

1 STATE OF GEORGIA

2 CITY OF COLLEGE PARK

3 ORDINANCE NO. 2015-13

4 AN ORDINANCE TO AMEND ARTICLES III, DEFINITIONS, AND XX,  
5 EXCEPTIONS AND MODIFICATIONS, OF APPENDIX A, ZONING, OF THE CODE OF  
6 ORDINANCES OF THE CITY OF COLLEGE PARK, GEORGIA TO CREATE A  
7 DEFINITION AND PROVISIONS REGARDING THE USE AND LOCATION OF  
8 ELECTRIC FENCES; TO CREATE A CROSS-REFERENCE TO ELECTRIC FENCES  
9 WITHIN SECTION 12-33, FENCES, OF THE PROPERTY MANAGEMENT CODE; TO  
10 PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL  
11 CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN  
12 EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

13 **WHEREAS**, the duly elected governing authority of the City of College Park, Georgia  
14 (the “City”) is the Mayor and Council thereof;

15 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth  
16 management, been in review of the City’s zoning ordinances and have been studying the City’s  
17 best estimates and projections of the type of development which could be anticipated within the  
18 City; and

19 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use  
20 regulation continue in the most orderly and predictable fashion with the least amount of  
21 disturbance to landowners and to the citizens of the City. The Mayor and Council have always  
22 had a strong interest in growth management so as to promote the traditional police power goals

23 of health, safety, morals, aesthetics and the general welfare of the community; and in particular  
24 the lessening of congestion on City streets, security of the public from crime and other dangers,  
25 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the  
26 City including access to air and light, and facilitation of the adequate provision of transportation  
27 and other public requirements; and

28 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public  
29 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,  
30 aesthetic as well as monetary; and that it is within the power of the City “to determine that a  
31 community should be beautiful as well as healthy, spacious as well as clean, well balanced as  
32 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.  
33 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the  
34 valid public objectives of aesthetics, conservation of the value of existing lands and buildings  
35 within the City, making the most appropriate use of resources, preserving neighborhood  
36 characteristics, enhancing and protecting the economic well-being of the community, facilitating  
37 adequate provision of public services, and the preservation of the resources of the City; and

38 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a  
39 cohesive and coherent policy regarding certain uses in the City, and have intended to promote  
40 community development through stability, predictability and balanced growth which will further  
41 the prosperity of the City as a whole; and

42 **WHEREAS**, currently, the City’s zoning ordinance contains no provisions regarding the  
43 regulation of electric fences within city limits; and

44       **WHEREAS**, the Mayor and Council find it desirable and in the interest of the health,  
45 safety, and welfare of the citizens of the City to amend certain provisions of the City’s zoning  
46 ordinance to regulate the use and location of electric fences.

47       **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE**  
48 **CITY OF COLLEGE PARK, GEORGIA**, and by the authority thereof:

49       **Section 1.**       That Section 12-33 of the Property Management Code, within the Code of  
50 Ordinances of the City of College Park, Georgia is hereby amended by deleting the existing text  
51 of subsection (a) and inserting the following text in lieu thereof to read as follows:

52       “Sec. 12-33. - Fences.

53  
54       (a) It shall be unlawful to erect a fence constructed of materials not specifically designed for  
55 fence construction, such as tin roofing material, plastic roofing material, barbed wire, or  
56 doors. The restriction on the use of barbed wire shall not apply to its use atop a lawful  
57 fence which is constructed at a height of not less than six (6) feet. Electric fences are  
58 permitted subject to restrictions within Section XX of the City’s zoning ordinances.

59       (b) It shall also be unlawful for any person to improperly construct or maintain in unsound  
60 condition any fence. Likewise, it shall be unlawful for any dilapidated or otherwise  
61 unsound or unsightly fence or portion of fence to exist on any property.”

62  
63       **Section 2.**       That Section 1, Enumeration, of Article III, Definitions, of Appendix A of  
64 the Code of Ordinances of the City of College Park, Georgia is hereby amended by creating a  
65 new subsection 23b, Fenestration, and inserting the existing text of subsection 23a into said  
66 subsection, and deleting the existing text of subsection 23a and inserting the following text in  
67 lieu thereof:

68       (23a)       “Fence, electric. Electrically-charged strand or strands of wire, intended to  
69 produce an electric shock upon contact, which are installed around the perimeter of an  
70 area. While low and high voltage/current electric fences may both be powered primarily  
71 by solar power and secondarily by a 12-volt battery, low voltage electric fences do not  
72 exceed an output of 6 milliamps, while high voltage electric fences exceed an output of 6  
73 milliamps.

74 (23b) Fenestration: The arrangement, size, proportion and design of windows and doors  
75 on a building facade.”  
76

77 **Section 3.** That Article XX, Exceptions and Modifications, of Appendix A of the

78 Code of Ordinances of the City of College Park, Georgia is hereby amended by deleting the  
79 existing text of Section 6, Fences, and inserting the following text in lieu thereof:

80 “Sec. 6. - Fence regulations.

81  
82 (a) As used in this section, the terms “front yard” and “side yard” shall mean as  
83 provided in Article III. However, the prohibitions contained in this section shall  
84 not apply to that portion of the side yard extending from a line drawn horizontally  
85 to the side yard lines from the rear wall corners of the structure placed upon a lot  
86 to the rear yard line.

87 (b) Subject to compliance with the vision clearance requirements as set forth under  
88 section 3 of this article, it shall be unlawful to place, construct or otherwise allow  
89 any fences other than fences constructed from a chain link, of ornamental metal,  
90 of ornamental masonry, or of ornamental wood, not exceeding six (6) feet in  
91 height, within yard areas in any residential zoning district (R-1, R-2, R-3, R-4, R-  
92 5, R-A, MF, and MFL); except, however, such fences as are allowed above shall  
93 not exceed four (4) feet in height in the front yard and in that portion of the side  
94 yards abutting front yards of other residential lots.

95 (c) Any fence may be prohibited if, in the opinion of the building official or the chief  
96 of police, that fence obstructs the vision of motorists to the public rights-of-way  
97 so as to create a dangerous condition, or if for some other reason such fence  
98 would endanger the public safety or general welfare.

99 (d) Subject to compliance with the vision clearance requirements as set forth under  
100 section 3 of this article, fences not exceeding eight (8) feet in height may be  
101 placed within yard areas of every commercial and industrial zoning district (C-1,  
102 C-2, C-3, C-L, W-1, B-P, O-P, TSC, M-1 M-2, and X-1).

103 (e) The use of barbed-wire, razor wire or similar fencing materials is specifically  
104 prohibited in all zoning districts, except that in W-1 Warehouse Districts, M-1  
105 Light Industrial Districts, M-2 Heavy Industrial Districts, and X-1 Railroad  
106 Districts such fencing materials may be allowed upon application to and approval  
107 by the building official.

108 (f) High voltage electric fences, as defined in Section 23a of Article I of this zoning  
109 ordinance, are prohibited throughout the City; however, the construction and use  
110 of low voltage electric fences, as defined in Section 23a of Article I of this zoning  
111 ordinance, shall be allowed in the City only as provided in this section and subject  
112 to the following standards:

113 (1) Permit

114 i. The construction or installation of any fence shall not commence  
115 except with a building permit secured from the Office of  
116 Inspections.  
117

(2) Electrification

118 i. The energizer for electric fences must be driven by a commercial  
119 storage battery, not to exceed 12 volts DC. The storage battery  
120 must be charged primarily by a solar panel; however, the solar  
121 panel may be augmented by a commercial trickle charger.  
122 ii. The electric fence shall not be energized unless the College Park  
123 Power Department has inspected such fence for compliance with  
124 the electrification requirements of subsection (f)(2)(i).  
125

(3) Perimeter fence or wall

126 i. Electric fences shall be completely surrounded by a non-electric  
127 fence or wall that is not less than six feet tall, and the electric fence  
128 and non-electric fence or wall shall have no less than six inches of  
129 space between them.  
130

(4) Location

131 i. Electric fences shall be permitted only in the following zones: any  
132 commercial districts subject to the Transportation “T” overlay  
133 (Section XVI-A of Appendix A), M-1, M-2, and B-P.  
134 ii. Electric fences shall not be permitted in residential districts,  
135 including but not limited to R-1, R-2, R-3, R-4, R-5, R-A, MF and  
136 AG-1.

137 iii. Electric fences shall be a minimum of 25 feet from all perimeter  
138 property lines when adjacent to residential zoning districts.

139 iv. Electric fences shall not enclose a landscape buffer.

(5) Height

140 i. Electric fences shall have a minimum height of 6 feet and  
141 maximum height of 8 feet, but such height can be extended up to  
142 10 feet if a variance is granted.  
143

(6) Warning Signs

144 i. Electric fences shall be clearly identified with warning signs that  
145 read: “Danger: Premises Protected by an Electric Fence” at  
146 intervals of not less than 20 feet and at a height no higher than five  
147 feet from the ground.  
148

149 ii. Electric fences shall not be energized until such signs are posted.  
150

(7) Accessibility

151 i. A Knox Box rapid entry system, unlocked by a key, shall be  
152 required and installed per the standards of the City of College Park  
153 Fire Department.  
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(8) Power Source

155 i. The power source for electrified fences shall come from an internal  
156 source and not be generated directly from a city-powered source.  
157 ii. Electric fence conductors shall not be mounted on support surfaces  
158 utilized for overhead power lines.

159 (9) Indemnification

160 i. The applicant or property owner agrees to defend, indemnify, and  
161 hold harmless the City or its agents, officers, and employees from  
162 any claim, action or proceeding against the City or its agents,  
163 officers, or employees resulting from the approval and installation  
164 of an electric fence. Prior to issuance of the any permits, the  
165 applicant or property owner shall execute such indemnification and  
166 hold harmless agreements reflecting the obligations required under  
167 this subsection, in such form as approved by the City Attorney.

168 (10) Electric fences shall meet UL standards.

169 (11) It shall be unlawful for any person to install, maintain or operate an  
170 electric fence in violation of this section.”  
171

172 **Section 4.** The preamble of this Ordinance shall be considered to be and is hereby  
173 incorporated by reference as if fully set out herein.

174 **Section 5.** This Ordinance shall be codified in a manner consistent with the laws of  
175 the State of Georgia and the City.

176 **Section 6.**

177 (a) It is hereby declared to be the intention of the Mayor and Council that all sections,  
178 paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment,  
179 believed by the Mayor and Council to be fully valid, enforceable and constitutional.

180 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest  
181 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this  
182 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this  
183 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the  
184 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this  
185 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase  
186 of this Ordinance.


187 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
188 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
189 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the  
190 express intent of the Mayor and Council that such invalidity, unconstitutionality or  
191 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional  
192 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or  
193 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,  
194 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,  
195 enforceable, and of full force and effect.

196 Section 7. All ordinances and parts of ordinances in conflict herewith are hereby  
197 expressly repealed.

198 Section 8. The effective date of this Ordinance shall be the date of adoption unless  
199 otherwise specified herein.

200 **ORDAINED** this 17<sup>th</sup> day of August, 2015.

201 **CITY OF COLLEGE PARK, GEORGIA**

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204 **JACK P. LONGINO, Mayor**  
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206 **ATTEST:**

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209 **MELISSA BROOKS, City Clerk**

210 **APPROVED AS TO FORM:**

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STEVEN M. FINCHER, City Attorney