

ORDINANCE NO. 2021-2224

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF SECTION 12.05.00 OF CHAPTER 12 OF THE LAND DEVELOPMENT CODE, PERTAINING TO FENCES; PROVIDING FOR DESIGN STANDARDS FOR FENCES; PROVIDING FOR SPECIFIC DESIGN STANDARDS FOR THE VARIOUS YARD AREAS AND ZONING DISTRICTS WITHIN THE CITY; PROVIDING FOR RECODIFICATION AND AMENDMENT OF FENCE STANDARDS PROVIDED IN ARTICLE VII OF CHAPTER 6 OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City is desirous of establishing design standards for front yard fences in residentially zoned districts and modifying design standards for fences in other areas;

WHEREAS, on August 19, 2020, the City Council approved a 180 day moratorium on the issuance of fence permits in front yards to develop appropriate fence design standards;

WHEREAS, this Ordinance provides for the fence design standards in response to the moratorium;

WHEREAS, with the adoption of this Ordinance, the moratorium on front yard fences approved by City Council on August 19, 2020 is rescinded and front yard fence permits may be issued starting on the effective date of this Ordinance;

WHEREAS, the City's fence code is currently located in Chapter 6 of the Code of Ordinances and Chapter 12 of the Land Development Code;

WHEREAS, the City desires to place the fence code in Chapter 12 of the Land Development Code to provide clarity and consistency for fences within the City;

WHEREAS, this ordinance has been reviewed by the Land Development Review Board as required by law;

WHEREAS, notice of this ordinance has been provided as required by applicable law; and

WHEREAS, the New Port Richey City Council finds it necessary to implement these regulations to promote the health, safety, and welfare of the citizens of New Port Richey.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

SECTION 1. Section 12.05.00, of Chapter 12, of the New Port Richey Land Development Code, pertaining to fences, is hereby amended, as follows (strikeout text is deleted and underlined text is added; figures identified by strikethrough text are deleted and by underlined text are added):

12.05.00 - Fences (~~other than required in buffers~~)

1. Fence Permit. It shall be unlawful for any person to build, erect, construct or install any fence or fence wall upon any lot, tract or parcel of real property within the limits of this city without first obtaining a fence permit from the office of the Development Department. The fee for the issuance of any such permit shall be set by resolution by the City Council of the City of New Port Richey.

~~Purpose: The uses of fences by private owners shall include any manmade barrier erected for the purpose of enclosure, exclusion, protection, privacy, security, retainment or aesthetics.~~

- a. All fences to be built shall comply with the Standard Building Code. The posts of each fence must be resistant to decay, corrosion, and termite infestation.
- b. Fences may be located in all side and rear yard setback areas.
- c. No privacy fences may be located in front yards; however, fences may be permitted provided they do not exceed thirty six (36) inches in height and are not constructed of chain link or wire materials. Higher fences may be allowed in the front yard as an integral part of a security system in the following commercial land use categories:
 - (1) Highway commercial land use category.
 - (2) General commercial land use category.
 - (3) Industrial land use category.Fences are allowed in front yards for governmental uses.
- d. Unless otherwise provided for in this code; no fence may exceed six (6) feet in height.
- e. In areas where the property faces two (2) or more roadways or is located in any other area construed to be a corner lot, no fence shall be located in the clear vision zone, as defined in this code.
- f. Any fence located adjacent to a public right of way or private road shall be placed with the finished side facing that right of way.
- g. A fence required for safety and protection of hazard by another agency may not be subject to height limitations as defined above. Approval to exceed the maximum height standards may be given by the building official upon receipt of satisfactory evidence of the need to exceed height standards.
- h. No fence or hedge may be constructed or installed in such manner as to interfere with drainage on the site or any adjacent site.
- i. Fences may be erected in a recorded easement upon verification that all utility users have no objections and that the fence will not impede the functioning of drainage systems (see also h. above); provided, however that no fence may be allowed in an easement recorded for ingress/egress access purposes. Maintenance of easements and improvements as permitted in this land development code (see also section 7.22.01), and/or replacement of such improvements is the responsibility of the property owner.
- j. No fence or hedge, planted in conjunction with or in place of a fence, located in a waterfront yard shall exceed four (4) feet in height, except when utilized as a swimming

