



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
4

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
15

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
19

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.
22

23 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**
24

25 **SECTION 1 - FINDINGS**
26

27 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set
28 forth herein.
29

30 SECTION 2 - ADOPTION

31
32 2.01 The City Commission hereby approves and adopts the following amendments to the City of North
33 Port Unified Land Development Code:

34
35 **“Chapter 53 - ZONING REGULATIONS**

36 ...

37 **PART 1. - GENERAL PROVISIONS**

38 ...

39 **Sec. 53-3. - General requirements.**

40 ...

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

42 ...”

43
44 2.02 The City Commission hereby approves and adopts the following amendments to the City of North
45 Port Unified Land Development Code:

46
47 **“Chapter 53 – ZONING REGULATIONS**

48 ...

49 **PART 3. – SPECIAL DISTRICT REGULATIONS**

50
51 **ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS**

52 ...

53 **Sec. 53-240. – Special structures.**

54 ...

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

56
57 M. Fences. Except as otherwise provided in Subsection (6) below, all fences must comply with
58 the following regulations.

59
60 (1) Setback. Fences are not required to meet minimum setback requirements for accessory
61 structures in any zoning district.

62
63 (2) Stopping sight-distance triangle. No obstruction to vision is permitted at the intersection
64 of a driveway and the street. The area must be clear of all visual obstructions to allow
65 drivers adequate time to perceive a problem (e.g., vehicle, person, animal, or object),
66 react to it, and safely stop to avoid a collision or injury. The length and shape of this area
67 is affected by the speed of a vehicle, pavement conditions, curves in the road, slopes, and
68 other factors. This area, known as the stopping sight-distance triangle, must meet the
69 requirements set forth in the most current edition of the Florida Department of
70 Transportation Design Manual, as amended.

71
72 (3) Height limits.

73
74 (a) Front yard or abutting street.

75
76 (i) Opacity requirements. Where a fence is installed in a front yard or abutting a
77 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 fifteen feet (15') 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 these wind-load requirements.

108
109 (b) Posts and supports. All exposed fence posts and supports must face in the direction
110 of the fence owner's property.

111
112 (c) Material.

113
114 (i) A chain-link fence located in a non-residential district must be vinyl coated and
115 be black or North Port City Center Green in color.

116
117 (ii) No exposed PVC or exposed cinder block fences are permitted.

118
119 (iii) Split-rail fence. A split-rail fence is permitted only in a district zoned Agricultural
120 (AG) or Government Use (GU).

121
122 (iv) Electric fence. A fence charged with electricity is permitted only in a district zoned
123 Agricultural (AG).

124

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

129
130 (6) Special locations. In addition to the above requirements, the following regulations apply
131 to fences installed at the specified locations.

132
133 (a) Playground fence. A fence abutting the perimeter boundary of a playground at a
134 daycare or school must be transparent so that activity behind the fence may be
135 observed from either side, must be between six feet (6') and eight feet (8') high, and
136 must have at least one (1) accessible gate that is operational.

137
138 (b) Recreational sport facility. The following apply to fences attached to or part of a
139 recreational sport facility, such as a racquetball, tennis, or basketball court, swimming
140 pool, soccer, or baseball field, etc. Any attached netting, such as safety netting
141 attached to a baseball backstop, is not a fence for purposes of this subsection.

142
143 (i) Height. Fences for sport courts and baseball backstops may be a maximum twenty
144 feet (20') high. Fences for other types of recreational sport facilities may be a
145 maximum of twelve feet (12') high.

146
147 (ii) Setbacks. The setback for a fence is the same as for an accessory structure at the
148 same location. However, once a fence reaches fifteen feet (15') in height, each
149 one foot (1') increase in fence height will result in a one foot (1') increase in the
150 required side yard setback.

151
152 (iii) Visibility. A fence that is visible from a roadway must be made of decorative
153 wrought iron or a product with similar characteristics. A fence not visible from a
154 roadway may be made of chain-link, provided that it is vinyl coated.

155
156 (iv) Color. A fence must be black or North Port City Center Green in color.

157
158 (7) Public rights-of-way. A fence or other structure is not permitted in a public right-of-way.

159
160 (8) Public easements. A fence is permitted in a public easement other than a right-of-way
161 easement.

162
163 (a) Required factors. All of the following factors must be present before a fence will be
164 approved for placement in a public easement:

165
166 (i) There will be no impediment to the flow of storm water within the drainage
167 systems or a reduction of drainage performance;

168
169 (ii) There will be no impediment to the City's ability to access public utilities, whether
170 above or below ground;

171

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

174
175 (iv) The fence does not otherwise interfere with the City’s exercise of its easement
176 rights;

177
178 (v) The fence location will not be injurious to the neighborhood or otherwise
179 detrimental to the public welfare;

180
181 (vi) The fence location is more than twenty feet (20’) from a body of water; and

182
183 (vii) If installed in a waterfront yard, the fence must be transparent.

