

**ORDINANCE # 10142008A**

**AN ORDINANCE OF THE CITY OF RIO VISTA, TEXAS, REQUIRING A PERMIT, SPECIFYING CONSTRUCTION MATERIALS, PROVIDING FOR THE REQUIRING OF FENCING FOR SWIMMING POOLS AT PRIVATE RESIDENCES, PROVIDING A PENALTY FOR VIOLATION AND PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Rio Vista desires to protect property values and promote community pride as well as the general welfare and,

**WHEREAS**, the City Council of the City of Rio Vista desires to promote public safety and security of private property and avoid the appearance of urban blight; and,

**WHEREAS**, the City Council of the City of Rio Vista desires to ensure reasonable consideration, in determining the standards of maintenance and appearance within the City of Rio Vista, Texas.

**NOW THEREFOR, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIO VISTA, TEXAS:**

**1. DEFINITION:**

- A. Fence: A fence is hereby defined to be a barrier or screening device constructed of approved materials located within a property or along a property boundary line.
- B. Swimming Pool: Any structure intended for swimming or recreational bathing, that contains water over 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas.

**2. REQUIREMENTS:**

- A. Residential Areas: Fences are permitted providing that they are constructed of wood, concrete, brick, approved vinyl or galvanized chain link. Fences in the required side or rear yard may not exceed eight (8) feet.
- B. Swimming Pools: Fences are required for all outdoor facilities meeting the definition of swimming pool in paragraph 1B. above.

- 3. PERMIT REQUIREMENT:** No fence shall hereafter be erected within the City unless the person or company erecting such fence shall first obtain from the City Secretary a permit for the construction of such fence. The cost of such permit shall be \$ 25.00. Such permit shall specify the height, length, materials, style and location of

such fence.

4. **CONFORMANCE WITH BUILDING CODE:** All fences hereinafter constructed shall conform to the latest edition of the Southern Standard Building Code. Additionally, side and backyard fences shall be constructed along the property line unless granted a variance by the City Council.
5. **SWIMMING POOL FENCES:** All outdoor swimming pools shall be provided with a barrier fence that shall comply with the following:
  - A. The top of the barrier fence shall be at least 48 inches above grade measured on the side of the fence which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the fence shall be 2 inches measured on the side of the fence that faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the fence may be constructed at ground level or mounted on top of the pool structure. Where the fence is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the fence shall be 4 inches.
  - B. Openings in the fence shall not allow passage of a 4-inch diameter sphere.
  - C. Solid fences which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
  - D. Where the fence is composed of horizontal and vertical members and the distance between the tops of the horizontal member is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 3/4 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches in width.
  - E. Where the fence is composed of horizontal and vertical members and the distance between the tops of the horizontal member is 45 inches or more, the spacing between vertical members shall not exceed 4 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 3/4 inches in width.
  - F. Maximum mesh size for chain link fences shall be 1 1/4 inches square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to not more than 1 3/4 inches.
  - G. Where the fence is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal member shall not be more than 1 3/4 inches.

H. Access gates shall comply with the same requirements as the fence and shall be equipped with a locking device. Pedestrian gates shall open outward away from the pool and 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, the release mechanism and openings shall comply with the following:

- (1) The release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate; and,
- (2) The gate and fence shall have no opening greater than 1/2 inch within 18 inches of the release mechanism.

I. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

- (1) The pool shall be equipped with a powered safety cover in compliance with American Society for Testing and Materials Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs (ASTM F 1346); or,
- (2) All doors with direct access to the pool through the wall shall be equipped with a self closing and self latching device with the release mechanism located a minimum of 54 inches above the floor. Swinging doors shall open away from the pool area.

J. When an above-ground pool structure is used as a barrier or the fence is mounted on top of the pool structure, and the means of access is a ladder or steps:

- (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 fence which meets all of the above requirements for fences and access gates. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4 inch diameter sphere.

K. Swimming pool fences shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the fence.

## 6. STANDARDS OF MAINTENANCE:

A. All swimming pool fences, and commercial, industrial, and residential privacy fences visible from a public right-of-way at standing eye level shall be maintained in good condition; free of loose, missing or broken boards, posts or other components, and not leaning to the point the top is one foot or more off plumb

from the bottom.

- B. When a fence in need of repair is on the boundary between private property and a public right-of-way, the home owner is solely responsible for the maintenance and appearance of the fence. Where a fence in need of repair is visible from a public right-of-way from standing eye level, but is on the boundary of two private properties, the home owners are jointly responsible for the maintenance and appearance of the fence. The home owner, or owners, shall be informed by letter that the fence requires repair and that 10 days shall be allowed from the date of the letter to accomplish the necessary repairs. The City Secretary is authorized to grant extensions to the 10 days for circumstances be the home owners control. However, the extensions shall not exceed 60 days.
- C. If the fence remains un-repaired after the 10 days, or any extension granted by the City Secretary, a citation for violation of this Ordinance shall be issued to the responsible home owners, and the City shall take action to get the fence repaired and send the bill to the home owner. If the bill is not paid within 30 days, a lien shall be placed on the property and accrue interest at the rate of 10% per year until the debt is settled.

**7. RESTRICTIONS:**

- A. No fence shall be hereinafter constructed as to cause danger to traffic by obstructing the view of such traffic.
- B. It shall be unlawful for any person to build or place any fence of any kind on or across any drainage easement or any natural or artificial drain or any stream, creek or channel in the City.

8. **SEVERABILITY:** If any section or part of any paragraph of this Ordinance is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force, or effect of any other section or sections or part of a section or paragraph of this Ordinance.

9. **PENALTIES:** Any person violating any provision of this Ordinance shall, upon conviction, be assessed a fine of not more than \$ 1,000.00. Each day of violation shall constitute a separate offense.

**PASSED AND APPROVED THIS** 14TH **day of** OCTOBER **, 2008.**

  
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William K. Hutchison, Mayor

ATTEST: Brenda Marbut  
Brenda Marbut, City Secretary