



TO: Planning and Zoning Commission

FROM: Edie Sims, City Secretary

DATE: April 11, 2011

SUBJECT: Discuss and recommendation to revise the Comprehensive Zoning Ordinance by amending Section 17 by deleting said section in its entirety and replacing it with a new Section 17 entitled "Fences, Walls, and Screening Requirements"

ACTION: Discuss, approve or disapprove amending the Comprehensive Zoning Ordinance regarding Fences, Walls and Screening Requirements

(III - E)

CITY OF FARMERSVILLE
ORDINANCE # O-2011-_____-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, AS HERETOFORE AMENDED, THROUGH THE AMENDMENT OF SECTION 17, "FENCE AND WALL REGULATIONS," BY DELETING SAID SECTION IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 17 ENTITLED "FENCES, WALLS, AND SCREENING REQUIREMENTS"; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Farmersville, Texas, has recommended the amendment of Section 17 of the Comprehensive Zoning Ordinance, entitled "Fence and Wall Regulations" by deleting said section in its entirety and replacing it with a new Section 17 entitled "Fences, Walls and Screening Requirements"; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this recommended text amendment coming before the City Council of the City of Farmersville; and

WHEREAS, the City Council of the City of Farmersville, after notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during said public hearings, the City Council is of the opinion and finds that the change of such zoning text will not be detrimental to the public health, safety, or general welfare of the citizens of the City, and will promote the best and most orderly development of the property affected thereby, and as well the owners and occupants thereof, and the City generally; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS:

SECTION 1. Findings Incorporated

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment to Section 17, "Fence and Wall Regulations," of the Comprehensive Zoning Ordinance by deleting said section in its entirety and replacing it with a new Section 17 entitled "Fences, Walls, And Screening Requirements"

From and after the effective date of this Ordinance, Section 17 of the Comprehensive Zoning Ordinance, entitled "Fence and Wall Regulations" is hereby deleted in its entirety and replaced with a new Section 17 entitled "Fence, Wall and Compatibility Requirements" to read as follows:

"SECTION 17: FENCES, WALLS, AND SCREENING REQUIREMENTS

In any zoning district where a wall, fence or screening separation is erected, the following standards for height and design shall be observed:

17-A. Height of Fence or Wall

1. Any fence or wall erected on the property line and located to the rear of the minimum required front yard line as determined by the provisions of Section 9-D shall not exceed eight feet (8') in height above the adjacent grade.
2. Any fence or wall erected on the property line and located between the front property line and minimum required front yard line as determined by the provisions of Section 9-D or within the minimum required front yard space shall not exceed four feet (4') in height above the adjacent grade.
3. No fence, screening wall, or other visual barrier shall be located or placed so that it obstructs the vision of a motor vehicle driver approaching any street, alley or drive intersection. At all street intersections clear vision shall be maintained across the lot for a distance of at least fifteen feet (15') back from the property corner along both streets.
4. All fences, walls, screening walls, and other visual barriers require permits.

17-B. Screening Walls or Visual Barriers

1. Any screening wall or fence authorized by or required under the provisions of this Section 17 shall be constructed of:
 - (a) Brick masonry, stone masonry, or other architectural masonry finish;
 - (b) Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet (20') on center with structural supports spaced every ten feet (10'), and with sufficient evergreen landscaping to create a screening effect;
 - (c) Alternate equivalent screening, upon approval by the Planning and Zoning Commission and/or City Council, depending on which body has the final approval authority as indicated in Section 18 through the site plan process; or

(d) A six foot (6') tall living plant screen, upon approval by the Planning and Zoning Commission and/or City Council, depending on which body has the final approval authority as indicated in Section 18 through the site plan process and which living plant screen meets the following requirements:

(i) The plant material shall be evergreen shrubs of a density that will not permit through-passage;

(ii) The plant material shall be acceptable for a six foot (6') tall living plant screen;

(iii) The plant material shall be a minimum of three feet (3') in height when measured immediately after planting and shall be planted no further apart than three feet (3') on center, unless otherwise approved by the Building Official;

(iv) The plant material shall be maintained so as to form a continuous, unbroken, solid visual screen that exhibits the same year-round screening characteristics as a solid brick/masonry screening wall; and

(v) The plant material shall be at least six feet (6') tall within two (2) years after time of planting.

2. All required screening devices must be equally finished on both sides.

3. All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics specified above, but need not be of the same material as the main fence or wall.

4. Prior to the issuance of an occupancy permit, all approved screening devices must be in place.

5. All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The occupancy permit may be revoked by the Building Official for failure to adequately maintain such screening device.

