

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 215

AN ORDINANCE

To amend Ordinance Nos. 25 and 44 and to amend and restate in its entirety Ordinance No. 179; to establish certain criteria and prohibitions regarding fences erected within the City of Lookout Mountain, Georgia; to require approval by the Municipal Planning Commission of fences erected within the City; and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and IT IS HEREBY ORDAINED:

Section 1. Section 10-10.3 of Article IV of Ordinance No. 25 (as set forth in Section 4 of Ordinance No. 44 and as amended and restated in Ordinance No. 179) is hereby deleted in its entirety and the following substituted therefor:

“Section 10-10.3. Fences.

“A. General Fence Prohibitions:

“(1) No fences constructed or consisting of or containing barbed wire or barbs shall be erected or placed on any property within the City.

“(2) No fences containing or facilitating the use of electrical current shall be erected or placed on any property within the City.

“(3) No fences, walls, screens, or fence-like garden structures shall be erected or placed on any property within the City without the prior approval of the Municipal Planning Commission obtained as hereinafter provided.

“(4) No fences shall be constructed of exposed concrete or concrete masonry unless they are coated on all exposed surfaces with cement plaster or other approved materials. EIFS coatings are not approved or acceptable.

“(5) No fences shall be constructed of any type of wire mesh or “chicken wire.”.

“(6) No fences shall be constructed of scrap materials.

“B. Limited Exceptions to General Fence Prohibitions.

Notwithstanding the foregoing:

“(1) The prohibitions set forth in subparagraphs (1), (2) and (5) of Section 10-10.3.A. above shall not apply to fences erected on property of five (5) acres or

more, so long as the purpose of such fencing is the enclosure of large animals which may legally be kept on such property; and

“(2) Seasonal and temporary wire mesh fencing shall be permitted for the protection of garden plants, provided that (a) no such fencing may be erected within the applicable set back requirements for the lot in question, (b) such fencing cannot at any point be more than three (3) feet from the plants being protected, and (c) the plants being protected must occupy at least eighty percent (80%) of the area enclosed by the fencing.

“C. Acceptable Materials for the Construction of Fences.

“(1) Fences may be constructed with brick, stone, manufactured, stone, and tile.

“(2) Fences may be constructed with wood in pickets, planks, grids, etc. “Split rail” style wood fences are also allowed.

“(3) Fences may be constructed with PVC or Vinyl materials, so long as they meet the criteria listed below.

“(4) Fences may be constructed of wrought iron or other decorative metal materials such as steel or aluminum, so long as they meet the criteria listed below.

“(5) Chain link fences may only be approved for side or rear yards and must meet the criteria listed below.

“(6) Other materials not expressly prohibited may be approved in the discretion of the Municipal Planning Commission, but only upon unanimous vote of the members present and only after the Commission has had at least thirty (30) days to research the quality and suitability of the materials proposed.

“D. Location and Height of New Fences.

“(1) Side yard and rear yard fences shall not be in excess of 6 feet in height from ground level when located in any area less than fifteen (15) feet from any side lot line in any side yard or less than twenty-five (25) feet from any rear lot line in any rear yard.

“(2) Front yard fences shall not under any circumstances exceed 42 inches in height from ground level.

“(3) Front and side yard fences may not be constructed in such a way as to limit visibility of oncoming traffic at either street intersections or driveways, and the burden will be on the property owner proposed to demonstrate to the Municipal Planning Commission that any fence proposed will not obstruct the view of oncoming traffic.

“(4) The Municipal Planning Commission may review submitted drawings and onsite conditions and place appropriate limitations on fences to prevent obstruction of vision. If a fence is not built as approved and presents a concern regarding safety, the Municipal Planning Commission will require that it be removed, modified or relocated.

“E. Maintenance of fences, walls, etc.

“(1) Property owners shall have the responsibility of maintaining fences, walls, screens and fence-like garden structures in good repair and condition for the life of the structure. This standard shall be followed regardless of whether the structure is new or is in existence at the time of the adoption of this Ordinance.

“(2) Portions of fences and other structures regulated by this Ordinance that are not in good repair or are in substandard condition shall be replaced. Any portion of a fence or other structure that has missing or damaged members, is leaning out of plumb, or has become unsightly due to lack of paint or other finish shall be considered to be in substandard condition.

“(3) Any property owner who does not maintain a fence or other structure regulated by this Ordinance in good repair and condition shall be required to make such reasonable modifications and/or repairs as are directed by the City Building Official and/or Municipal Planning Commission.

“(4) The property owner’s application for a permit to erect or place a fence, wall, screen or fence-like garden structure within the City of Lookout Mountain, as required by this Ordinance, shall constitute the property owner’s approval, consent and permission for the Building Official to enter onto the property, either before or after the fence or other structure is erected, to review the condition of fences and other structures regulated by this Ordinance. If the property owner has not made application for a permit to erect the fence or other

structure as required by this Ordinance, the Building Official may nevertheless enter onto the property for the aforesaid purpose, if (a) the property owner gives his or her written or verbal consent, or (b) the City gives the property owner ten (10) days advance written notice of the Building Official's intent to enter onto the property.

“(5) If, in his judgment, the Building Official believes a fence or other structure regulated by this Ordinance is not in compliance with this or other applicable Ordinances, he will report his findings to the Municipal Planning Commission which will then determine if the property owner is to be cited for noncompliance.

“F. Criteria for Accepted Fences.

