

## ORDINANCE NO 415-20

**AN ORDINANCE BY THE CITY OF ROMAN FOREST, TEXAS REGULATING THE CONSTRUCTION OF FENCES ON RESIDENTIAL PROPERTY IN THE CITY; REQUIRING THE APPROVAL OF A FENCE PLAN AND A PERMIT; SETTING CERTAIN LIMITATIONS ON THE LOCATION OF THE FENCE; PROVIDING GENERAL REQUIREMENTS FOR FENCE CONSTRUCTION AND MAINTENANCE; PROVIDING REGULATIONS FOR FENCES AROUND SWIMMING POOLS AND SPAS; PROVIDING FOR APPEAL AND VARIANCE; PROVIDING A CRIMINAL PENALTY CLAUSE NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING AN OPEN MEETINGS ACT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the rules and regulations hereinafter established and adopted are a lawful exercise of the police powers of the City of Roman Forest, Texas, as established by law, and are promulgated for the purpose of affording uniformity of operation and development of residential property within the City, freedom from discrimination, and to prompt the general welfare of the City and the inhabitants thereby:

- (1) Considering the character of the area and its suitability for particular uses.
- (2) Conserving and enhancing the value of existing buildings and developments.
- (3) Encouraging the most appropriate use of open lots and undeveloped land in the City.
- (4) Protecting the traveling public along City streets.

**WHEREAS**, the City Council for the City of Roman Forest finds that it is appropriate to repeal and replace City Ordinance No. 415, dated January 21, 2010, so as to add additional definitions and provide reasonable regulations of fences constructed within the City;

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROMAN FOREST, TEXAS, THAT:**

**SECTION I.  
DEFINITIONS**

*"Barrier"* means a fence, wall, building wall or combination thereof that completely surrounds the swimming pool and obstructs access to the swimming pool.

*"Boundary fence"* means any structure or partition that is more than 12 inches in height and constructed or erected parallel to and on or within three feet of any property line.

*"City"* means the City of Roman Forest, Texas.

*"Connecting Fence"* means a fence that is constructed so that it connects from either side of a dwelling to a fence on or near a side property line of a dwelling.

*"Corner lot"* means a lot, tract or parcel which abuts two streets at their intersection, with the longer street frontage being the side of the lot.

*"Decorative fence"* means any structure, partition or other similar border dividing a piece of land, other than a boundary fence, into distinct portions. A decorative fence shall include any fence, structure, partition or other similar border that is more than 12 inches in height but less than 31 inches in height.

*"Dwelling"* means any building used for residential purposes, including house, townhouse, and apartment.

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

*"Fence"* means any artificially constructed barrier enclosing, separating, or screening a parcel of land, serving as a boundary, a means of protection, a buffer, a decorative element, and/or for confinement.

*"Front yard"* means that portion of a lot lying between the required front yard setback and the property line adjacent to the street right-of-way or access easement.

*"Grade"* is the underlying surface.

*"Repair"* shall be defined as minor maintenance to a fence where replacement of materials does not exceed fifty (50%) percent of the fence and does not change the location or dimensions of the fence; within a 12-month period.

*"Side lot"* line means the boundary line extending between the front and rear lot lines of a lot, tract or parcel, being the side property boundaries.

“*Setback*” means the distance from the property line or the right-of-way line of all streets adjacent to the premises on which a fence is located to the part of the fence closest to the property line or right-of-way line.

“*Spa*” or “*Hot Tub*” means an outdoor structure containing a body of water in an artificial or semi-artificial receptacle or other container having a capacity for water exceeding twenty-four (24) inches in depth at any point, used primarily for recreation or relaxation purposes, such as a hot tub, built above or below the surface of the ground elevation.

“*Swimming pool*” is defined as any constructed or prefabricated structure intended for swimming or bathing, twenty-four (24) inches or more in depth. Such structure includes in-ground, aboveground and on-ground swimming pools, regardless of the presence of any water.

“*Swimming pool, indoor*” is defined as a swimming pool that is totally contained within a structure and surrounded on all four sides by walls of said structure.

“*Swimming pool, outdoor*” is defined as any swimming pool that is not an indoor pool.

## SECTION II.

### GENERAL FENCE REQUIREMENTS

#### **Permits:**

- A. It shall be unlawful for any person to construct, repair, replace, or cause to be constructed, repaired, or replaced, a fence or any part of a fence in the City of Roman Forest without first obtaining a fence permit from the City.
- B. No permit is required for minor fence repairs.
- C. An administrative fee shall be paid to the City for the administrative costs of reviewing fence plans and issuing fence permits. The fee shall be at the most current adopted fee schedule.

#### **Approved Plans:**

- A. The application, plans, specifications, computations and other data filed by an applicant for a fence permit shall be submitted for approval by the City.

