

ORDINANCE NO. 727-16

**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, The Village Council requested that the Planning Board revisit the hedge height provisions of the Code and specifically requested that the Planning Board provide the Council with recommendations regarding an amendment thereto, and thereafter conducted a number of workshops and public hearings, proposing amendments to the Code as set forth in their report to Council; and,

WHEREAS, During the Planning Board's numerous public hearings, workshops and deliberations, the Board considered various property configurations, including high traffic streets, corner lots, etc., and is recommending amendments to the Code as set forth and attached hereto; 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 518 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in the Zoning Appendix, Section 518 – Fences, Walls & Hedges, of the Miami Shores Village Code of Ordinances are hereby repealed in their entirety.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 All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.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 17th day of May, 2016.

PASSED AND APPROVED on second reading this 7th day of June, 2016.

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 of fences and walls in R districts:
 - a. 3.5 ft. in the front yard.
 - b. 6 ft. in the side yard, rear yard, and the margining thereof.
- (2) Maximum height of hedges in R districts:
 - a. 8 ft. within the front yard in the following locations:
 1. Biscayne Boulevard: NE 92nd Street to NE 105th Street;
NE 2nd Avenue: NE 90th Street to NE 94th Street and NE 101st Street to NE 115th Street;
 3. NE 6th Avenue: NE 93rd Street to NE 107th Street
 4. N Miami Avenue;
 5. NE 10th Avenue: NE 91st Street to Biscayne Boulevard;
 6. 111th Street;
 7. 103rd Street: NW 2nd Avenue to NE 6th Avenue;
 8. 96th Street: N Miami Avenue to NE 12th Avenue;
 9. 95th Street: N Miami Avenue to Grand Concourse
 10. 107th / 108th Streets: NE 10th Court to NE 11th Avenue
 - b. 3.5 ft. in the front yard in all other locations.
 - c. 7 ft. in the side yard or rear yard.
- (3) Fences, walls and hedges are subject to the safe site distance / triangle requirements of Section 521 (b)(1)f. and 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.
- (4) Fences, walls and hedges 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.

- (5) A wall not to exceed six (6) ft. in height is permitted in the front yard of all A-1 zoned properties that abut property lying outside village limits provided the wall is set back not less than five (5) foot from the front property line.

A chain link fence not to exceed twelve (12) ft. in height may be constructed around tennis courts located on A-1 zoned properties that abut property lying outside village limits provided the fence is set back not less than ten (10) ft. from the front property.

- (6) Maximum height for fences, walls or hedges in CF districts:
- a. 8 ft. in the required side yard outside the required front yard or in the rear yard.
 - b. 3.5 ft. in the front yard.
 - c. 12 ft. or as required for fences serving village owned parks and recreational activities.
 - d. 8 ft. in required front, side or rear yards for universities, schools and playground.

- (7) Notwithstanding any other provisions to the contrary:
- a. 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.
 - b. 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.

- (8) The following fence and wall materials are permitted:
- a. Ornamental masonry.
 - b. Precast concrete.

- c. Ornamental metal, metal board and metal posts; all exposed metal shall have a colored finished coat applied to them and be preserved against rust and corrosion.
 - d. Polyvinyl chloride (but not vinyl chloride).
 - e. Metal board.
 - f. Wood, composite board or composite material.
 - g. Ornamental metal fences and gates in the front yard may have a solid metal privacy screen affixed to the inside of the gate or fence.
 - h. Ornamental metal fences and gates in any yard may have a solid metal privacy screen affixed to the inside of the gate or fence.
 - i. Black or green colored chain-link is permitted outside the front yard within the side and rear yards.
- (9) Any fence material not specifically permitted is prohibited. Without limiting the foregoing, the following fence and wall materials are among those prohibited:
- a. Lattice, bamboo, reed, screen mesh, fabric, barbed wire or razor wire and similar fencing materials.
- (10) *Waste material removal area required.* A clear space of not less than forty (40) square feet in area, not less than six (6) feet in width and not less than three (3) feet in depth onto the plot along the alley line, must be provided along any fence, wall or hedge hereafter established adjacent to a rear plot line along an alley.
- (11) *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.
- (12) *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.

- (13) *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.
- (14) *Maximum fence and wall height on corner plots.* In the R districts 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:
- a. 3.5 ft. feet in the following locations.
 1. In any side yard the property line of which borders a side right-of-way other than an alley, including the margining thereof.
 2. 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.
 3. Plots separated by an alley shall not be considered adjoining and the provisions of Sec. 518 (9) 1. and 2. shall not apply.
 - b. Walls and fences in the above locations must be constructed of fence material as permitted in Sec. 518 (8) except that they shall not be constructed of chain link or other wire fence material.