



City of North Port

ORDINANCE NO. 2019-15

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE RELATED TO FENCES, BY AMENDING SECTION 53-3, SECTION 53-240, AND SECTION 61-3; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

1 **WHEREAS**, Chapter 53 of the Unified Land Development Code (“ULDC”) sets forth regulations for special
2 structures within the City and Chapter 61 of the ULDC provides definitions for terms used in the ULDC;
3 and
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5 **WHEREAS**, on November 5, 2018, the City Commission of the City of North Port, Florida, directed staff to
6 bring back an ordinance loosening height and location restrictions for fences in districts zoned single-
7 family residential; and
8

9 **WHEREAS**, on March 7, 2019, the City Commission discussed various public and traffic safety concerns
10 regarding fences and provided further direction to staff regarding fence regulations; and
11

12 **WHEREAS**, on November 21, 2019, the City of North Port Planning and Zoning Advisory Board, designated
13 as the Local Planning Agency for the City, held a properly noticed public hearing to receive public
14 comments on the proposed amendment of the ULDC; and
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16 **WHEREAS**, the City Commission has held properly-noticed public hearings to review the
17 recommendations of the Planning and Zoning Advisory Board and to receive public comments on the
18 proposed amendment of the ULDC; and
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20 **WHEREAS**, the City Commission has determined that the proposed amendments serve the public health,
21 safety, and welfare of the citizens of the City of North Port, Florida.
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23 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**
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SECTION 1 - FINDINGS

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27 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set
28 forth herein.
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30 **SECTION 2 - ADOPTION**

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2.01 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 53 - ZONING REGULATIONS

...

PART 1. - GENERAL PROVISIONS

...

Sec. 53-3. - General requirements.

...

~~F. Exposed PVC, split rail fence, untreated cinder block, is not permitted.~~

...”

2.02 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 53 – ZONING REGULATIONS

...

PART 3. – SPECIAL DISTRICT REGULATIONS

ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS

...

Sec. 53-240. – Special structures.

...

~~M. (Original subsection M deleted in its entirety and replaced with the following.)~~

M. Fences. Except as otherwise provided in Subsection (6) below, all fences must comply with the following regulations.

(1) Setback. Fences are not required to meet minimum setback requirements for accessory structures in any zoning district.

(2) Stopping sight-distance triangle. No obstruction to vision is permitted at the intersection of a driveway and the street. The area must be clear of all visual obstructions to allow drivers adequate time to perceive a problem (e.g., vehicle, person, animal, or object), react to it, and safely stop to avoid a collision or injury. The length and shape of this area is affected by the speed of a vehicle, pavement conditions, curves in the road, slopes, and other factors. This area, known as the stopping sight-distance triangle, must meet the requirements set forth in the most current edition of the Florida Department of Transportation Design Manual, as amended.

(3) Height limits.

(a) Front yard or abutting street.

(i) Opacity requirements. Where a fence is installed in a front yard or abutting a street, its opacity will determine the maximum height permitted. A fence that has

78 an opacity of fifty percent (50%) or less may be a maximum of four feet (4') high.
79 A fence that is more than fifty percent (50%) opaque may be a maximum of three
80 feet (3') high.

81
82 (ii) Exception. A fence set back from the property line at least twelve feet (12') may
83 be a maximum of eight feet (8') high, regardless of its opacity.

84
85 (b) Side or rear yard not abutting street. Where a fence is installed in a side or rear yard
86 that is not abutting a street, the fence may be a maximum of eight feet (8') high.

87
88 (4) Calculating height. Fence height is measured starting at ground level and includes all
89 components of the fence, such as the posts, rails, panels, and embellishments.

90
91 (a) Single-Family Residential (RSF). Ground level for calculating fence height is ground
92 level of the primary residence.

93
94 (b) All Other Zoning Districts. Ground level for calculating fence height is the lowest
95 elevation located along the fence line. Where the elevation at the fence line is
96 inconsistent, the Public Works Director or designee may determine the natural or
97 original grade for determining ground level.

98
99 (5) Design requirements.

100
101 (a) Wind-load requirements. A fence more than six feet (6') high must be designed to
102 withstand winds of at least one hundred fifty mile per hour (150 mph), or the
103 minimum wind speed permitted by the Florida Building Code, as amended, whichever
104 is higher. To obtain a fence permit, an applicant must provide engineered plans
105 indicating that the fence is designed and constructed to meet these wind-load
106 requirements, measuring the fence from the lowest side. Once installed, a fence must
107 remain in compliance with the wind-load requirements^[MG1] in effect at time of
108 installation.

109
110 (b) Posts and supports. All exposed fence posts and supports must face in the direction
111 of the fence owner's property.

112
113 (c) Material.

114
115 (i) A chain-link fence located in a non-residential district must be vinyl coated and
116 be black or North Port City Center Green in color.