184
185 (b) Waterfront yards. In addition to meeting all of the required factors in subsection (a),
186 a fence installed in a public easement located in a waterfront yard is subject to all the
187 following conditions:

188
189 (i) The property owner is solely responsible for the maintenance and repair of the
190 fence regardless of the cause of the damage;

191
192 (ii) The property owner must defend, indemnify, and hold the City harmless from any
193 and all claims, liabilities, losses, or damages on account of or in any way arising
194 from the existence of the fence in the easement;

195
196 (iii) If the Public Works Director or designee determines that the area occupied by a
197 fence is needed for any purpose whatsoever, the City has the absolute right to
198 terminate the occupation of the easement and require that the fence be
199 removed. Whenever practicable, the City will attempt to provide advance written
200 notice of termination to the property owner; and

201
202 (iv) If the City removes a fence, in whole or in part, the property owner will be billed
203 and must pay for the cost of removal by the date indicated on the invoice. The
204 City shall not be responsible for reinstalling, replacing, or repairing the fence,
205 regrading the ground, or returning the area where the fence was installed to the
206 condition existing prior to the fence removal.

207 ...

208
209 ~~X. (Original subsection X deleted in its entirety and replaced with the following.)~~

210
211 X. Residential property entries and gated community features.

212
213 (1) Residential entry features. Residential entry features are only permitted in districts zoned
214 Single Family Residential (RSF) and Agricultural (AG) provided that the property meets the
215 requirements of this subsection. Such entry features include but are not limited to walls,
216 gates, decorative posts and markers.

217
218 (a) Property point of entry. The maximum height of a structure at a property’s main point
219 of entry may be no more than six feet (6’) high. However, if the main point of entry

220 has an entry feature such as a gate, lighting, or decorative posts or markers, the
221 maximum height of the total structure including the entry feature may be no more
222 than eight feet (8') high.

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

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

228
229 (d) Minimum setback shall be fifteen feet (15').

230
231 (2) Gated community features. A fence or wall may be constructed along the perimeter
232 boundary of a residential development to create a gated community. A gated
233 community's boundary fence or wall must be no more than eight feet (8') high. The fence
234 or wall must comply with the landscaping requirement found in Unified Land
235 Development Code Section 21-9.

236 ...

237

238 BB. Swimming pools, tennis courts, and other recreational facilities.

239

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

244

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

247

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

252

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

256

257 ~~(3) Fencing.~~

258

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

261

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

266

267 ~~(c) Fences shall be of decorative wrought iron or of a product with similar characteristics.~~

268 ~~(d) Where chain link fences are allowed, the fence shall not be visible from the roadway~~
269 ~~and shall be vinyl coated.~~

270
271 ~~(e) Permitted fence colors are black and North Port City Center Green.~~
272 ~~..."~~

273
274
275 2.03 The City Commission hereby approves and adopts the following amendments to the City of North
276 Port Unified Land Development Code:

277
278 **"Chapter 61 – DEFINITIONS**

279 ...
280 **Sec. 61-3. - Definitions and word usage.**

281 ...
282
283 **BOUNDARY FENCE** — See "Fence, boundary."

284 ...
285
286 **FENCE** — Any artificially constructed barrier of any material or combination of materials
287 constructed along the full length, or portion thereof, of any or all property line(s), or within the
288 property for the purpose of protection or confinement or as a boundary or for the purpose of
289 blocking part of the property from view or access. For the purposes of these land development
290 regulations, a ~~boundary~~ fence is considered to be an accessory structure and therefore requires
291 a principle use or structure in order to be permitted.

292 ...
293
294 **YARD, FRONT** — A yard extending along the full width of a front lot line between side lot lines and
295 from the front lot line to the nearest part of the front building line in depth. For buildings placed
296 on the diagonal of a lot or parcel, the front lot line shall be defined as the line measured in a
297 straight line from the right and left front corners of the building to the property line.

298
299 **YARD, REAR** — A yard extending across the full width of the lot and lying between the rear lot line
300 and the nearest part of the primary structure building. Rear yard depth shall be measured at right
301 angles to the rear line of the lot.

302 ..."

303
304 **SECTION 3 – CONFLICTS**

305
306 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or
307 portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

308
309 **SECTION 4 – SEVERABILITY**

310
311 4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason
312 held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be
313 deemed a separate, distinct, and independent provision and such holding shall not affect the
314 validity of the remaining portions hereof.

315

316 **SECTION 5 – CODIFICATION**

317
318 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any
319 additional codification information and notations appear in *italics*. These editorial notations shall
320 not appear in the codified text.

322 **SECTION 6 – EFFECTIVE DATE**

323
324 6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of
325 North Port, Florida.

326
327
328 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public
329 session this _____ day of _____ 2019.

330
331 PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and
332 final reading in public session this _____ day of _____ 2019.

333
334
335 CITY OF NORTH PORT, FLORIDA

336
337
338 _____
339 DEBBIE MCDOWELL
340 MAYOR

341
342 ATTEST

343
344
345 _____
346 HEATHER TAYLOR, CMC
347 INTERIM CITY CLERK

348
349
350 APPROVED AS TO FORM AND CORRECTNESS

351
352
353 _____
354 AMBER L. SLAYTON
355 CITY ATTORNEY