E. When the ladder or steps are secured, locked or removed, any opening created shall be protected by a barrier complying with Items A through E.
 - G. Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Section 9 Item E.
 - H. Spas and Hot tubs. For a nonself-contained and a self-contained spa or hot tub, protection shall comply with the requirements of section 9.

Exception: A self-contained spa or hot tub equipped with an approved safety cover shall be exempt from the requirements Section 9.
 - I. Any person, firm or corporation convicted of violating this section shall be fined not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00) and each day any violation of non-compliance continues shall constitute a separate and distinct offense.

SECTION 10. FENCES AROUND GRAVEL PIT PONDS; PENALTY.

- A. In all cases wherein a lake, pool or pond is constructed in connection with the operation of a gravel pit and the same is within one thousand (1,000) feet of any residence suitable fences shall be placed around such body of water adequate to prevent children from entering such premises. Any person, firm or corporation convicted of violating this section shall be fined not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00) and each day any violation of non-compliance continues shall constitute a separate and distinct offense.

SECTION 11. REPEALER CLAUSE

- A. All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION 12. SEVERABILITY CLAUSE

- A. That it is hereby declared that the sections, articles, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph, subsection, article, or section of this ordinance shall be declared void, ineffective, or unconstitutional by a valid judgment or final decree of a court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs, subsections, articles, or sections of this ordinance since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph, subsection article, or section.

SECTION 13. PENALTY CLAUSE

- A. Any person, firm, association of persons, company, corporation, or their agents servants, or employees violating or failing to comply with any of the provisions of this Ordinance (except Sections 9 and 10) shall be fined upon conviction not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day any violation of non-compliance continues shall constitute a separate and distinct offense.

SECTION 14. ENROLLMENT AND ENDORSEMENT CLAUSE.

- A. The City Secretary of the City is hereby directed to engross and enroll this ordinance by copying the caption, penalty clause (if any), publication clause and effective date clause in the minutes of the City Council and filing the ordinance in the ordinance records of the City.

SECTION 15. PUBLICATION CLAUSE.

- A. The City Secretary is hereby directed to post or publish in the official newspaper of the City, the caption, penalty clause (if any), publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, as authorized by Section 52.011 of the Texas Local Government Code.

SECTION 16. EFFECTIVE DATE

- A. This ordinance shall be effective after final passage and publication as required by law.

PASSED AND APPROVED THIS THE 8TH DAY OF SEPTEMBER, 1998.

THE CITY OF VENUS

BY: James A. Flatt
Mayor

ATTEST:

Glenda R. Laseman
City Secretary

ORDINANCE NUMBER 246-2001

AN ORDINANCE OF THE CITY OF VENUS, TEXAS, AMENDING THE FENCE ORDINANCE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING AN ENGROSSMENT AND ENROLLMENT CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Venus, Texas, is a general law city operating pursuant to the laws of the State of Texas, by and through the action of its duly elected council members;

WHEREAS, the City is authorized and empowered to enforce ordinances necessary to protect welfare of its inhabitants (51.012, Texas Local Government Code); and

WHEREAS, the City Council has determined that it is necessary to enact this ordinance to protect the health and welfare of its residents.

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

SECTION 1. AMENDMENT

Ordinance No. 216-98 adopting the fence Ordinance of the City of Venus is were by amended to add as follows:

“b. Maximum height shall not exceed six (6) feet.”

SECTION 2. REPEALER CLAUSE

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION 3. SEVERABILITY CLAUSE

That it is hereby declared that the sections, articles, subsections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph, subsection, article, or section of this ordinance shall be declared void, ineffective, or unconstitutional by a valid judgment or final decree of a court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs, subsections, articles, or sections of this ordinance since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph, subsection, article, or section.

SECTION 4. PENALTY CLAUSE

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this Article shall be fined upon conviction not less than one dollar (\$1.00) nor more

than two thousand dollars (\$2,000.00), and each day any violation of non-compliance continues shall constitute a separate and distinct offense.

SECTION 5. ENGROSSMENT AND ENROLLMENT CLAUSE

The City Secretary of the City is hereby directed to engross and enroll this ordinance by copying the caption, penalty clause (if any), publication clause and effective date clause in the minutes of the City Council and filing the ordinance in the ordinance records of the City.

SECTION 6. PUBLICATION CLAUSE

The City Secretary is hereby directed to post or publish in the official newspaper of the City, the caption, penalty clause (if any), publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, as authorized by Section 52.011 of the Texas Local Government Code.

SECTION 7. EFFECTIVE DATE

This ordinance shall be effective after final passage and publication as required by law.

PASSED AND APPROVED THIS THE 10TH DAY OF JULY, 2001

James A. Flatt
Mayor

ATTEST:

Linda Taylor
City Secretary