

## **ORDINANCE 2022-20**

**AN ORDINANCE OF THE TOWN OF MONTVERDE, FLORIDA, AMENDING FENCE REQUIREMENTS SET FORTH IN ARTICLE XI IN CHAPTER 4 OF THE TOWN OF MONTVERDE LAND DEVELOPMENT CODE TO SPECIFY MINIMUM GAUGE WELDED WIRE MESH, PROHIBITING CHICKEN WIRE UNLESS CERTAIN CRITERIA IS MET, ALLOWING FOR DEVIATION IN MAXIMUM HEIGHT OF FENCES FOR TOPOGRAPHIC CHANGES WITH TOWN CONSENT, ALLOWING FENCES THAT SECURE TOWN OF MONTVERDE EQUIPMENT AND ASSETS TO BE 10-FEET IN HEIGHT, AUTHORIZING CERTAIN FENCES TO EXCEED 6- FEET IN HEIGHT, ALLOWING CERTAIN FENCES WITHIN JURISDICTIONAL WETLANDS WITHIN THE AGRICULTURE ZONING DISTRICT ONLY, AND REQUIRING FENCES TO BE CONSTRUCTED IN ACCORDANCE WITH INDUSTRY STANDARDS; PROVIDING FOR CODIFICATION AND SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council desires to clarify and revise the material types allowed for fences within the Town of Montverde, provide for increased fence heights under certain circumstances and allow for variations when topographic conditions warrant; and

**WHEREAS**, the Town Council is authorized pursuant to Ch. 166, Florida Statutes to adopt this ordinance; and

**WHEREAS**, the Planning and Zoning Board of the Town of Montverde considered this ordinance at a public meeting and has made a recommendation to Town Council; and

**WHEREAS**, the Town Council of the Town of Montverde held a public hearing which was advertised in accordance with law and held such public hearing no less than 10 days after the day advertisement was published.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Montverde, Florida, as follows:

**SECTION 1. Legislative Findings and Intent.** The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

**SECTION 2.** That Article XI in Chapter 4, in Part XXVII – Montverde Land Development Code of the Town of Montverde Code of Ordinances shall be amended to read as follows:

#### **Sec. 4-254. Types of fences.**

Unless otherwise provided in the Town's Code, allowable fence materials ~~may~~ shall only include wood, chain-link, vinyl, concrete masonry wall, brick, wrought or ornamental iron or decorative metal. Welded wire mesh (minimum 16 gauge) is permitted if properly supported by a cross member or is attached to a permitted fence as described above. Cloth, or fabric fences are prohibited. "Chicken wire" or similar type fencing is prohibited unless utilized for "pens" or "coups" for agricultural purposes internal to the property with a placement of the pen meeting zoning setbacks for accessory structures. For properties that are not zoned Agriculture, pens shall not exceed 160 ft <sup>2</sup> and must meet zoning setbacks for accessory structures. Electric wiring may be installed only on the interior portion of the fence and will be allowed in all zoning districts.

Commercial grade screening is permitted in such cases where it is attached to a permanent fence. Where permitted, commercial grade screening must be black, dark green, gray, or brown in color.

A fence which was legally erected prior to this section but which does not conform to this section is considered a legal, nonconforming fence, and is not required to comply with this section. A legal nonconforming fence shall lose its lawful nonconforming designation and status if the town determines that any of the following is applicable:

- (1) The fence is relocated, moved, rebuilt or replaced.
- (2) The fence is destroyed. A fence shall be deemed destroyed if any of the following occurs.
  - a. The fence is torn down or demolished;
  - b. The fence is wrecked or ruined; or
  - c. Such damage has been done to the fence that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding.
- (3) Even if a fence has not been destroyed, but damage or deterioration has occurred to the point of 50 percent or more, then the fence shall be deemed to have lost its legal nonconforming status.