“(1) Brick, stone, manufactured stone and tile fences shall have a continuous concrete foundation that is a minimum of 30 inches wide and 12 inches thick with two # 4 continuous reinforcing bars. Such fences shall also have vertical reinforcing consisting of a minimum # 4 reinforcing bar at 32 inches on center. Vertical reinforcing shall be tied to the horizontal reinforcing.

“(2) Wood fences with vertical posts shall have the posts spaced at not greater than eight feet on center. Posts shall have a 12 inch diameter concrete foundation around them and shall be set a minimum 30 inches deep.

“(3) Vinyl or PVC fences shall have posts spaced not greater than eight feet on center. Posts shall be set a minimum two feet deep into a 12 inch diameter footing. All posts and horizontal rails shall have a steel inner sleeve for added strength. A manufacturer's non-prorated lifetime warranty must be provided to the Municipal Planning Commission if the fence is to be approved.

“(4) Steel, decorative metal or aluminum fences shall have posts spaced not greater than eight feet on center, set a minimum two feet deep into a 12 inch diameter footing.

“(5) Chain link fences are not allowed in front yards and may only be approved for rear and side yards if they do not exceed three (3) feet in height and are planted with sufficient shrubbery, bushes, hedges, plants, trees or other natural

foliage which will grow to sufficient height and density to substantially cover and screen the outside of the fence from view within three to five years.

“G. Encroachment. Nothing contained in this Ordinance shall be interpreted to permit encroachment into adjacent lots or rights of way for the purpose of providing any screening and foliage cover required by this Ordinance. Any such required screening and foliage cover shall be placed and located solely within the property where the fence is erected or placed but may be rooted on either the inside or the outside of the fence so long as the outside of the fence has the required cover and screening.

“H. Existing Fences: The lawful use, size or location of a fence existing as of the effective date of this Ordinance shall not be affected by this Ordinance although such existing fence may not conform to or comply with the provisions hereof; provided, however, that such fences shall be maintained in good repair and condition as provided in this Ordinance, and no such fence shall be extended, enlarged or replaced except in full conformity and compliance with the terms hereof.

“I. Municipal Planning Commission Approval.

“(1) Applications for permits to erect or place fences, walls, screens or fence-like garden structures within the City of Lookout Mountain must be made in writing to the Municipal Planning Commission. The Commission may require as a condition to considering the application such plans, drawings, photographs, maps, manufacturers’ brochures, and other data as it may deem material and may conduct such investigations and inquiries as it may deem necessary or expedient. All such plans, drawings, etc. shall be submitted to the Commission at least ten (10) calendar days before the meeting at which the application is to be considered. The applicant shall have the burden of showing to the satisfaction of the Commission that the proposed fence will not adversely affect motor vehicle and traffic safety, accessibility to buildings on the property in the event of fire or other emergency, police protection, accessibility for garbage and leaf service, the natural beauty of the neighborhood, and scenic views. The Commission may also consider such factors as objections of other persons in the neighborhood, the extent that adjacent and neighboring yards are open, and such other practical and aesthetic factors deemed material by the Commission.

“(2) Except for the fences and other structures authorized by the limited exceptions set forth in Section 10-10.3.B. of this Ordinance, any fence, wall, screen or fence-like garden structure erected without the prior approval of the Municipal Planning Commission may be ordered removed by the City Building Official or the Municipal Planning Commission; provided, however, that if the property owner proves to the Commission that an illegally erected fence is in full compliance with the requirements of this Ordinance and pays a building permit fee twice the amount of the fee that would have otherwise been charged for the fence, the Commission may, in its discretion, allow the fence to remain.

“(3) If a property owner fails to remove an illegally erected fence, wall, screen, or fence-like garden structure within thirty (30) days of notification from the City Building Official or Municipal Planning Commission, the City may, at its option, remove the fence at the property owner’s expense. The cost of such removal shall constitute a lien on the property and may be collected by levy and sale of the property or by any other lawful means.

“(4) In the event any property owner or other interested party is aggrieved by any decision of the Commission either granting or denying an application for the approval of a fence, or by any other action of the City Building Official or Municipal Planning Commission under this Ordinance, he or she may within but no later than ten (10) days after such decision, petition the City Council in writing for a hearing, and the action of the City Council by resolution of a majority of the Council at a meeting at which a quorum is present shall be final and binding upon the property owner or other interested party.”

Section 2. Severability. If any of the sections, subsections, sentences, clauses or phrases of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be affected, since it is the express intent of the Council of the City to pass each section, phrase, paragraph and word separately.

Section 3. Part of Code of Ordinances. It is the intention of the Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lookout Mountain, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 4. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 179 is superceded by this Ordinance and is specifically repealed.

Section 5. Effective Date: This Ordinance shall be effective ten (10) days after its adoption by at least three (3) members of the Council of the City after two (2) readings at least one (1) week apart.

APPROVED on the first reading June 16, 2005.



Member of City Council



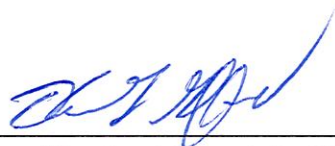
Member of City Council



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Mayor of Lookout Mountain, Georgia

APPROVED AND ADOPTED on second reading on June 27, 2005.



Member of City Council



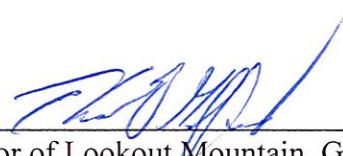
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Mayor of Lookout Mountain, Georgia

ATTEST:



City Clerk of Lookout Mountain, Georgia