

City of Houston, Texas, Ordinance No. 2008- 81

AN ORDINANCE AMENDING SECTION 312.3.3 OF THE CITY OF HOUSTON BUILDING CODE, CHAPTER 5 OF THE CITY OF HOUSTON ELECTRICAL CODE, AND SECTION 28-10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO ELECTRIC FENCES; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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

Section 1. That Section 312.3.3 of the volume of the City of Houston Construction Code known as the City of Houston Building Code, as adopted by Ordinance No. 2006-5, is hereby amended to read as follows:

"312.3.3 Electric. Electrically charged fences shall be installed in accordance with Section 28-10 of the City Code."

Section 2. That the volume of the City of Houston Construction Code known as the City of Houston Electrical Code, as adopted by Ordinance No. 2005-943, is hereby amended by adding a new Section 509 that reads as follows:

"SECTION 509--ELECTRICAL FENCES

This code does not regulate electrically charged fences installed in accordance with Section 28-10 of the *City Code*."

Section 3. That Section 28-10 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 28-10. Same--Electric.

(a) The construction and use of electrified fencing shall be allowed in the city only as provided in this section, subject to the following standards:

(1) **Electrification:**

- a. No electrified fence shall be installed or operated with a power source other than a storage battery not exceeding 12 volts direct current, charged primarily with a solar panel; provided, however, in case of inclement weather or other conditions that inhibit the ability of the solar panel to fully recharge the battery, a charging device may be utilized for such purpose, if connected in a manner that ensures that the charging device cannot provide a source of power to the fence. In no case shall an electrified fence be connected to any other electric power source.
- b. The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of International Electrotechnical Commission (IEC) Standard No. 60335-2-76, as such standard exists upon January 30, 2008.

To the extent that the construction or installation of an electrified fence does not conflict with the requirements of this section, and unless otherwise specified herein, such fence shall be constructed or installed in conformance with the specifications set forth in IEC Standard 60335-2-76, as such standard exists upon January 30, 2008.

- (2) **Perimeter fence or wall:** No electrified fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six feet and not more than eight feet in height. The perimeter fence or wall shall be separated from the electrified fence by not less than one foot at its closest point, and by not more than five feet at its farthest point, except at gate openings, which shall be installed in conformance with the specifications set forth in Annex CC of IEC Standard 60335-2-76, as such standard exists upon January 30, 2008. The area between the perimeter wall or fence and the electrified fence shall be kept completely clear of landscaping, shrubbery, other fences or any material of any kind. The lowest part of the perimeter fence or wall shall be constructed to follow the natural terrain to prevent penetration of such fence or wall at ground level. No part of a perimeter

fence or wall shall be allowed to be in contact with an electrified fence by any means at any time. Perimeter fences adjacent to residential lots at the time of installation of the electric fence shall be either a wood privacy fence, a chain link fence with wood or plastic slats inserted into each weave of the fence, or an equivalent solid barrier fence.

- (3) **Location:**
 - a. Limited to commercial outdoor storage areas only.
 - b. Prohibited within five feet of any public right-of-way or sidewalk, unless the barrier fence is a wood privacy fence, a chain link fence with wood or plastic slats inserted into each weave of the fence, or an equivalent solid barrier fence.
 - c. Prohibited within 25 feet of any outdoor area utilized for the storage, use, or handling of hazardous materials as defined in the Fire Code.
- (4) **Height:** Shall be not less than six feet and not more than ten feet in height.
- (5) **Signage; other markings:** Shall be clearly identified with warning signs in English, Spanish and Vietnamese that read: "Warning—Electric Fence" placed along the non-electrical perimeter fence or wall at intervals of not less than fifty feet, however, in no instance may there be less than one sign on each side of the non-electrical perimeter fence or wall. In addition to the required signs, the top or uppermost horizontal frame member of any entry gate providing access to any property upon which an electrified fence is located, shall be marked by the placement or addition of a yellow reflective paint, tape or other permanent weatherproof marking along the full length of the gate frame, which marking shall be at least 3 inches wide and be kept in good condition to ensure its continued visibility.
- (6) **Hours of activation:** Shall not be activated between the hours of 8:00 a.m. and 5:00 p.m., except:

- a. On days when the business is closed, such as weekends and holidays; or
 - b. When security personnel is available on-site to deactivate the electrical fence.
- (7) **Key box:** Shall be installed in accordance with Houston Fire Department Life Safety Bureau Standards.
- (8) **Registration:** Prior to the installation or use of any electrified fence, the property owner or lessee of the property upon which such fencing will be installed or used shall submit a completed registration for such fencing to the fire department using the form promulgated for that purpose by the fire chief. The property owner or lessee shall certify that the energizer of the fence complies with characteristics set forth in paragraph 22.108 and depicted in Figure 102 of IEC Standard No. 60335-2-76, as such standard exists upon January 30, 2008. No fee shall be charged in connection with the registration required by this item.

(b) It shall be unlawful for any person to install, maintain, or operate an electrified fence in violation of this section.

(c) The provisions of this section shall not be applicable to any fence on zoological gardens owned by a political subdivision of the state."

Section 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the sixtieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 30th day of January, 2008.

B. D. White
 Mayor of the City of Houston

Prepared by Legal Dept. _____
 RDC:asw 01/22/2008 Senior Assistant City Attorney
 Requested by City Council Committee on Regulation, Development and Neighborhood Protection
 L.D. File No. 0390600129001

		<i>Roll Call Vote</i>
AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
	✓	ADAMS
	AGENT	SULLIVAN
	✓	KHAN
✓		HOLM
	✓	GARCIA
✓		RODRIGUEZ
	✓	BROWN
✓		LOVELL
	✓	NORIEGA
✓		GREEN
✓		JONES
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: FEB 05 2008