

ORDINANCE NO. 2019-17

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING CHAPTER 110 – ZONING, ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION III. – WALLS, FENCES, HEDGES, AND SAND FENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE RECOGNITION OF STATE PREEMPTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinance must be amended from time to time to address current demands, technologies, state regulations and construction practices; and

WHEREAS, the City Commission finds that it is necessary to provide for safety and security in both residential and commercial areas; and

WHEREAS, On July 8, 2019, the Planning Commission conducted the required hearing of the proposed amendment and upon receiving public input recommends approval of amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:

Section 1. The City of Madeira Beach Code of Ordinances, Chapter 110, Zoning, Article VI- Districts, Division 3 – Walls, Fences, Hedges, and Sand Fences (new words are underlined text, deleted words are shown as ~~strike through text~~):

DIVISION 3. – LANDSCAPE WALLS, FENCES, GATES, HEDGES, AND SAND FENCES~~WALLS~~

Sec. 110-446. ~~Front yards~~Applicability of division. This division applies to all fences, hedges, and walls that are not specifically exempted from this division. This division does not apply to seawalls (see ch. 14, art. V of this code for regulations on seawalls).

(a) Definitions. The following terms and phrases used in this division have the following meanings.

Building line means the line established by the setback required by the zoning district in which the lot is located, beyond which a building must not extend, except as specifically provided by this code or approved variance from this code.

Chain-link fence means an open fence consisting of a woven mesh of thick steel wire having a uniform diamond-shaped pattern.

Grade means a reference plane representing the average of finished ground level along the exterior edge of the fence, hedge, or wall.

Picket fence means an open fence consisting of pickets or pales attached to horizontal stringers between upright posts.

Sand fence means an artificial barrier of evenly spaced wooden slats or synthetic fabric erected perpendicular to the prevailing wind and supported by posts.

Wall means a non-bearing landscape wall.

(b) Building permits required. All fences and walls must comply with established building permit procedures.

(c) Design. All fences and walls on each property must have reasonably complementary or uniform design and materials.

(d) Open fences. Open fences must have openings not less than three inches between vertical and horizontal members which are not greater than one and one-half inch (1.5") wide. Openings in any fence must not allow passage of a four-inch (4") diameter (102 mm) sphere. Permitted open fences include chain-link and picket fences.

(e) Materials. Fences and walls must be constructed of traditional building materials including brick, stone, stucco over concrete block, finished concrete, metal, vinyl, wood (natural, stained, or painted), and composite products manufactured specifically for fences and walls. Non-traditional materials, such as tires, mufflers, hubcaps, etc. are prohibited. Chain-link and other wire fences are not permitted in front yards.

(f) Finished sides. Fences and walls must be constructed to present a finished side to all adjoining lots and abutting rights-of-ways.

(g) Maintenance. After construction, fences and walls must be maintained with original components and remain substantially vertical to serve their function and aesthetic purposes. Structural integrity must be maintained to prevent a danger of destruction or flight during high winds. Hedges must be maintained at or below the maximum height permitted.

(h) Dangerous structures. Barbed wire, spire tips, sharp objects, or electrically charged fences or walls are prohibited.

Sec. 110-447. Rear yards facing water. Location and height of fences, hedges, and walls.

(a) Setbacks. Except as otherwise permitted or required by this code, fences and walls are prohibited:

(1) Within any right-of-way or street easement, or closer than three feet to any sidewalk or bike path,

(2) Closer to the Gulf of Mexico than the County Coastal Construction Control Line,

(3) Closer to the Gulf of Mexico than eighteen feet (18') landward of an existing seawall,

(4) Closer than five feet (5') to the Mean High-water line along waterbodies, including canals, except a fence or wall may be permitted immediately landward of, or on top of, an existing seawall.

(b) Height. Height is measured from the average grade elevation along the entire length of the fence, hedge, or wall.

(1) Front yards. All garden-walls, solid fences, or hedges located within the defined front yards shall ~~must~~ not exceed three feet (3') in height. Open wire and chain link fences, railings and sand screens shall ~~must~~ not exceed four feet (4') in height. Chain-link and other wire fences are not permitted in front yards.

(2) Side yards. All fences, hedges, and walls located in side yards must not exceed six feet (6').

(3) Rear yards facing water. All walls, solid fences, or hedges located in rear yards abutting or facing waterbodies must not exceed three feet (3'), except fences up to six feet (6') are permitted adjacent to sewage lift stations and along property lines adjacent to parking associated with non-residential uses. Open fences must not exceed four feet (4'). When deemed necessary by the permitting authority to ensure life-safety and security however, a six-foot (6') high solid or open fencing may be allowed or required in the site plan review process for commercial and institutional uses. In rear yards facing the Gulf of Mexico, open and sand fences must not exceed four feet (4') and fencing that is wrought iron in appearance must not exceed six feet (6').