~~pool enclosure, which is regulated under swimming pool standards found elsewhere in this code; however a swimming pool enclosure shall not encroach more than ten (10) feet into the required setback and any encroachment shall be constructed with materials which allow for a clear, unobstructed view through said enclosure.~~

2. General Standards.

- a. All fences constructed or erected in the City shall meet the provisions of this subsection.
- b. All fences constructed or erected in the City shall comply with the Florida Building Code, current edition. The posts of each fence shall be made resistant to decay, corrosion, and termite infestation.
- c. The façade of all fences constructed or erected in the city shall face outward from the property upon which any such fence is located, so that the posts, poles or other supporting devices of all such fences shall be erected in such a manner that the same shall be exposed to the interior of the property upon which such fence is located.
- d. No fence shall be located in any free vision zone, as defined in Section 10.02.00 of the Land Development Code, unless the same is in compliance with said code section.
- e. No fence shall be constructed or erected within any public right-of-way without approval of the City.
- f. Fences may be constructed or erected in a recorded easement, so long as the fence will not impede the functioning of any drainage systems, and provides suitable access to the easement holder consistent with the purpose of said easement, does not interfere with the easement, or the easement holder consents to the construction of said fence.
- g. No fence may be constructed or erected in such manner as to interfere with drainage on the site or any adjacent site.
- h. All fences and walls shall be maintained in good condition, substantially plumb, and free from deteriorating conditions, including but not limited to chipped paint, rust, missing elements or parts, and rotting wood.
- i. Where a fence is constructed to screen a dumpster in accordance with Chapter 10 of the Code of Ordinances, the provisions thereof shall control the construction of said enclosure to the extent of any conflict with this section.

~~This section shall regulate fences in the downtown zoning district:~~

- ~~a. Decorative fences shall be permitted in the downtown zoning district, upon approval by the development review committee. Decorative fences shall be designed to contribute to the beauty of the principal use of the property and not act as a retaining structure.~~
- ~~b. Decorative fences shall not to exceed four (4) feet in height.~~

e. Decorative fences shall be made of aluminum, wrought iron or polyvinyl chloride (PVC) material.

d. Decorative fences shall be designed with at least fifty (50) percent open area (fifty (50) percent opacity).

e. Decorative fences shall be limited to white, black and metallic colors.

e. Figures of examples of permitted decorative fences in the downtown district are provided:

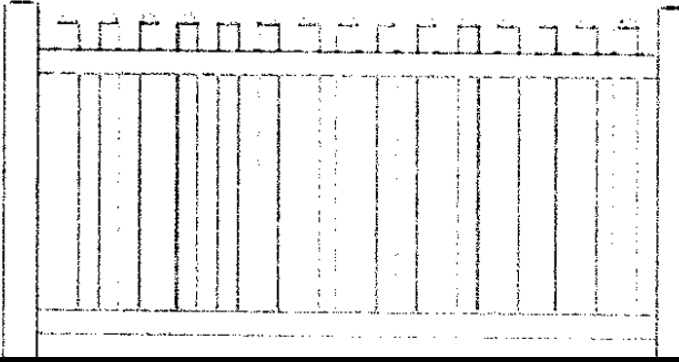


Figure 1: PVC Picket Fence

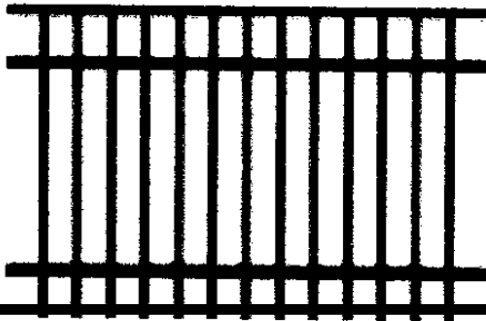


Figure 2: Aluminum Fence

fences

f. Privacy fences used to screen dumpsters, heating, ventilation and air conditioning (HVAC) units or other ancillary equipment, for commercial purposes, are permitted in the downtown district upon approval by the development review committee. Such fences are limited to six (6) feet in height and must be fully opaque. They must be constructed of PVC or masonry material, designed to match the principal structure on the property.

