

ORDINANCE NO. 709-15

**AN ORDINANCE OF THE MIAMI SHORES VILLAGE COUNCIL
AMENDING SECTION 518 "FENCES, WALLS & HEDGES"
CONTAINED IN THE ZONING APPENDIX OF THE VILLAGE'S
CODE OF ORDINANCES BY REPEALING THE CONTENTS OF
THE SECTION IN ITS ENTIRETY AND ADOPTING A NEW
SECTION 518 "FENCES, WALLS & HEDGES", PROVIDING FOR
SEVERABILITY, PROVIDING FOR CONFLICTS AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, During their regular meeting of November 18, 2014, the Village Council proposed an amendment topic regarding fence heights and requested that the Planning Board review the applicable Code section and consider an amendment thereto, and thereafter conducted a number of workshops and hearings, proposing an amendment to the Code; and,

WHEREAS, During their regular meeting of May 5, 2015, the Village Council, upon consideration of the Planning Board's recommendations, directed the Administration to modify the proposed amendment and draft an ordinance which allows, among other items, taller fences and walls in the side and rear yards, decorative and/or architectural features on fences and walls, and an expanded list of allowable fencing materials; and,

WHEREAS, The Administration has drafted the requested amending ordinance considering the comments expressed by the Council Members and residents; and,

WHEREAS, It is in the best interest of the Village to amend Section 518 of the Zoning Appendix by repealing the Section in its entirety and adopting a new Section addressing Fences, Walls & Hedges;

NOW, THEREFORE, BE IT ORDAINED BY THE MIAMI SHORES VILLAGE COUNCIL, that:

Section 1. The provisions and language currently contained in the Zoning Appendix, Section 518 – Fences, Walls & Hedges, of the Miami Shores Village Code of Ordinances are hereby repealed in their entirety.

Section 2. Simultaneously with the repeal effectuated by Section 1 above, Section 518 of the Village Code of Ordinances is hereby amended by adopting a new Section 518 as set forth and attached to this Ordinance.

Section 3. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance, which shall be deemed to be severable therefrom.

Section 4. All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

Section 5. This ordinance shall take effect immediately upon approval and adoption on second reading.

APPROVED on first reading this 2nd day of June, 2015.

PASSED AND APPROVED on second reading this 16th day of June, 2015.

Alice Burch, Mayor

ATTEST:

Barbara A. Estep, MMC
Village Clerk

APPROVED AS TO FORM:

Richard Sarafan
Village Attorney

Sec. 518. Fences, walls and hedges.

Fences, walls and hedges may be located within any yard, including the margining thereof, subject to the following requirements:

- (1) Maximum height: Three and one-half (3.5) feet in any required front yard, six (6) feet in any required side or rear yard; except that:
 - a. Any such feature along a side plot line in an R, A or PRO district that is contiguous to or across an alley from a business or commercial district may be erected to a height not exceeding eight (8) feet (1) along any rear plot line, or (2) along any side plot line rearward from a point ten feet distant from the front plot line;
 - b. No such feature higher than three and one-half feet shall be established or maintained, whether previously existing or not, on any corner plot within a distance of twenty (20) feet, measured along plot lines, from the point of intersection of the street lines bounding the plot;
 - c. In A-1 zones which abut on property lying outside village limits the council may permit a wall of not more than six (6) feet in height with a minimum five (5) foot setback on the front property lines if the surrounding circumstances in the judgment of the council so justify. Under the same circumstances the council may also allow a chain link fence to be erected around tennis courts with a maximum of twelve (12) feet in height and a ten (10) foot minimum setback from the front property line of property in such zone and similarly situated.
 - d. The maximum height for fences in the required front, side and rear yards shall be six (6) feet along Biscayne Boulevard.
 - e. The maximum height for hedges in R districts and located in the required side or rear yards, shall be seven (7) feet.
 - f. Fences, walls or hedges in CF districts and located in the required side yard outside the required front yard or in the rear yard, shall not exceed eight (8) feet in height: except that on village owned property the maximum height for fences, walls and hedges in CF districts and located in any yard, shall be twelve (12) feet or as required for fences serving parks and recreation activities.
 - g. Fences, walls or hedges for schools and playgrounds in CF districts and located in the required front, side or rear yards shall not exceed eight feet in height.
 - h. Notwithstanding the above provisions:
 1. On gate posts and fence corner posts not wider than six (6) inches by six (6) inches, finials, post caps, luminaries, or similar decorative features as determined by the Planning Director, may exceed the maximum allowed height for the yard of any fence and/or wall by not more than twelve (12) inches. Luminaries shall have a maximum output of 1,000 lumens per fixture (the approximate output of one 60 watt incandescent bulb), shall be fully or partially shielded such that the bulb is not visible, and the fixture

shall have an opaque top to keep light from shining directly up.

2. Ornamentation on top of gates may exceed the maximum allowed height for the yard of any fence and/or wall by not more than twelve (12) inches.

- (2) All walls and fences in any front yard shall be constructed of ornamental masonry or ornamental metal, but not including any wire fence. Picket fences of Polyvinyl Chloride (but not Vinyl Chloride), wood, composite board or composite material may be permitted in the front yard provided the pickets are two inches to four inches in width with spacing between pickets of not less than one inch and not more than two inches.
- (3) Walls or fences in any side yard or rear yard, including the margining thereof, shall be constructed of black or green colored chain-link, Polyvinyl Chloride (but not Vinyl Chloride), wood, composite board, composite material, ornamental iron or ornamental aluminum, precast concrete, concrete block, stucco, or ornamental masonry, except as hereinafter provided. Ornamental metal fences and gates in any yard may have a solid metal privacy screen affixed to the inside of the gate.
- (4) Without limiting the forgoing, the following fence materials are specifically prohibited: lattice, bamboo, metal board, barbed wire or razor wire and similar fencing materials.
- (5) Any fence, wall or hedge hereafter established adjacent to a rear plot line along an alley there shall be provided a clear space of at least 40 square feet in area and not less than three feet in depth onto the plot along the alley line, available for the placing of waste materials for removal.
- (6) *Orientation of fences.* The vertical and horizontal supporting members of a fence shall face the interior of the plot on which the fence is located and the finished side shall face the adjoining lot or any abutting right-of-way.
- (7) *Temporary construction site fencing.* Temporary construction site fencing may be allowed on those sites for which an approved building permit has been issued by the building department and while the building permit remains active. The temporary fencing shall be permitted only with the issuance of a fence permit. Temporary fences shall be removed prior to expiration of the building permit or finalling the building permit whichever comes first. The building official may allow construction fencing to remain in place if existing safety hazards on the site warrant continued fencing of the site.
- (8) *Calculating fence height.* The height of a fence, as defined herein, shall be measured from grade at the base of the fence to the topmost point on the fence or fence post. If the grade elevation at the plot line of the abutting plot is not a reasonable match to the grade elevation at which the wall, fence or hedge is to be placed, the height of the wall, fence or hedge shall be measured from the lower of the conflicting grade elevations. When a fence is installed at or near the top of a mound or retaining wall, both the mound or retaining wall and the fence shall be included in the height measurement for the purposes of this section.
- (9) *On corner plots.*

- a. Where the dwellings are oriented facing east or west, or the orientation of the corner dwelling is the exception to the prevailing orientation of homes in the surrounding area, walls, and fences in the following areas shall be ornamental metal or ornamental masonry, but not including any wire fence:

- 1. In any side yard the property line of which borders a side right-of-way other than an alley, including the margining thereof.

Along any portion of the rear property line of such corner lot which extends forward of the front building line of any adjoining property and said fence shall not exceed three and one-half feet in height.