#### **Sec. 4-255. Barbed wire or barbed wire top fence.**

Barbed wire fences, welded wire mesh fence (Field Fence or Hog Fence – minimum 16 gauge) and electric wire may be constructed only in agriculture zoning districts. Barbed wire top fences will be allowed in commercial zoning districts if the barbed wire top is placed on top of a six-foot fence with the barbed strands slanted to the interior of the property except for a municipal facility or if approved by the Town Council within a Commercial Site Plan.

#### **Sec. 4-256. Height of fences.**

- (a) The maximum height of any fence or masonry fence wall in any zoning district is six feet. A 6" deviation in height to account for topographic changes may be granted by the Town staff using reasonable judgment.
- (b) Fences or walls in side yards and rear yards, behind the front building setback line of the parcel, may be placed along the property line and may be completely opaque.

- (c) Fences or walls in front yards that are between the front building setback line and the front property line, or fences in side yards or rear yards that are constructed within 25 feet of any right-of-way line, may be no more than four feet in height if the fence is opaque. Fences or walls that exceed four feet in height that are between the front building setback line and the front property line, or fences in side yards or rear yards that are constructed within 25 feet of any right-of-way line, must allow 85 percent of air and light to penetrate through the fence or wall.
- (d) No fence or wall in excess of three feet in height and that does not allow 85 percent of air and light to penetrate through the fence or wall shall be allowed within 25 feet of the intersection of the right-of-way lines (property lines) of existing streets or roads.
- (e) Fences are permitted up to 10-ft in height to secure Town of Montverde equipment and assets such as vehicles and utility infrastructure.

#### **Sec. 4-257. Property lines.**

Fences may be constructed along the property line of the lot. Damage to town-owned utilities during fence installation shall be repaired immediately at the expense of the property owner. Furthermore, the town may enter any easement area without prior notice to make any repairs and maintenance it deems necessary and shall not be responsible for any damage to the fence in the easement area. A gate must be installed for this purpose. If a permanent removal of a section of any fence constructed on an easement is requested by the town, the fence must be removed from the property by the owner within the time specified by the town. No fence shall be constructed which obstructs motorist visibility.

#### **Sec. 4-258. Fences in excess of six feet in height.**

The following uses may have fences in excess of six feet in height, provided that the fence is not opaque and allows 85 percent of air and light to penetrate the fence:

- (1) Fences for standard athletic uses such as baseball backstops and tennis court enclosures, and similar features that are constructed in accordance with the American Society of Testing Materials (ASTM) Standards for Athletic Fields. Any wind or visual screening for such fences shall extend no more than ~~eight~~ twelve feet above the lowest adjacent grade. or as specified by ASTM's Standards for Athletic Fields.
- (2) Fences for publicly owned and privately owned utility infrastructure.
- (3) Fences that may be required to meet state or federal regulations for a specific permitted land use. Evidence of such regulations must be provided to the town clerk prior to the construction of such fence.
- (4) For institutions (Zoned Institutional), a masonry fence up to 12-ft in height is permitted to be constructed if the fence is utilized for athletics such as a "hitting wall."
- (5) The location of any proposed fence on an athletic field must be pre-approved by the town manager. If the town manager determines at his/her sole discretion that

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such fence does not have continuity to the surrounding area, the town manager shall defer the decision to the town council for consideration.

**Sec. 4-259. Agriculture or conservation districts.**

In the agriculture or conservation zoning districts, chain-link fences shall be permitted with the addition of hog-wire fences when in an agricultural or similar type of land use. Barbed wire fence headers shall be permitted with the approval of the town.

**Sec. 4-260. Permit required.**

The purpose of this section is to protect the rights of adjoining property owners, not have fences in excess of the heights set forth in this article, and to minimize property damage associated with weather events and other catastrophes.

