



## City of North Port

### ORDINANCE NO. 2019-15

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE RELATED TO FENCES, BY AMENDING SECTION 53-3, SECTION 53-240, AND SECTION 61-3; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 53 of the Unified Land Development Code ("ULDC") sets forth regulations for special structures within the City and Chapter 61 of the ULDC provides definitions for terms used in the ULDC; and

**WHEREAS**, on November 5, 2018, the City Commission of the City of North Port, Florida, directed staff to bring back an ordinance loosening height and location restrictions for fences in districts zoned single-family residential; and

**WHEREAS**, on March 7, 2019, the City Commission discussed various public and traffic safety concerns regarding fences and provided further direction to staff regarding fence regulations; and

**WHEREAS**, on November 21, 2019, the City of North Port Planning and Zoning Advisory Board, designated as the Local Planning Agency for the City, held a properly noticed public hearing to receive public comments on the proposed amendment of the ULDC; and

**WHEREAS**, the City Commission has held properly-noticed public hearings to review the recommendations of the Planning and Zoning Advisory Board and to receive public comments on the proposed amendment of the ULDC; and

**WHEREAS**, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**

#### **SECTION 1 - FINDINGS**

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

**SECTION 2 - ADOPTION**

2.01 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

**“Chapter 53 - ZONING REGULATIONS**

...

**PART 1. - GENERAL PROVISIONS**

...

**Sec. 53-3. - General requirements.**

...

~~F. Exposed PVC, split rail fence, untreated cinder block, is not permitted.~~

...”

2.02 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

**“Chapter 53 – ZONING REGULATIONS**

...

**PART 3. – SPECIAL DISTRICT REGULATIONS**

**ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS**

...

**Sec. 53-240. – Special structures.**

...

~~M. (Original subsection M deleted in its entirety and replaced with the following.)~~

M. Fences. Except as otherwise provided in Subsection (6) below, all fences must comply with the following regulations.

(1) Setback. Fences are not required to meet minimum setback requirements for accessory structures in any zoning district.

(2) Stopping sight-distance triangle. No obstruction to vision is permitted at the intersection of a driveway and the street. The area must be clear of all visual obstructions to allow drivers adequate time to perceive a problem (e.g., vehicle, person, animal, or object), react to it, and safely stop to avoid a collision or injury. The length and shape of this area is affected by the speed of a vehicle, pavement conditions, curves in the road, slopes, and other factors. This area, known as the stopping sight-distance triangle, must meet the requirements set forth in the most current edition of the Florida Department of Transportation Design Manual, as amended.

(3) Height limits.

(a) Front yard or abutting street.

(i) Opacity requirements. Where a fence is installed in a front yard or abutting a street, its opacity will determine the maximum height permitted. A fence that has

an opacity of fifty percent (50%) or less may be a maximum of four feet (4') high. A fence that is more than fifty percent (50%) opaque may be a maximum of three feet (3') high.

(ii) Exception. A fence set back from the property line at least fifteen feet (15') may be a maximum of eight feet (8') high, regardless of its opacity.

(b) Side or rear yard not abutting street. Where a fence is installed in a side or rear yard that is not abutting a street, the fence may be a maximum of eight feet (8') high.

(4) Calculating height.

(a) Fence height is measured starting at ground level and includes all components of the fence, such as the posts, rails, panels, and embellishments.

(b) Ground level for calculating fence height is the lowest elevation located along the fence line. Where the elevation at the fence line is inconsistent, the Public Works Director or designee may determine the natural or original grade for determining ground level.

(5) Design requirements.

(a) Wind-load requirements. A fence more than six feet (6') high must be designed to withstand winds of at least one hundred fifty mile per hour (150 mph), or the minimum wind speed permitted by the Florida Building Code, as amended, whichever is higher. To obtain a fence permit, an applicant must provide engineered plans indicating that the fence is designed and constructed to meet these wind-load requirements, measuring the fence from the lowest side. Once installed, a fence must remain in compliance with these wind-load requirements.

(b) Posts and supports. All exposed fence posts and supports must face in the direction of the fence owner's property.

(c) Material.

(i) A chain-link fence located in a non-residential district must be vinyl coated and be black or North Port City Center Green in color.

(ii) No exposed PVC or exposed cinder block fences are permitted.