#### **Locations:**

- A. No fences shall be erected, placed or altered from the front or side of a residence towards the street or from a residence unless they are behind the recorded Building Setback Line.
- B. No connecting fence between the dwelling and the side property fence may be erected unless it is behind the front of the dwelling.

- C. No fence shall be erected closer to ten (10) feet of a side street on a corner lot.
- D. No noncontiguous vacant lot may be fenced.
- E. No fences shall be erected on City right of ways, utility easements, or drainage easements unless otherwise authorized by the City Administrator.

**Property Lines:**

- A. It shall be the responsibility of any person who constructs a fence, or causes it to be constructed, to locate the fence within the property lines.
- B. A boundary fence shall be constructed immediately along the property line or as close as practicable to the property line.

**Fence Materials:**

- A. Materials for construction of fences must be cedar, pine, redwood, pressure treated lumber, vinyl, decorative iron/steel, or other similar material, masonry, natural stone, stucco, chain link, and/or wrought iron.
- B. Metal posts will be allowed on wood fences.
- C. Chain link fencing shall be a minimum size of eleven (11) gauge or greater.

**Wooden Fence Standards:**

- A. Concrete footings shall be a minimum of eight (8) inches in diameter.
- B. For fences less than seven (7) feet in height, posts shall be spaced at a maximum of eight (8) feet on center, set in a concrete footing of no less than twenty-four (24") inches deep.
- C. For fences that are seven (7) feet or greater in height, posts shall be spaced at a maximum of six (6) feet on center, set in a concrete footing of no less than thirty-six (36") inches deep.
- D. Fence posts attached to or supported by other structures, including retaining walls, shall be provided with foundation and anchorage to prevent movement of structure or retaining wall.
- E. All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rot, rust, and other decay.
- F. The bottom of the fence shall be designed to prevent ground to picket contact. This can be achieved through the use of a rot board to cover the gap between the bottom of the pickets and the ground. This rot board must be treated wood.

G. All wood fencing that is directly adjacent to a street shall have the hardware facing inside and the smooth side facing the street.

H. All wood material can be stained, pressure treated, painted, or adequately sealed to prevent decay.

**Gates:**

A. A minimum three (3) foot wide gate shall be constructed in all fences for emergency ingress and egress.

B. A minimum ten (10) foot wide gate shall be constructed in a fence along easements to allow ingress and egress for maintenance purposes, when applicable.

C. Gates must swing inward toward private property and are not allowed to swing outward across property lines into public rights-of-way or easements.

**General Requirements and Restrictions:**

A. No fence may exceed eight (8) feet in height.

B. No fence plan will be approved if its construction in front of a dwelling will in the opinion of the City Council impair the ability of the drivers of vehicles on city streets to see on-coming traffic along city streets and at city street corners.

C. No person shall construct a fence, guy wire, brace or any fence post upon, or into public right-of-way or property that the City or the general public has dominion and control over, owns or has an easement over, under, around or through unless otherwise authorized by the City Administrator.

D. No fence material shall be used to construct a fence except for those listed and regulated in this Ordinance.

E. Fences are not permitted in floodway areas as designated on FEMA's flood boundary and floodway map.

F. Fences shall be designed, constructed and maintained so as not to interfere with utility lines.

G. A fence must not adversely affect proper drainage or create debris build-up.

H. A fence shall not restrict or impede access to fire hydrants, public utilities or metering devices.

I. Fence shall be maintained in good structural condition as a whole or completely removed, including post(s).

J. Swimming pool fences are required to be a minimum of four feet (4') in height, the gates must be self-closing, self-latching, and there shall be no gaps greater than four inches (4") in diameter.

**Prohibited Fencing:**

- A. It shall be unlawful for any person to erect, maintain, or permit a fence that is electrically charged in any manner, except single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.
- B. It shall be unlawful for any person to erect, maintain, or permit a fence that has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals.
- C. It shall be unlawful for any person to erect, maintain, or permit a fence that has rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, concertina wire, barbed wire, razor ribbon wire and/or similar welded or woven wire fabrics.
- D. It shall be unlawful for any person to erect, maintain, or permit a fence that has metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels in any fence or any other materials that are not manufactured specifically as fencing materials.

**Fence Maintenance:**

- A. All fences shall be maintained and be in good condition, which condition shall not deviate from the maintenance standards as follows:
- B. The fence shall not be out of vertical alignment more than 25 degrees.
- C. Any and all broken, damaged, removed or missing parts of said fence shall be replaced with the same material, size, shape, color and quality of the original fence to which the repair is being made.
- D. Fences shall not be externally braced in lieu of replacing or repairing posts, columns or other structural members.

**SECTION III.**

**FENCE REQUIREMENTS FOR SWIMMING POOLS AND SPAS**

**Swimming Pool and Spa Enclosure Requirements:**

Residential swimming pools, or spas, hot tubs and similar structures twenty-four (24) inches or more in depth designed for wading, swimming or other recreational purposes

located on any residential property within the City are to be enclosed in the manner prescribed in this Section.

