

ORDINANCE NO. 01-18

AN ORDINANCE SETTING CERTAIN
REQUIREMENTS FOR FENCES IN THE INCORPORATED
TOWN OF BERGMAN, ARKANSAS, PROVIDING A
VARIANCE PROCEDURE, ESTABLISHING PENALTIES
AND OTHER PURPOSES.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BERGMAN,
ARKANSAS:

FENCE PERMIT.

(a) This article is intended to govern the construction of fences and their location, size, design and aesthetic appeal. The town is also concerned that the erection of fences in yard space fronting on streets may impair the sight distance of the operator of moving vehicles on streets to the extent of creating a traffic hazard and that the erection of fences such as these may obstruct the view from dwellings placed on adjoining lots.

(b) It shall be unlawful for any person to erect, construct, enlarge, alter or replace any fence regulated by this article without first obtaining a separate permit from the Town Council for each tract of land within the corporate limits of Bergman, Arkansas upon which the fence will be located. If construction of a fence begins prior to the issuance of a fence permit, the owner or agent will be subject to penalties outlined below.

(c) Application for a permit to build a fence on any lands within the corporate limits of Bergman, Arkansas, shall be made by the owner or agent of the lot to the Town Council. The application shall indicate in writing or by graphic means the location, height, materials and construction method of the proposed fence. The application must also include the dimensions of the proposed fence and show all drainage structures, lot lines, and other relevant details. The applicant shall flag or mark the property lines and the proposed boundaries of the fence on the property in a manner which clearly indicates the proposed location of the fence and the proximity to property lines and must request that an individual designated by the Town Council verify the boundaries prior to issuance of a permit.

(d) The application shall be reviewed, taking into consideration:

- a. The aspects of traffic hazard and view obstruction from adjoining lots;
- b. The proposed fence material and construction method in order to eliminate unsightly and dangerous fences.

(e) Upon a finding that the proposed fence does not violate the stated concerns of the town, the permit shall be issued.

(f) Applicants must notify the town that the fence is complete and the structure will be inspected to ensure compliance with the approved and permitted structure.

(g) Any fence found to have been built contrary to the representations on the approved fence permit or which are otherwise in violation of this article must be removed and may not be replaced except in conformity with this article.

FENCE REQUIREMENTS.

The following requirements are intended to be the minimum standards for fence construction in the town. A development, subdivision or property owners association may adopt more restrictive standards than the requirements listed in this article, so long as those standards are not in conflict with the town's standards:

(1) It shall be unlawful for any landowner within the town limits to erect, construct, place, or have upon their property any fence, wall or external barrier constructed of metal, steel, plastic, wire, concrete block, or any other non-wooden substance, provided that wooden fences may contain metal or steel fasteners as may be necessary for their erection, construction or placement. However, fences may be erected which are constructed or placed upon property if made primarily of decorative wrought iron or, simulated wooden or composite materials designed as fencing, brick or large rock and not concrete or other substance. For purposes of this section, crushed rock, sand, gravel or pebbles shall not be considered rock. Large rock shall be defined as a rock at least six inches thick at its widest points. All fencing material shall be resistant to disease and decay or shall be treated with substances to prevent such disease and decay.

(2) It shall be unlawful for any fence to be more than six feet tall unless a variance has been specifically granted by the Town Council.

(3) Fences or repairs must be completed within six weeks of the start of construction. Fences must be inspected upon completion to ensure compliance with this article and with the approved fence permit.

(4) Fencing on any side of a lot must be of a consistent style. Any fence adjacent to a street shall be no taller than six feet and must be constructed of approved materials with finished side facing out unless more restrictive standards of a development, subdivision, or property owners association require that the fence be constructed of a different material. Any fence adjacent to a public area must have the more finished side facing out. The finished side is the side whose framing, supports, or posts are less visible. A double sided fence that is equally finished on both sides is acceptable.

(5) All fences shall have a minimum of one gate for emergency ingress and egress. The minimum width of such gate shall be three feet. No gate wider than five feet shall be constructed in a rear or side yard fence when vehicular access is not permitted from that direction.

(6) All fences, both existing and new, and all parts thereof, shall be maintained in a safe and structurally sound condition, and in a manner that presents an orderly appearance. Fences shall be free from loose or rotting materials and shall have braces and supports attached or fastened in accordance with common building practices. The owner or agent shall be responsible for the maintenance of the fence. Fences may not be connected to a rotten or failing fence. Fences may not be connected to existing fences in a way which causes or precipitates damage to the existing fence. Compliance with this article shall be determined by the Town Council. Penalties for noncompliance are outlined below.

(7) It shall be unlawful for any fence to restrict the flow of water. A fence in a storm water drain path must have a minimum of two-inch clearance above finish grade to allow water to flow under the fence.

(8) No fence can be constructed within ten feet of the top of the backslope of an open ditch.

(9) No fence may be constructed beyond the property line.

(10) Fences shall be set back from the roadways at least ten (10) feet, and in no event shall any fence be located within the boundaries of any public road right of way.

(11) Fences and shrubbery shall not in any way obstruct the view of any roadway or intersection.

EXCLUSIONS

(a) This article shall not apply to fences erected before December 5, 2017, but such fences are nonetheless subject to any other applicable restrictions which may legally exist. However, if a fence exempted by the foregoing provision is materially damaged, destroyed or otherwise removed, the same must be repaired, replaced or reconstructed in compliance with this article.

(b) Notwithstanding any provisions of this article to the contrary, ornamental/decorative wrought iron fences shall be allowed, rigid poly vinyl chloride (PVC) fences shall be allowed when constructed to resemble a wooden or wrought iron fence, and colored or decorative concrete block walls shall be allowed also if the blocks are completely painted and erected in a uniform, consistent pattern throughout the wall.

VARIANCE

Should any resident of the Town of Bergman, Arkansas, wish to apply for a variance from these requirements a Petition shall be filled with the Town Recorder indicating the property owners request and a hearing shall be held before the Town Council who shall determine whether to grant the variance or not.

NOTICE AND ENFORCEMENT

The Mayor of the Incorporated Town of Bergman, Arkansas, upon discovery of a violation of this Ordinance shall notify said offender by certified mail stating that the offender shall have fifteen (15) days from receipt of said letter to comply with this Ordinance. In the event that the Mayor is unable to execute the letter then any member of the Town Council may notify offenders as specified herein.

PENALTY

In addition to any of the remedies provided herein, the Town may enjoin any property owner who is in violation of any of these requirements to prevent or correct such violations, and any individual aggrieved by violation of these requirements may seek an injunction against any property owner in violation of the requirements. Any person, firm, or corporation violating any of the provisions of these requirements or amendments thereto, shall be guilty of a misdemeanor and be fined in any amount, not to exceed Twenty-five (\$25.00) Dollars, and each day's violation shall be considered a separate offense.

IT HAS BEEN determined that this ordinance is necessary and is vital to the health, welfare and safety of the public, therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED THIS 2nd DAY OF January, 2018.

Danny Farmer
TOWN OF BERGMAN, ARKANSAS
Danny Farmer-MAYOR

ATTEST
DONIA COOK-RECORDER

Donia Cook