117
118 (ii) No exposed PVC or exposed cinder block fences are permitted.

119
120 (iii) Split-rail fence. A split-rail fence is permitted only in a district zoned Agricultural
121 (AG) or Government Use (GU).

122
123 (iv) Electric fence. A fence charged with electricity is permitted only in a district zoned
124 Agricultural (AG).

125

126 (v) Barbed wire. A fence with barbed wire is permitted only in a district zoned
127 Agricultural (AG) or Light Industrial and Warehousing (ILW). The barbed wire may
128 only be installed on the top of the fence, and is included in the calculation of the
129 fence height.

131 (6) Special locations. In addition to the above requirements, the following regulations apply
132 to fences installed at the specified locations.

133
134 (a) Playground fence. A fence abutting the perimeter boundary of a playground at a
135 daycare or school must be transparent so that activity behind the fence may be
136 observed from either side, must be between six feet (6') and eight feet (8') high, and
137 must have at least one (1) accessible gate that is operational.

138
139 (b) Recreational sport facility. The following apply to fences attached to or part of a
140 recreational sport facility, such as a racquetball, tennis, or basketball court, swimming
141 pool, soccer, or baseball field, etc. Any attached netting, such as safety netting
142 attached to a baseball backstop, is not a fence for purposes of this subsection.

143
144 (i) Height. Fences for sport courts and baseball backstops may be a maximum twenty
145 feet (20') high. Fences for other types of recreational sport facilities may be a
146 maximum of twelve feet (12') high.

147
148 (ii) Setbacks. The setback for a fence is the same as for an accessory structure at the
149 same location. However, once a fence reaches fifteen feet (15') in height, each
150 one foot (1') increase in fence height will result in a one foot (1') increase in the
151 required side yard setback.

152
153 (iii) Visibility. A fence that is visible from a roadway must be made of decorative
154 wrought iron or a product with similar characteristics. A fence not visible from a
155 roadway may be made of chain-link, provided that it is vinyl coated.

156
157 (iv) Color. A fence must be black or North Port City Center Green in color.

158
159 (7) Public rights-of-way. A fence or other structure is not permitted in a public right-of-way.

160
161 (8) Public easements. A fence is permitted in a public easement other than a right-of-way
162 easement.

163
164 (a) Required factors. All of the following factors must be present before a fence will be
165 approved for placement in a public easement:

166
167 (i) There will be no impediment to the flow of storm water within the drainage
168 systems or a reduction of drainage performance;

169
170 (ii) There will be no impediment to the City's ability to access public utilities, whether
171 above or below ground;

172

173 (iii) There will be no impediment to the City’s ability to properly maintain the public
174 easement, if applicable;

175
176 (iv) The fence does not otherwise interfere with the City’s exercise of its easement
177 rights;

178
179 (v) The fence location will not be injurious to the neighborhood or otherwise
180 detrimental to the public welfare;

181
182 (vi) The fence location is more than twenty feet (20’) from a body of water; and

183
184 (vii) If installed in a waterfront yard, the fence must be transparent.

185
186 (b) Waterfront yards. In addition to meeting all of the required factors in subsection (a),
187 a fence installed in a public easement located in a waterfront yard is subject to all the
188 following conditions:

189
190 (i) The property owner is solely responsible for the maintenance and repair of the
191 fence regardless of the cause of the damage;

192
193 (ii) The property owner must defend, indemnify, and hold the City harmless from any
194 and all claims, liabilities, losses, or damages on account of or in any way arising
195 from the existence of the fence in the easement;

196
197 (iii) If the Public Works Director or designee determines that the area occupied by a
198 fence is needed for any purpose whatsoever, the City has the absolute right to
199 terminate the occupation of the easement and require that the fence be
200 removed. When not an emergency, the City will provide at least 90 days advance
201 written notice of termination to the property owner; and the City will attempt to
202 provide advance written notice of termination to the property owner; and

203
204 (iv) If the City removes a fence, in whole or in part, the property owner will be billed
205 and must pay for the cost of removal by the date indicated on the invoice. The
206 City shall not be responsible for reinstalling, replacing, or repairing the fence,
207 regrading the ground, or returning the area where the fence was installed to the
208 condition existing prior to the fence removal.

209 ...

210
211 ~~X.~~ *(Original subsection X deleted in its entirety and replaced with the following.)*

212
213 X. Residential property entries and gated community features.

214
215 (1) Residential entry features. Residential entry features are only permitted in districts zoned
216 Single Family Residential (RSF) and Agricultural (AG) provided that the property meets the
217 requirements of this subsection. Such entry features include but are not limited to walls,
218 gates, decorative posts and markers.

219

220 (a) Property point of entry. The maximum height of a structure at a property's main point
221 of entry may be no more than six feet (6') high. However, if the main point of entry
222 has an entry feature such as a gate, lighting, or decorative posts or markers, the
223 maximum height of the total structure including the entry feature may be no more
224 than eight feet (8') high.

