

COPY

ORDINANCE NO. 305

AN ORDINANCE AMENDING ORDINANCE NO. 239 WHICH PROHIBITS THE ERECTION AND MAINTENANCE OF ELECTRIC FENCES WITHIN THE CITY LIMITS OF THE CITY OF MULLINVILLE AND FURTHER PROVIDING FOR ADDITIONAL FENCE REGULATIONS AND FOR PERMITS FOR FENCES BUILT IN THE CITY OF MULLINVILLE AND FOR REPEAL OF ORDINANCE NO. 239.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MULLINVILLE, KANSAS:

SECTION 1. ORDINANCE NO. 239 is amended as provided herein.

SECTION 2. MATERIAL OF FENCES. All residential fences shall be constructed of new material expressly designed for fences. No fence made of discarded material or roofing metal shall be permitted. Examples of acceptable materials for fencing include wood, vinyl, concrete, chain link, and other material deemed appropriate at the City's discretion. All fence material must be maintained in an appropriate fashion to ensure visual appeal, structural integrity, and safety. If chain link is the material used to create a fence, it must be installed using proper posts and top rail and stretched to proper tightness. All post holes must be a minimum of two (2) feet deep and posts must be set in concrete.

SECTION 3. DIMENSIONS OF FENCES. No fence which is adjacent to a roadway or intersection as defined in the Standard Traffic Ordinances for Kansas Cities shall be taller than four (4) feet. The height of the fence shall be deemed to be the average distance from the finished grade to the highest point on the fence panel, excluding posts. Where the terrain is not level the average dimension may, at the discretion of the City, be applied to each eight (8) foot section of the fence. A fence post may not be more than one (1) foot higher than the appropriate fence height for any fence as determined by this section.

SECTION 4. PERMIT REQUIRED. All fences, other than those described in Section 5 below, shall require a building permit. No fence shall be erected, constructed or replaced until such permit has been procured by the City. The City Council shall have the power to weigh the requirements contained in this ordinance or may allow minor deviations and adjustments, depending upon the use to be made of the fence, and where the topography or other natural features warrant such deviation or waivers. Such waivers shall be in writing. Waivers shall be given only in the event the health, safety and general welfare of the citizens of the City will not be adversely affected.

SECTION 5. SAME; EXCEPTIONS TO PERMIT REQUIREMENT. The use of fencing material of the same nature as described in Section 2 that does not exceed two and one-half (2 ½) feet in height and located no closer than ten (10) feet from the property line; and enclosures erected around compost piles and pet containment enclosures located in the rear yard and which are not more than six (6) feet high shall be excluded from these regulations and shall not require a permit.

SECTION 6. FENCES. It shall be unlawful for any person to erect, construct or maintain an electric fence upon property located in the City limits of the City unless the City Council has granted written permission for the use of such electric fence. The use of such fence and any restrictions, when such fence is allowed, shall be issued by the City Council and shall be strictly

followed. Any person violating this section shall be punished by a fine not to exceed \$100 plus Court costs.

SECTION 7. SAME; CITY DENIAL OF PERMIT. The city may decline the approval of a fence that is deemed hazardous or which obstructs the view of any street intersection or right of way.

SECTION 8. CITY EASEMENTS; STATE RIGHT OF WAYS; OTHER PROPERTY BOUNDARY ISSUES. No fence shall be constructed within, on, across, or over a city easement, state right of way, or road, alley, or sidewalk provided by the City, County, or State. An individual intending to build a fence is responsible of knowing the location of property lines between their property and the property of an adjoining property owner. If a tenant of a piece of property has permission from the landowner to build a fence, that tenant must provide the City with proof that the landowner has approved of his or her tenant building a fence on the property.

SECTION 9. EXPOSURE OF FENCE SURFACE. Those fences which have the surface material, whether it be wood, chain link, metal bars, or other material expressly designed for fencing, attached on one side of posts and/or rails, thus producing a finished side and an unfinished side, shall be installed with the finished sides exposed toward the street and adjacent properties. When doubt exists as to which way the surface of the proposed fence shall face, the City shall make the final determination.

SECTION 10. REMOVAL OF FENCE BY CITY IF FAILURE TO COMPLY. If a fence was built without a permit or built out of compliance with this ordinance, then the City can remove the fence at owner's expense, provided that the City does not violate the fence owner's due process rights.

SECTION 11. Ordinance No. 239 is hereby repealed.

SECTION 12. This ordinance shall be enforced and take effect from and after its adoption and approval and its publication one time in the official newspaper of the City.

Passed by the Governing Body of the City of Mullinville, Kansas, on this 18th day of July, 2016.

CITY OF MULLINVILLE, KANSAS

By 
ANDREW KIMBLE, MAYOR

ATTEST


SUSAN CLAYTON, Clerk

SEAL