



September 2022

Policy Update in regards to new Texas legislation allowing perimeter fencing.
Re: Perimeter Fence

The Mountain Crest Community Association Architectural Committee would like to address newly arisen interests of some property owners in erecting perimeter fencing that would enclose areas of the property both in front and behind the front set-back lines of the home.

A boundary or perimeter fence entails a continuous fencing structure on or within surveyed property lines that surround or enclose an area including or adjacent to the house structure for security purposes.

While recent Texas legislation specifies perimeter security fencing cannot be denied outright, the type of fencing and material must be approved by the Architectural Committee in accordance with C.S.H.B. 3571 Section 202.023 subsection (c).

In the spirit of improving the development and harmony of the neighborhood, the Architectural Committee will consider the following items during the approval process:

As a starting point, having an accurate survey that shows the correct boundary line is paramount when building any fence. Without a survey showing property lines, fence building is inaccurate and could lead to future headaches. The property owner will be responsible for obtaining and providing an accurate survey.

The property owner will also be responsible for ensuring road, county, state, and energy easements are accounted for in the construction project. Fencing behind the front building set-back line (commonly referred to as the "backyard") will continue to be reviewed and approved in accordance with applicable Restrictions and Covenants. Fencing forward of the front building set-back line (commonly referred to as the "front yard") will be reviewed based on, but not exclusive to, the following:

- Fencing design and material must be visually appealing and allow for continuous visibility of the house and property from the street view and the view from the neighboring properties.
- Unsightly or continuously closed privacy fence structure will not be allowed. (As an example, vertical wrought-iron style fencing would be acceptable while solid wood fencing and chain-link fencing would not be acceptable.)
- Fencing material must be of good quality.
- Property owners will be responsible for fence maintenance and upkeep in order to continue the integrity of the neighborhood.
- Fencing must be continuous and enclosed with securable access gates in order to be considered security perimeter fencing under Section 202.023.
- Perimeter fencing height approval is at the discretion of the Architectural Committee.
- Perimeter fencing must not impair or be an inconvenience or nuisance to neighboring properties or to the neighborhood as a whole.
- Emergency access by first responders and easement authorities should be a consideration and a responsibility of the property owner.

Another consideration is the inclusion of neighboring property owner concerns. Both friendly and legal considerations are not an obligation of the Architectural Committee, however it is important for the property owner to include the impact of fencing on their neighbors. If any agreement is made to share the cost or maintenance of the fence, it should be done in writing in order to be enforceable. These agreements may be useful regarding obligations before issues arise.

The Architectural Committee kindly reminds our neighbors that **ALL improvement projects require an application and approval prior to construction. This serves to enhance the entire neighborhood and to protect the interests of the applicant.**

Thank you,
Mountain Crest Community Association Architectural Committee



References:

Restrictions and Covenants Applicable to Mountain Crest Subdivision Section

2.01 Basic Rule

No building or other improvement of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design thereof or any addition made thereto or exterior alteration made therein after original construction, on any property in the Subdivision until the owner of such property has applied for in writing and has received the necessary approval of the construction plans and specifications and plat showing the location of such building or other improvements.

Section 4.07

No wall, fence, planter, or hedge in excess of two(2) feet high shall be erected or maintained nearer to the front lot line than the front building set-back line, nor on corner lots nearer to the side lot line than the building setback line parallel to the side street. No rear fence, wall, or hedge and no side fence, wall, or hedge located between the side building line and the interior lot line(or located on the interior lot line) shall be more than six(6) feet high.

C.S.H.B. 3571

Section 1. Amends Chapter 202, Property Code, by adding Section 202.023 as follows:

Section 202.023 Security Measures. (a)Provides that this section does not apply to a master mixed use property owners' association subject to Chapter 215 (Master Mixed Use Property Owners' Associations).

(B)Prohibits a property owners' association, except as provided by Subsection (c), from adopting or enforcing a restrictive covenant that prevents a property owner from building or installing security measures, including but not limited to a security camera, motion detector, or perimeter fence.

(C) Provides that this section does not prohibit a property owners' association from regulating the type of fencing that a property owner is authorized to install.

Examples of Fencing **NOT** acceptable **forward** of the front house set-back line:



Examples of Fencing that may be **Acceptable** forward of the front house set-back line:

