

ORDINANCE NO. 2020-2202

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR A ONE HUNDRED EIGHTY DAY MORATORIUM ON THE PERMITTING, CONSTRUCTION OR INSTALLATION OF FENCES IN THE FRONT YARDS OF PROPERTIES WITHIN A RESIDENTIAL ZONING DISTRICT; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances Chapter 6, Buildings and Building Regulations, Article VII and Land Development Code Section 12.05.00 regulate fences;

WHEREAS, neither the City's Code of Ordinances nor the Land Development Code provide design criteria for the approval of a fence in the front yard of property located within a residential zoning district;

WHEREAS, the City Council finds that regulation of fences in the front yard in residential zoning districts requires additional scrutiny because of the potential for adverse safety and aesthetic considerations regarding front yard fences;

WHEREAS, the City Council finds that authorizing a study regarding front yard fences in residential zoning districts is necessary to evaluate various regulatory options available to the City;

WHEREAS, one hundred eighty days is a reasonable period of time to place a moratorium on the issuance of permits for the identified fences;

WHEREAS, this moratorium is being enacted in good faith, and is of a minimum feasible duration to study the issue; and

WHEREAS, the City Council finds and declares a need to impose a temporary moratorium on the permitting, construction or installation of fences within the front yard of properties located in residential zoning districts in the City for a period of one hundred eighty days (180) to allow the City Council sufficient time to evaluate various options for front yard fence regulations, and to protect the health, safety and welfare of persons residing within residential zoning districts;

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

SECTION 1. This Ordinance is enacted pursuant to Chapter 166 and 163, Fla. Stat., and under the home rule powers of the City in the interest of the health, peace, safety and general welfare of the people of the City of New Port Richey.

SECTION 2. The foregoing recitals and preamble clauses, incorporated herein, are true and correct. The City Council finds and declares that it is in the best interest of the general public and there exists a need to enact an Ordinance regulating specific uses in the City of New Port Richey, and that

this Ordinance should be adopted. The Council further finds that in order for City staff to examine and make recommendations to the Council as to the criteria to be considered, if any, it is necessary to place a moratorium, which is hereby placed, on the acceptance of applications, issuance of permits and approvals for the construction or installation of any fence in the front yard of any property within a residential zoning district, and the construction or installation of such fences, beginning on the effective date of this Ordinance. All pending applications, if any, are subject to this Ordinance.

SECTION 3. It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents of the City of New Port Richey through the analysis of any impacts from fences constructed or installed in the front yard of properties within residential zoning districts throughout the City of New Port Richey.

SECTION 4. This moratorium shall remain in effect for one hundred eighty (180) days from the effective date of this Ordinance or until such time as repealed by the City Council, whichever occurs first, and may be extended by resolution of the Council to the extent permitted by law.

SECTION 5. The City Council hereby authorizes a study on the issues relating to the City's regulation of front yard fences within residential zoning districts, including but not limited to a review of the following:

1. Public safety issues, including sight lines on adjacent public streets;
2. Aesthetic standards;
3. Access to the property by emergency personnel;
4. Access to the property for mail and package delivery;
5. Access to the property for public inspection; and
6. Adverse impacts on adjacent properties.

SECTION 6. In accordance with the above findings, and pending completion of the study, no application for any permit, license or approval of any nature concerning a fence in the front yard of property zoned for residential use shall be accepted by the Development Department during the term of this Ordinance. No additional review or other work on any previously accepted application concerning a fence in the front yard of property zoned for residential use shall be conducted during the term of this Ordinance. Any previously received applications shall be withdrawn by the applicant or the application shall be acted upon by the Development Department in accordance with this Ordinance.

SECTION 7. This moratorium may be enforced by any law or code enforcement officer.

(a) Methods of enforcement. The requirements of this moratorium may be enforced as follows:

- (1) By citation for civil penalties pursuant to the authority granted by Florida law and/or the City of New Port Richey Code of Ordinances. Each day of the violation shall constitute a separate offense, punishable by a fine not to exceed \$500.00 per count. The City may also seek entry of a court order requiring compliance with this ordinance;
- (2) By an action for injunctive relief, civil penalties, or both, through a court of

- competent jurisdiction;
- (3) By revocation or temporary suspension of necessary permits and/or certificates of occupancy and/or licenses; and
 - (4) By any other process permitted at law or equity.

Use of one enforcement process or method does not preclude the City from seeking the same, different, or additional relief through other enforcement methods.

(b) Persons responsible for violations include:

- (1) any person who owns, operates, or manages the property in violation hereof;
- (2) the lessee of the property where such violation exists, if the premises are leased;
- (3) any person in physical control of the property where the violation exists;
- (4) if a responsible person is a corporate entity, the officers, directors, members, or other principals of the entity are jointly and severally responsible for violations by the entity; and
- (5) any other person causing or contributing to a violation.

SECTION 8. All ordinances or parts of ordinances in conflict herewith are hereby suspended during the time period set forth in Section 4 above.

SECTION 9. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, then such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10. This Ordinance shall take effect upon its passage and adoption.

The above and foregoing Ordinance was read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 4th day of August, 2020 and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 19th day of August, 2020.

ATTEST:

CITY OF NEW PORT RICHEY, FLORIDA

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor – Councilmember

(SEAL)

APPROVED AS TO LEGAL FORM AND CONTENT

Timothy P. Driscoll, City Attorney