

ORDINANCE NO. 2023-17

AN ORDINANCE AMENDING CHAPTER 2, DISTRICT AND GENERAL REGULATIONS, ARTICLE III, GENERAL REGULATIONS, SECTION 2-50, ACCESSORY USES, SUBSECTION (N), FENCES AND WALLS, OF THE CITY OF ORMOND BEACH LAND DEVELOPMENT CODE, TO ALLOW A FENCE OR WALL SETBACK LESS THAN THREE FEET (3') TO A RIGHT-OF-WAY WITH REVIEW AND APPROVAL OF THE SITE PLAN REVIEW COMMITTEE; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, this is a request to amend Chapter 2, District and General Regulations, Article III, General Regulations, Section 2-50, Accessory uses, Subsection (n) Fences and Walls, of the City of Ormond Beach *Land Development Code*, to allow a fence setback less than three feet (3') to a right-of-way with review and approval of the Site Plan Review Committee (SPRC), and

WHEREAS, the local planning agency, being the Planning Board of the City of Ormond Beach, has conducted a public hearing on February 9, 2023, on the requested amendments and has made recommendations thereon to the City Commission, and

WHEREAS, all applicable notice requirements of Section 166.041(3)(a), *Florida Statutes*, have been complied with, and

WHEREAS, the City Commission finds the amendment to be consistent with the provisions of the *Comprehensive Plan* of the City of Ormond Beach, and in the overall best interest of the public health, safety and welfare, now therefore,

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND
BEACH, FLORIDA, THAT:**

SECTION ONE. Subsection (n), Fences and Walls, of Section 2-50, Accessory uses, of Article III, General Regulations, of Chapter 2, District and General Regulations, of the City of Ormond Beach *Land Development Code* is hereby amended as follows:

Sec. 2-50. Accessory uses.

(n) *Fences and walls.* Fences and walls are intended to promote privacy, screening, separation, security, erosion control, or to serve other necessary and reasonable functions.

(1) *Building permit required.* ***No change in existing text***

(2) *In general.*

- a. Other than for retaining walls deemed necessary by the city engineer, all height, location and design restrictions are addressed pursuant to this Land Development Code.
- b. No fence or wall shall be erected, altered, or located in any way that violates the clear sight triangle. (See definition and illustration 1 in subsection (n)(17)a of this section.)
- c. Fences and walls are not permitted in the conservation easement.
- d. Fences and walls may be permitted in the drainage easement provided approval is granted by the engineering and utilities division of the city.
- e. Fences and walls may be placed within the utility easement provided such fencing can be removed, if necessary, by the requesting utility agency and shall conform to the provisions in this Land Development Code. Replacing the fence shall be the property owner's responsibility and shall also conform to the provisions in this Land Development Code.
- f. No fence or wall shall be any closer than three feet (3') to any right-of-way line- unless approved by the Site Plan Review Committee for a lesser setback based on site specific conditions. In reviewing requests for a reduced setback to a right-of-way, the Site Plan Review Committee shall consider the existence of sidewalks, site visibility,

utilities, and any other condition that would impact a fence or wall setback.

- (3) *Permitted fence and wall maximum heights. ***No change in existing text****
- (4) *Chainlink fences. ***No change to existing text****
- (5) *Commercial/multifamily fence and wall height exceptions. ***No change to existing text****
- (6) *Vacant and undeveloped lots. ***No change to existing text****
- (7) *Temporary construction fencing. ***No change to existing text****
- (8) *Noise attenuation barriers. ***No change to existing text****
- (9) *Wall columns. ***No change to existing text****
- (10) *Orientation. ***No change to existing text****
- (11) *Materials. ***No change to existing text****
- (12) *Entrance gates. ***No change to existing text****
- (13) *Entrance walls. ***No change to existing text****
- (14) *Buffer walls required. ***No change to existing text****
- (15) *Double frontage walls. ***No change to existing text****
- (16) *Maintenance. ***No change to existing text****
- (17) *Clear sight triangle. ***No change to existing text****

SECTION TWO. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION THREE. In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, phrase, clause, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

SECTION FOUR. This Ordinance shall take effect immediately upon its adoption.

PASSED UPON at the first reading of the City Commission, this 7th day of March, 2023.

PASSED UPON at the second and final reading of the City Commission, this 21st day of March, 2023.

BILL PARTINGTON
Mayor

ATTEST:

SUSAN CARROLL DAUDERIS
City Clerk