(iii) Split-rail fence. A split-rail fence is permitted only in a district zoned Agricultural (AG) or Government Use (GU).

(iv) Electric fence. A fence charged with electricity is permitted only in a district zoned Agricultural (AG).

(v) Barbed wire. A fence with barbed wire is permitted only in a district zoned Agricultural (AG) or Light Industrial and Warehousing (ILW). The barbed wire may

only be installed on the top of the fence, and is included in the calculation of the fence height.

- (6) Special locations. In addition to the above requirements, the following regulations apply to fences installed at the specified locations.
- (a) Playground fence. A fence abutting the perimeter boundary of a playground at a daycare or school must be transparent so that activity behind the fence may be observed from either side, must be between six feet (6') and eight feet (8') high, and must have at least one (1) accessible gate that is operational.
  - (b) Recreational sport facility. The following apply to fences attached to or part of a recreational sport facility, such as a racquetball, tennis, or basketball court, swimming pool, soccer, or baseball field, etc. Any attached netting, such as safety netting attached to a baseball backstop, is not a fence for purposes of this subsection.
    - (i) Height. Fences for sport courts and baseball backstops may be a maximum twenty feet (20') high. Fences for other types of recreational sport facilities may be a maximum of twelve feet (12') high.
    - (ii) Setbacks. The setback for a fence is the same as for an accessory structure at the same location. However, once a fence reaches fifteen feet (15') in height, each one foot (1') increase in fence height will result in a one foot (1') increase in the required side yard setback.
    - (iii) Visibility. A fence that is visible from a roadway must be made of decorative wrought iron or a product with similar characteristics. A fence not visible from a roadway may be made of chain-link, provided that it is vinyl coated.
    - (iv) Color. A fence must be black or North Port City Center Green in color.
  - (c) Construction site. A temporary use permit is required to erect a temporary fence at a construction site. At no time may a temporary fence create a visual obstruction interfering with the safe operation of a motor vehicle or create any other hazard to public safety. A temporary fence must be removed upon the expiration or termination of the temporary use permit.
- (7) Public rights-of-way. A fence or other structure is not permitted in a public right-of-way.
- (8) Public easements. A fence is permitted in a public easement other than a right-of-way easement.
- (a) Required factors. All of the following factors must be present before a fence will be approved for placement in a public easement:
    - (i) There will be no impediment to the flow of storm water within the drainage systems or a reduction of drainage performance;

- (ii) There will be no impediment to the City's ability to access public utilities, whether above or below ground;
  - (iii) There will be no impediment to the City's ability to properly maintain the public easement, if applicable;
  - (iv) The fence does not otherwise interfere with the City's exercise of its easement rights;
  - (v) The fence location will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
  - (vi) The fence location is more than twenty feet (20') from a body of water; and
  - (vii) If installed in a waterfront yard, the fence must be transparent.
- (b) Waterfront yards. In addition to meeting all of the required factors in subsection (a), a fence installed in a public easement located in a waterfront yard is subject to all the following conditions:
- (i) The property owner is solely responsible for the maintenance and repair of the fence regardless of the cause of the damage;
  - (ii) The property owner must defend, indemnify, and hold the City harmless from any and all claims, liabilities, losses, or damages on account of or in any way arising from the existence of the fence in the easement;
  - (iii) If the Public Works Director or designee determines that the area occupied by a fence is needed for any purpose whatsoever, the City has the absolute right to terminate the occupation of the easement and require that the fence be removed. Whenever practicable, the City will attempt to provide advance written notice of termination to the property owner; and
  - (iv) If the City removes a fence, in whole or in part, the property owner will be billed and must pay for the cost of removal by the date indicated on the invoice. The City shall not be responsible for reinstalling, replacing, or repairing the fence, regrading the ground, or returning the area where the fence was installed to the condition existing prior to the fence removal.

...

X. *(Original subsection X deleted in its entirety and replaced with the following.)*

X. Residential property entries and gated community features.

- (1) Residential entry features. Residential entry features are only permitted in districts zoned Single Family Residential (RSF) and Agricultural (AG) provided that the property meets the requirements of this subsection. Such entry features include but are not limited to walls, gates, decorative posts and markers.