**Barrier Fence Requirements:**

A. Every person in possession of residential land within the City of Roman Forest, whether as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool, spa, hot tub or similar facility shall meet the requirements of this Ordinance.

B. Barrier Fence height shall be a minimum of forty-eight (48) inches as measured on the side of the barrier that faces away from the swimming pool.

C. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches, measured on the side of the barrier that faces away from the pool, or four (4) inches, when grade is a solid surface, such as concrete or wood.

D. Vertical openings in the barrier fence shall not allow passage of a four (4) inch diameter sphere. Spacing between vertical members shall not exceed 1 ¾ inches in width. Decorative cutouts shall not exceed 1 ¾ inches in width. Solid barriers, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

E. For barrier fences in which the horizontal members are spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier. (Pickets shall be located on the outside of the fence with the posts being on the inside). Spacing between vertical members shall not exceed 1.75 inches in width. Should the pickets be located on the inside of the fence, measures shall be taken to render the fence non-climbable. Where there are cutouts within vertical members, spacing within the cutouts shall not exceed 1 ¾ inches in width.

F. Where the fence barrier is composed of horizontal members and the distance between the tops of the horizontal members is greater than forty-five (45) inches, the vertical spacing shall not allow a four (4) inch diameter sphere to pass between the pickets. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

G. Where the fence barrier is composed of diagonal members, such as a lattice fence, the maximum opening by the diagonal members shall not be more than 1.75 inches in width.

H. Maximum mesh size for chain link fences shall be 2.25 inches square. Chain link fencing shall be a minimum size of eleven (11) gauge or greater.

**Gates:**

A. Gates shall meet the same construction requirements as the barrier fence.

B. All gates shall be equipped to accommodate a locking device.

1. Pedestrian gates. All pedestrian yard gates must have self-closing, self-latching gates and must open away from the pool.

2. Non-pedestrian gates. The gate must meet the same construction requirements as the barrier fence.

a) It shall have a self-latching device and remain locked at all times when the pool area is not in use.

b) Gates over four (4) feet wide, such as double gates for vehicles, must be padlocked if not self-closing/self-latching.

C. Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate;

1. The release mechanism shall be located on the pool side of the gate at least three (3) inches below the top of the gate.

2. The gate and barrier shall have no opening greater than ½ inch within eighteen (18) of the release mechanism.

### **Above Ground Pools:**

All above ground pools, with non-climbable sides not less than forty-eight (48) inches high above the finished grade, may be located on a single-family residential property without requiring an interior fence, wall or barrier between the pool and the dwelling. Where an above ground 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 the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier that meets the requirements of an in ground pool. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four (4) inch diameter sphere.

### **Spas:**

For all spas/hot tubs, protection shall comply with all requirements in this Ordinance.

## **SECTION IV**

### **APPEALS AND VARIANCES**

#### **Appeal:**

In the event a Fence Plan is disapproved by the City Administrator , the applicant may submit a written appeal to the City Council within 30 days.

#### **Variance:**



The City Council reserves the right to grant a variance to the fence regulations set out in this Ordinance if it will not interfere with the line of sight of vehicular traffic and will not in the Council's discretion impair the value of the applicant's property or the value of the neighbors' property.

**Grandfather Clause:**

This Ordinance shall only apply to fences built in the City of Roman Forest after the date of this Ordinance.

**SECTION V.**  
**CRIMINAL PENALTY**

Any owner, lessee or occupant, whether a natural person or a corporation, or any agent, servant, representative or employee of any such owner, lessee or occupant, including any person having ownership, occupancy or control of any lot, lots, grounds, yards, or parcel of real estate or any part thereof, or interest therein, situated within the City, on which there exists an unlawfully constructed fence as described in this Ordinance, who shall allow or permit any such unlawful condition to be created or to remain and continue if created and established, or who shall fail, refuse, or neglect to remove or abate such unlawful fence within thirty (30) days from the date of service of notice shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed Five Hundred and No/100 Dollars (\$500.00), and each day during which such failure, refusal or neglect shall continue to exist, shall constitute a separate offense.

**SECTION VI.**  
**SAVINGS CLAUSE**

The City Council of the City of Roman Forest, Texas, does hereby declare that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declares that its intent is to make no portion of this Ordinance dependent upon the validity of any other portion thereof, and that all said remaining portions shall continue in full force and effect.

**SECTION VII.**  
**REPEALING CLAUSE**

Ordinance No. 415 and all other ordinances or parts of ordinances and motions in conflict with the provisions of this Ordinance are hereby expressly repealed.

**SECTION VII.**  
**TEXAS OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION IX.**  
**EFFECTIVE DATE**

This Ordinance and each section hereof shall take effect and be in full force from and after its passage and publication as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Roman Forest, Texas on this the 24<sup>th</sup> day of March 2020.



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Chris Parr, Mayor

ATTEST:

  
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Kelly Belmore, City Secretary