225
226 (b) Minimum lot size shall be forty-three thousand five hundred sixty (43,560) square
227 feet.

228
229 (c) Minimum lot depth shall be two hundred feet (200').

230
231 (d) Minimum setback shall be twelve feet (12').

232
233 (2) Gated community features. A fence or wall may be constructed along the perimeter
234 boundary of a residential development to create a gated community. A gated
235 community's boundary fence or wall must be no more than eight feet (8') high. The fence
236 or wall must comply with the landscaping requirement found in Unified Land
237 Development Code Section 21-9.

238 . . .

239
240 BB. Swimming pools, tennis courts, and other recreational facilities.

241
242 (1) Scope. The following regulations apply to all swimming pools, tennis courts, shuffleboard
243 courts, and other similar recreational facilities which are accessory to an individual single-
244 family, two-family, or duplex dwelling or modular home. a permitted use and which are
245 not owned or operated by a governmental agency or school.

246
247 (2) Location of accessory recreational facilities accessory to an individual single family, two-
248 family or duplex dwelling or modular home shall be in accordance with the following:

249
250 (a) Open-mesh screen. All swimming pools, tennis courts, decks and other similar
251 screened accessory facilities shall comply with the side, rear and street setback
252 requirements for accessory uses, buildings and structures as set forth in Sec. 53-
253 240(A).

254
255 (b) Roofed enclosures. Swimming pools, patios, decks and other recreational facilities
256 may be covered by a solid roof (impervious to weather), provided that compliance
257 with all setback requirements for the principal structure are met.

258
259 ~~(3) Fencing.~~

260
261 ~~(a) Fenced enclosures or components attached to or part of a recreational facility shall~~
262 ~~not exceed the height limitations for the zoning district in which the facility is located.~~

263
264 ~~(b) Setbacks for fenced enclosures shall be the same for accessory structures; provided,~~
265 ~~however, that for every one (1) foot increase in height of the fenced enclosure over~~
266 ~~fifteen (15) feet, an increase of one (1) foot in the side yard setback requirement shall~~
267 ~~be maintained.~~

268
269 (c) ~~Fences shall be of decorative wrought iron or of a product with similar characteristics.~~
270 (d) ~~Where chain link fences are allowed, the fence shall not be visible from the roadway~~
271 ~~and shall be vinyl coated.~~

272
273 (e) ~~Permitted fence colors are black and North Port City Center Green.~~
274 ...”

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276
277 2.03 The City Commission hereby approves and adopts the following amendments to the City of North
278 Port Unified Land Development Code:

279
280 **“Chapter 61 – DEFINITIONS**

281 ...
282 **Sec. 61-3. - Definitions and word usage.**

283 ...
284
285 **BOUNDARY FENCE — See “Fence, boundary.”**

286 ...
287
288 **FENCE —** Any artificially constructed barrier of any material or combination of materials
289 constructed along the full length, or portion thereof, of any or all property line(s), or within the
290 property for the purpose of protection or confinement or as a boundary or for the purpose of
291 blocking part of the property from view or access. For the purposes of these land development
292 regulations, a ~~boundary~~ fence is considered to be an accessory structure and therefore requires
293 a principle use or structure in order to be permitted.

294 ...
295
296 **YARD, FRONT —** A yard extending along the full width of a front lot line between side lot lines and
297 from the front lot line to the nearest part of the front building line in depth. For buildings placed
298 on the diagonal of a lot or parcel, the front lot line shall be defined as the line measured in a
299 straight line from the right and left front corners of the building to the property line.

300
301 **YARD, REAR —** A yard extending across the full width of the lot and lying between the rear lot line
302 and the nearest part of the primary structure building. Rear yard depth shall be measured at right
303 angles to the rear line of the lot.
304 ...”

305

306 **SECTION 3 – CONFLICTS**

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308 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or
309 portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

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311 **SECTION 4 – SEVERABILITY**

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313 4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason
314 held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be
315 deemed a separate, distinct, and independent provision and such holding shall not affect the
316 validity of the remaining portions hereof.

317

318 **SECTION 5 – CODIFICATION**

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320 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any
321 additional codification information and notations appear in *italics*. These editorial notations shall
322 not appear in the codified text.

323

324 **SECTION 6 – EFFECTIVE DATE**

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326 6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of
327 North Port, Florida.

328

329

330 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public
331 session this _____ day of _____ 2019.

332

333 PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and
334 final reading in public session this _____ day of _____ 2019.

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CITY OF NORTH PORT, FLORIDA

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CHRISTOPHER HANKS

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MAYOR

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344 ATTEST

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348 _____
HEATHER TAYLOR, CMC

349 INTERIM CITY CLERK

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351

352 APPROVED AS TO FORM AND CORRECTNESS

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AMBER L. SLAYTON
CITY ATTORNEY