



City of North Port

ORDINANCE NO. 2013-02

(Amending Chapter 53, Section 53-240(M), Special Structures of the Unified Land Development Code (ULDC) pertaining to fences in residential zoning districts and residential waterfront yards within the incorporated City limits)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA; AMENDING CHAPTER 53, SECTION 53-240(M), SPECIAL STRUCTURES, OF THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE (ULDC); PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1 - FINDINGS:

WHEREAS, pursuant to Chapter 53 of the City of North Port Unified Land Development Code (ULDC), Zoning Regulations, all fences installed in residential zoning districts within the City are required to adhere to the regulations of the ULDC ; and

WHEREAS, the proposed changes to the residential fence regulations provide standards, while maintaining aesthetically pleasing neighborhoods; and

WHEREAS, the regulations addressing the height, location and design of fences in residential zoning districts and residential waterfront yards promote efficiency for public works and public safety; and

WHEREAS, the City of North Port Planning and Zoning Advisory Board has held a public hearing with due public notice to receive public comments on the revision of the Unified Land Development Code; and

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WHEREAS, the City of North Port Planning and Zoning Advisory Board has held a public hearing with due public notice to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the North Port City Commission has held public hearings with due public notice to review the recommendations of the North Port Planning and Zoning Advisory Board, and to receive public comments on the revision of the Unified Land Development Code.

SECTION 2 - ADOPTION:

2.01 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code, Chapter 53, Section 53-240(M), Special Structures, which is attached hereto, and incorporated herein, as Exhibit "A".

SECTION 3 – SEVERABILITY:

3.01 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 provisions shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4 – CONFLICTS:

4.01 In the event of any conflict between the provisions of this Ordinance and any other City of North Port ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 5 - EFFECTIVE DATE:

5.01 This Ordinance shall take effect immediately after adoption.

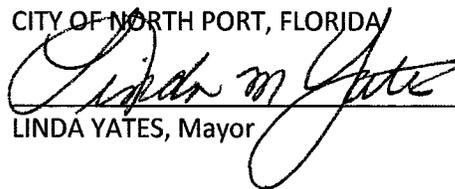
READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public

session this 25 day of February, 2013.

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PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this 25 day of March, 2013.

CITY OF NORTH PORT, FLORIDA


LINDA YATES, Mayor

ATTEST:


HELEN RAIMBEAU, MMC, City Clerk

Approved as to form and correctness:


ROBERT K. ROBINSON, City Attorney

EXHIBIT A

[Note: additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.]

Section 53-240 SPECIAL STRUCTURES

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M. Fences, walls and hedges. Fences, hedges or walls located in Residential Single-Family (RSF) districts of the City are not required to meet the applicable minimum setback requirements set forth elsewhere in these regulations.

(1) Fences and hedges in residential zoning districts shall follow the restrictions as follows:

(a) Height.

(i) Front yard: Not to exceed three (3) feet for solid fences, four (4) feet for see-through-type fences, such as but not limited to post/rail fencing, chain link, etc., where see-through visibility is not substantially affected.

(ii) Side and rear yards: Not to exceed six (6) feet.

(iii) Hedges planted along side and rear property lines shall not exceed ten (10) feet in height. Hedges planted along the front property line shall not exceed three (3) feet in height. The overall height of allowable shrubbery shall include the height of any berm or any altered ground level.

(iv) Waterfront yard: Not to exceed ~~four (4)~~ six (6) feet.

(v) For the purpose of a boundary fence around a daycare or school playground area, the fence shall be no less than six (6) feet in height.

(vi) Recreational fencing. Fencing surrounding recreational facilities, such as but not limited to racquetball, tennis and basketball courts, shall be permitted fencing not to exceed twelve (12) feet in height.

(vii) Boundary walls and fences may be constructed along the perimeter boundary of a planned project or subdivision to create a gated community in appropriate residential districts. The height of such boundary wall or fence is limited to eight (8) feet. The fence or wall shall comply with Sec. 21-9(B)(3). Landscaping the perimeter of abutting land uses.

(b) Location.

(i) For the purpose of locating fences only, the front lot line shall be defined as the lot line abutting the street right-of-way and running parallel to the front of the building. The front yard shall be defined as that area extending from the front property line as described above to the front building line.

(ii) 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.

(iii) Side yards shall be measured from the front plane to the rear plane to the property line.

(iv) Rear yard, shall be measured from the rear of the primary structure to the rear property line.

(v) No fences shall be placed in the public right of way.

(vi) No fence shall be installed or constructed in a public easement, unless prior approval is granted by the Public Works Director or designee. The Public Works Director or designee may permit a fence in a public easement, if all of the following factors are met:

- a. The fence would not impede the flow of storm water within the drainage systems, i.e. swales, ditches, thereby reducing drainage performance;
- b. The ability of the City to access public utilities, whether above or below ground, is not hampered by the fence;
- c. The fence does not limit the ability of the City to properly maintain the easement area;
- d. The location of the fence in the easement is the minimum occupation necessary that will permit the reasonable use of the land.
- e. The location of the fence will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
- f. Any fence occupying the City's easements is placed at the risk of the property owner;

g. Fences located in any public easement shall not be closer than 20 feet to a body of water;

(vii) Occupation of public easements in Waterfront yards are only permitted on a case by case basis and are subject to the following conditions.

a. The owner of the fence shall be solely responsible for the maintenance and repair of the fence.

b. The City may request removal of the fence at any time when needed to allow access.

c. When possible, the City will give notification of "need to access" to allow proper time for removal of the fence. The cost of the removal and replacement shall be the sole responsibility of the owner or resident of the property.

d. The owner of the fence shall 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.

e. If the City removes the fence, the owner will be issued an invoice for the cost of the removal.

f. If the City damages the fence in the course of maintenance, the cost of replacement is the sole responsibility of the owner.

g. If the Public Works Director or designee determines in his/her sole discretion that area occupied by the fence is needed for any purpose whatsoever, the City shall have the sole and absolute right to terminate the occupation of the easement and require that the fence be removed upon thirty days written notice to the property owner. If the fence is not removed, the City may remove the fence and the owner will be issued an invoice for the cost of the removal.

(c) Design.

(i)Waterfront yard: Not to exceed four (4) six (6) feet. Only vinyl coated chain link or open decorative wrought iron fences shall be permitted. Any fence to be installed in a public easement shall be chain link or see through material and must receive prior approval by the Public Works Director or designee as provided in Section 53-240(M)(1)(b)(vii).

(ii) For the purpose of a boundary fence around a daycare or school playground area, the fence shall have an accessible gate, and shall be vinyl coated chain link or of similar material to allow surveillance from the roadway.

(iii) The exposed fence posts and supports shall face toward the applicant's property.

(iv) All chain link fencing located in non-residential districts shall be vinyl coated, and North Port City Center Green or black in color.