g. Figures of examples of a permitted privacy fences to screen dumpsters, HVAC units or other ancillary in the downtown district are provided:

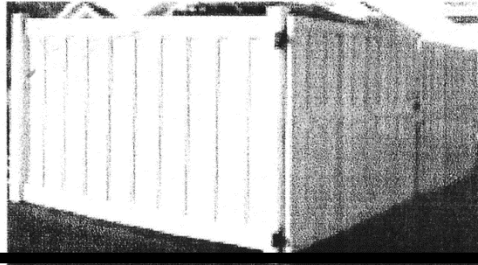


Figure 1: PVC Dumpster Enclosure

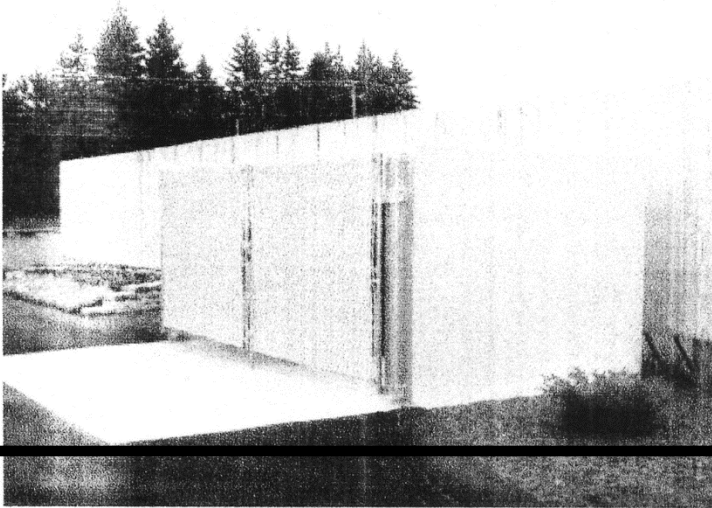


Figure 2: Masonry Dumpster Enclosure

3. Residential Front Yard Fences.

b. All fences constructed or erected in the front yard in residential zoning districts within the City are intended to be decorative in nature, compatible with the architecture of the primary structure, enhance the aesthetics of the neighborhood, and shall meet the requirements of this subsection.

c. Fences shall be constructed or erected utilizing any of the following materials:

- (1) Wood;
- (2) Metal, wrought iron, aluminum;
- (3) Polyvinyl chloride fence panels or pickets; and
- (4) Masonry.

d. The following materials are not allowed for the construction or erection of fences:

- (1) Barbed wire;
- (2) Electric fence components;
- (3) Corrugated metal;

- (4) Sheet aluminum;
 - (5) Wire;
 - (6) Chain link; and
 - (7) Steel Rebar not fully encased in concrete.
- e. Fences may be constructed within the required front yard setback of the zoning district in which they are located.
- f. The maximum fence height shall not exceed three (3) feet.
- g. The height of the fence shall be measured from the lowest grade adjacent to the fence on either side of the fence.
- h. All fences, excluding masonry as a solid wall, shall have an opacity (openness) of a minimum of fifty (50) percent and shall not exceed seventy (70) percent. Opacity is measured as the percentage of open space of the square footage between the ground and top of the fence and between the supporting posts.
- i. Fence posts shall not extend higher than one (1) foot above the top of the fence rail.
- j. Masonry as supporting elements shall meet the following requirements:
- (1) Masonry posts shall not exceed one (1) foot in width and shall be finished with a cap;
 - (2) Masonry posts and retaining walls shall have a finished façade of brick or stucco;
 - (3) Masonry posts shall be spaced a minimum of six (6) feet apart;
 - (4) Attached masonry retaining walls shall not exceed one-third (1/3rd) the height of the fence; and
 - (5) Pickets or rails made of wood, metal or polyvinyl chloride placed between columns are required for all masonry supporting elements.
- k. The color of fence material shall be black, white, metallic, stained wood, or painted a complimentary neutral color that is compatible with the dwelling on the property. Treated and untreated wood, without stain or paint, designed and manufactured as fence material, shall be allowed.