- (a) All applications for building permits for fences, walls or buffer strips shall state whether such is to be placed at or near a boundary between the property of the applicant and adjoining property, and also whether there is any fill, slanting, elevation or other difference in the level of grade between the properties. In the event there is a grade difference, the town may require that the applicant cut the height by such amount as will be necessary to compensate for such difference in grade so as to make the fence not in excess of the maximum permitted as the same affects the natural grade of the adjoining property. ~~The purpose of this section is to protect the rights of adjoining property owners, and not have fences in excess of the heights set forth in this article.~~
- (b) Walls or fences authorized by this section must be constructed so that the exposed framing of each section of fence must face the interior yard. Walls or fences must also be constructed so that the finished and most aesthetically pleasing side of the wall or fence faces outward.
- (c) Fences that are greater than 3-ft in height are also subject to the following:
  - 1) Fence post holes must be at least 24-30-inches in depth.
  - 2) Fence post holes must contain at least 12-inches of concrete or gravel or substrate designed and built to industry standards.
- (d) All fences are prohibited within 50-ft of a shoreline or jurisdictional wetland. Barbed wire and welded wire mesh fences (minimum 16 gauge) are permitted in jurisdictional wetlands within the Agriculture Zoning District only.
- (e) The construction of any fence shall require a building permit from the town. Before the building permit is issued, the applicant shall submit plans which shall show the dimension of the property, the type of fence proposed to be constructed and its location

on the property. Upon approval by the ~~mayer~~town manager or designee, a building permit may be issued.

- (f) All fences in the Town of Montverde must be constructed in a professional manner according to recognized industry standards.

**Sec. 4-261. Maintenance.**

- (a) Owners of the property where fences are constructed are required to maintain the fence and to keep it in proper working order, and to ensure that it shall be aesthetically pleasing.
- (b) The exposed nib end of any chain-link fence shall face the ground when within six feet from any sidewalk.
- (c) The town council shall be authorized to order the removal or reduction in height of any fence, wall or other structure which exceeds the height specified by this article or which constitutes a hazardous obstruction to the vision of vehicle operators upon the streets, roads and alleys, or is designed or constructed in such a manner as to create a hazard to the public. Failure to comply with a directive issued pursuant to this subsection shall constitute a code violation.

**Sec. 4-262. Nonconforming fences.**

- (a) No nonconforming fence shall be altered or extended unless brought into conformance with the requirements of this Code.
- (b) If a fence was erected without the approval of the town, without a permit, or constructed contrary to the provisions of an approved permit, then the fence shall be considered unlawful and subject to removal. Such a fence will not be considered a legally existing nonconforming fence. No fence shall be considered to be a nonconforming fence if it was erected without the approval of the town and without a building permit having been obtained or if the fence was constructed contrary to the provisions of a building permit. Any such fence shall be considered unlawful and shall be subject to removal.

**Sec. 4-263. Reserved.**

**Secs. 4-264—4-289. Reserved.**

**SECTION 3. Codification.** It is the intent of the Town Council of the Town of Montverde that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in renumbering and codifying the provision of this Ordinance.

**SECTION 4. Severability.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION 5. Conflicts.** In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this Town, the provision of this Ordinance shall govern.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon adoption.


**PASSED AND DULY ADOPTED** by the Town of Montverde, Lake County, Florida this 13<sup>th</sup> day of December, 2022.

Attest:

  
Sandy Johnson, Town Clerk

  
Joe Wynkoop, Mayor

Approved as to form and legality:

  
Anita Geraci-Carver, Town Attorney

First Reading 11-8-2022  
Second Reading 12-13-2022

Vice Mayor Hartle moved the passage and adoption of the above and foregoing Ordinance. Motion was seconded by Councilmember Bates and upon roll call on the motion the vote was as follows:

	YEA	NAY
Bill Bates, Councilmember	✓	
Allan Hartle, Councilmember	✓	
Jim Ley, Vice Mayor	✓	
Judy Smith, Councilmember	✓	
Joe Wynkoop, Mayor	✓	