- (a) Property point of entry. The maximum height of a structure at a property's main point of entry may be no more than six feet (6') high. However, if the main point of entry has an entry feature such as a gate, lighting, or decorative posts or markers, the maximum height of the total structure including the entry feature may be no more than eight feet (8') high.
- (b) Minimum lot size shall be forty-three thousand five hundred sixty (43,560) square feet.
- (c) Minimum lot depth shall be two hundred feet (200').
- (d) Minimum setback shall be fifteen feet (15').
- (2) Gated community features. A fence or wall may be constructed along the perimeter boundary of a residential development to create a gated community. A gated community's boundary fence or wall must be no more than eight feet (8') high. The fence or wall must comply with the landscaping requirement found in Unified Land Development Code Section 21-9.

...  
BB. Swimming pools, tennis courts, and other recreational facilities.

- (1) Scope. The following regulations apply to all swimming pools, tennis courts, shuffleboard courts, and other similar recreational facilities which are accessory to an individual single-family, two-family, or duplex dwelling or modular home, a permitted use and which are not owned or operated by a governmental agency or school.
- (2) Location of accessory recreational facilities accessory to an individual single family, two-family or duplex dwelling or modular home shall be in accordance with the following:
  - (a) Open-mesh screen. All swimming pools, tennis courts, decks and other similar screened accessory facilities shall comply with the side, rear and street setback requirements for accessory uses, buildings and structures as set forth in Sec. 53-240(A).
  - (b) Roofed enclosures. Swimming pools, patios, decks and other recreational facilities may be covered by a solid roof (impervious to weather), provided that compliance with all setback requirements for the principal structure are met.
- ~~(3) Fencing.~~
  - ~~(a) Fenced enclosures or components attached to or part of a recreational facility shall not exceed the height limitations for the zoning district in which the facility is located.~~
  - ~~(b) Setbacks for fenced enclosures shall be the same for accessory structures; provided, however, that for every one (1) foot increase in height of the fenced enclosure over~~

~~fifteen (15) feet, an increase of one (1) foot in the side yard setback requirement shall be maintained.~~

~~(c) Fences shall be of decorative wrought iron or of a product with similar characteristics.~~

~~(d) Where chain link fences are allowed, the fence shall not be visible from the roadway and shall be vinyl coated.~~

~~(e) Permitted fence colors are black and North Port City Center Green.~~

...”

2.03 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

**“Chapter 61 – DEFINITIONS**

...

**Sec. 61-3. - Definitions and word usage.**

...

~~BOUNDARY FENCE — See “Fence, boundary.”~~

...

FENCE — Any artificially constructed barrier of any material or combination of materials constructed along the full length, or portion thereof, of any or all property line(s), or within the property for the purpose of protection or confinement or as a boundary or for the purpose of blocking part of the property from view or access. For the purposes of these land development regulations, a ~~boundary~~ fence is considered to be an accessory structure and therefore requires a principle use or structure in order to be permitted.

...

TEMPORARY MODEL RESIDENTIAL UNIT FLAGS — Any flag(s) or banner(s) on the property of a model residential unit is prohibited except for the first thirty (30) days after the model receives final inspection.

TEMPORARY FENCE – A fence that does not have a permanent foundation or footing and that is erected for a designated time period, activity, or use.

...

YARD, FRONT — A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the nearest part of the front building line in depth. For buildings placed on the diagonal of a lot or parcel, the front lot line shall be defined as the line measured in a straight line from the right and left front corners of the building to the property line.

YARD, REAR — A yard extending across the full width of the lot and lying between the rear lot line and the nearest part of the primary structure building. Rear yard depth shall be measured at right angles to the rear line of the lot.

...”

**SECTION 3 – CONFLICTS**

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

**SECTION 4 – SEVERABILITY**

4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5 – CODIFICATION**

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations shall not appear in the codified text.

**SECTION 6 – EFFECTIVE DATE**

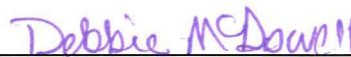
6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this 10th day of December 2019.

READ BY TITLE ONLY at second reading by the City Commission of the City of North Port, Florida in public session this 28th day of January 2020.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the third and final reading in public session this 3rd day of March 2020.

CITY OF NORTH PORT, FLORIDA



DEBBIE MCDOWELL  
MAYOR

ATTEST



HEATHER TAYLOR, CMC  
INTERIM CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS



AMBER L. SLAYTON  
CITY ATTORNEY