17-C. Applicability

Screening devices shall be placed and maintained in the following locations:

1. Along any property line or district boundary between nonresidential development adjacent to or separated only by an alley from developed residential property, regardless of the zoning on the property, or vacant land zoned or designated on the comprehensive master plan for residential use. The owner, developer and/or operator of the nonresidential development shall be responsible for and shall build and maintain the required screening device on the said nonresidential

development side of the property line dividing the nonresidential use from the single-family or two-family residential use.

2. Along any property line or district boundary between multifamily development adjacent to or separated only by an alley from developed single-family detached or attached or any two-family residences, regardless of the zoning on the property, or vacant land zoned or designated on the comprehensive master plan for single-family detached or attached or two-family residences. The owner, developer and/or operator of the multifamily development shall be responsible for and shall build and maintain the required screening device on the said multifamily development side of the property line dividing the multifamily use from the single-family or two-family residential use.

3. Open Storage is not allowed in any district, except in the Light Industrial Districts 1 and 2. Open storage of materials, equipment, or commodities in the Light Industrial Districts 1 and 2 shall be screened from the view of adjacent property or public right-of-way by a screening wall or fence, (at least six foot (6') and no greater than eight foot (8') in height), or by a building(s), except as specifically listed in Section 4.. Materials, equipment, or commodities shall be stacked no higher than one foot below the top of the screening wall or visual barrier.

4. Garbage, trash, sanitation, or refuse containers including, but not limited to, dumpsters and trash compactors (collectively "Dumpsters") shall be screened on all sides. Screening materials shall be masonry and the same color as the exterior walls of the main structure. A solid metal gate shall be provided. Dumpsters shall not be located in front of the main building unless no other option is available. Gates shall be kept closed except when in use for access.

5. Dumpster container enclosures shall be subject to the following design specifications.

(a) Single container enclosures shall be a minimum of twelve feet (12') wide by fourteen feet (14') deep, as measured from the inside of the enclosure's walls.

(b) Double container enclosures shall be a minimum of 25.5 feet wide by fourteen feet (14') deep, as measured from the inside of the enclosure's walls.

(c) Trash compactor enclosures and all other enclosure types shall be constructed to the minimum specifications provided by the City's official garbage and refuse contractor.

(d) All enclosure types shall be required to provide a minimum of forty feet (40') of straight backing, as measured from the front gates of the enclosure, to accommodate a sanitation truck's maneuverability. If special circumstances prevent straight backing

from being provided, the Building Official shall have the authority in consultation with the City's official garbage and refuse contractor to approve angled or alternative backing movements.

(e) All enclosure types shall be required to provide a 24' vertical clear zone, unless otherwise approved by the Building Official.

6. All wrecking yards, junkyards, or salvage yards shall be fenced on all sides and shall be screened from view from the public right-of-way and from adjacent residential property.

7. Loading docks or structures, bays, and bay doors shall be screened from view from the public right-of-way, from adjacent residential property, and from adjacent non-residential property, other than industrial. The required screening device adjacent to a non-residential property, other than industrial, may be waived with site plan approval if it is determined that the location of the proposed loading docks, bays or bay doors in relation to the adjacent development's site layout is not detrimental. Bays in any retail district or retail "PD" district shall be oriented away from the street frontage.

8. Display of new vehicles, or used vehicles not defined as junked vehicles under this Zoning Ordinance, need not be screened if they are, in the opinion of the Building Official, maintained in a neat and orderly manner.

9. Mechanical and heating and air conditioning equipment in nonresidential and multifamily uses shall be screened from view from the public right-of-way and from adjacent residential property. For such equipment located on the roof of a nonresidential or multifamily structure, the screening of the equipment shall be a minimum of one foot higher than the height of the equipment.

10. At motor vehicle service or repair facilities or automotive paint and body repair shops, vehicles awaiting repair for more than 24 hours or after the close of business shall be screened from view from public right-of-way and from adjacent residential property. Parking spaces used for the overnight storage of vehicles awaiting repair must be screened in accordance with the requirements of this section.

11. Parking lots shall meet the screening requirements of this Section 11.

12. The foregoing requirements shall be in addition to all other screening requirements set out in this Zoning Ordinance."

SECTION 3. Cumulative Repealer

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at

the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 4. Savings

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which 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 5. Severability

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

SECTION 6. Governmental Immunity

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

SECTION 7. Injunctions

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

SECTION 8. Engrossment and Enrollment

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

SECTION 9. Penalty

Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Farmersville, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 10. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

PASSED THIS _____ **DAY OF** _____, 2011 at a scheduled meeting of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS _____ **DAY OF** _____, 2011.

APPROVED:

BY: _____
Joseph Helmberger, P.E., Mayor

ATTEST:

Edie Sims, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Alan D. Lathrom, City Attorney