~~(a) In commercial rear yards facing Boca Ciega Bay, between the rear building setback and the back property line or seawall (whichever is a greater distance), garden walls, solid fences and hedges shall not exceed three feet in height, except six foot fences are permitted adjacent to sewage lift stations and along property lines adjacent to parking associated with non-residential uses. Additionally, six foot solid, chain link or open fencing may be allowed or required in the site plan review process for commercial and institutional uses when deemed necessary by the permitting authority to ensure life safety and security. A chain link or an open fence may extend up to four feet in height.~~

~~(b) In commercial rear yards facing the Gulf of Mexico, garden walls, solid fences, and hedges shall not exceed three feet in height, except six foot fences are permitted adjacent to sewage lift stations and along property lines adjacent to parking associated with non-residential uses. Open wire and chain link fences and sand screens (manufactured for this purpose) shall not exceed four feet in height or be placed closer than 18 feet from a seawall. Fencing which is wrought iron in appearance shall not exceed six feet in height. All walls, fences, and screens must be installed landward of the county coastal construction control line.~~

~~(c) All sand screen installations shall be considered as temporary and shall have sea oats planted 12 inches apart in three rows (also 12 inches apart) seaward of the sand screen to help form sand dunes and a permanent vegetation screen. Sand screen installation shall be removed when in the opinion of the building and zoning official, sea oats have been established as a permanent vegetation screen.~~

(4) Sand fences. Sand fences may be approved by temporary permits and must be removed when the director determines that sea oats have established a permanent vegetative screen. Permitted sand fences must be accompanied by no less than three (3) rows of 1-gallon container sea oats planted seaward of and along the entire length of the sand fence. Each sea oat

planting must be no more than twelve inches (12") apart, on-center, and rows separated by no more than twelve inches (12").

(5) Rear yards not facing water. All fences, hedges, and walls located in rear yards not abutting or facing waterbodies must not exceed six feet (6').

Sec. 110-448. Side-yards Gates required. All fences, hedges, and walls must provide gates or openings to allow passage through the side yard from the front yard to the rear yard, with a minimum opening of 29 inches (29").

Secs. 110-449-454—110-470. - Reserved.

(Code 1983, § 20-504(A); Ord. No. 918, § 2, 12-7-99; Ord. No. 1149, § 1, 4-14-09; Ord. No. 2018-02, § 2, 4-10-18

Section 2: The provisions of this ordinance shall be deemed severable. If any part of the ordinance is deemed unconstitutional, it shall not affect the constitutionality of the other portions of the ordinance.

Section 3: All Ordinance or parts of ordinances in conflict with the provision of this ordinance be hereby repealed insofar as the same affect this Ordinance.

Section 4: This ordinance shall be in full force and effect upon adoption in the manner provided by law.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS 8th day of October, 2019.

ATTEST:

Clara VanBlargan
CLARA VANBLARGAN, City Clerk

Maggi Black
MAGGI BLACK, Mayor

PUBLISHED: Sept

FIRST READING: August 27, 2019

PUBLISHED: September 25, 2019

PASSED ON SECOND READING: October 8, 2019

Approved as to legal sufficiency:

Paul G. Brown
City Attorney



Tampa Bay Times

Published Daily

STATE OF FLORIDA

COUNTY OF Pinellas, Hillsborough, Pasco,
Hernando Citrus

} SS

Before the undersigned authority personally appeared Virginia Marshall who on oath says that he/she is Legal Advertising Representative of the Tampa Bay Times a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: City of Madeira Beach - Ordinance 2019-17 was published in Tampa Bay Times: 9/25/19 in said newspaper in the issues of Baylink Pinellas, Baylink Hillsborough, Baylink Pasco, Baylink Hernando Citrus

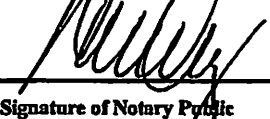
Affiant further says the said Tampa Bay Times is a newspaper published in Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida each day and has been entered as a second class mail matter at the post office in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and

affiant further says that he/she neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Signature Affiant

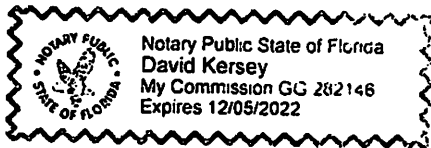
Sworn to and subscribed before me this 09/25/2019



Signature of Notary Public

Personally known X or produced identification

Type of identification produced _____



NOTICE OF PUBLIC HEARING CITY OF MADEIRA BEACH

In accordance with the City of Madeira Beach Code of Ordinances, the City of Madeira Beach City Charter, and Florida Statutes §166.041(3)(a):

NOTICE IS HEREBY GIVEN, the Board of Commissioners of the City of Madeira Beach will conduct a **Second Reading and Public Hearing** for the adoption of proposed Ordinance 2019-17 on Tuesday, October 8, 2019 at 6:00 p.m. The meeting will be held in the Patricia Shontz Commission Chambers located at 300 Municipal Drive, Madeira Beach, FL 33708. The title of said Ordinance is as follows:

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A copy of the proposed Ordinances is available for inspection in the City Clerk's Office between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. If you would like more information regarding the proposed Ordinances, please contact Linda Portal, Community Development Director, at 727-391-9951, ext. 255.

Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All persons are hereby advised that any presentation they make to the Board of Commissioners will be encouraged to be as precise as possible and will be limited to three minutes per speaker to permit maximum participation by the public at large.

Persons who wish to appeal any decision made by the Board of Commissioners with respect to any matter considered during a public hearing at this meeting will need a record of the proceedings, and for such purpose may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. It is the responsibility of the person making the appeal to bear the cost of hiring a private reporter or private recording firm to make the verbatim record.

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk's office no later than 4:00 p.m. on the day prior to the meeting: (727) 391-9951, Ext. 231 or 223 or fax a written request to (727) 399-1131.

Clara VanBargan, MMC, MSM, City Clerk

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