4. Residential Rear and Side Yard Fences.

- a. All fences constructed or erected in the rear and side yards in residential zoning districts within the City shall meet the requirements of this subsection.
- b. Fences shall be constructed or erected utilizing any of the following materials:
- (1) Wood;

- (2) Metal, wrought iron, aluminum;
- (3) Polyvinyl chloride fence panels or pickets;
- (4) Chain link; and
- (5) Masonry.

c. Masonry used as a supporting element shall meet the following requirements:

- (1) Masonry posts shall not exceed one (1) foot in width and shall be finished with a cap;
- (2) Masonry posts shall be spaced a minimum of six (6) feet apart;
- (3) Masonry posts and retaining walls shall have a finished façade of brick or stucco;
- (4) Attached masonry retaining walls shall not exceed one-third (1/3rd) the height of the fence/wall; and
- (5) Pickets or rails made of wood, metal or polyvinyl chloride placed between columns are required for all masonry supporting elements.

d. The following materials are not allowed for the construction or erection of fences:

- (1) Barbed wire;
- (2) Electric fence components;
- (3) Corrugated metal;
- (4) Sheet aluminum;
- (5) Wire; or
- (6) Steel rebar not fully encased in concrete.

e. Fences may be constructed within the required rear and side yard setbacks of the zoning district in which they are located.

f. The maximum fence height shall not exceed six (6) feet. If the rear yard abuts a street or river, the maximum fence height of any fence in said rear yard along the river or street, or within forty (40) feet of the river, shall not exceed four (4) feet. Notwithstanding the foregoing, if the primary building on the property is located within forty (40) feet of the river, the portions of any fence may be up to six (6) feet in height in any areas directly adjacent and parallel to the closest solid wall of the building to the river, excluding porches and screened enclosures.

g. The color of any fence material shall be black, white, metallic, stained wood, or painted a complimentary neutral color that is compatible with the dwelling on the property. Treated and untreated wood, without stain or paint, designed and manufactured as fence material, shall be allowed.

5. Commercial, Office and Industrial Fences.

a. All fences and walls constructed or erected on properties within the commercial, office or industrial zoning districts of the City shall meet the requirements of this subsection.

b. Fences or walls shall be constructed or erected utilizing any of the following materials:

- (1) Wood;
- (2) Metal, wrought iron, aluminum;
- (3) Polyvinyl chloride fence panels or pickets;
- (4) Chain link; and
- (5) Masonry.

c. The following materials are not allowed for the construction or erection of fences:

- (1) Electric fence components;
- (2) Corrugated metal;
- (3) Sheet aluminum;
- (4) Steel rebar not fully encased in concrete; and
- (5) Barbed wire.

d. The maximum fence height shall not exceed six (6) feet for rear and side yards and three (3) feet for front yards.

e. The color of any fence material shall be black, white, metallic, stained wood, or painted a complimentary neutral color that is compatible with the primary structure of the property on which it is located. Treated and untreated wood, without stain or paint, designed and manufactured as fence material, shall be allowed.

f. If the rear yard abuts a street or river, the maximum fence height of any fence in said rear yard along the river or street, or within forty (40) feet of the river, shall not exceed four (4) feet. Notwithstanding the foregoing, if the primary building on the property is located within forty (40) feet of the river, the portions of any fence may be up to six (6) feet in height in any areas directly adjacent and parallel to the closest solid wall of the building to the river, excluding porches and screened enclosures.

6. Downtown Zoning District Fences.

a. Fences located in the Downtown Zoning District are intended to enhance the unique character of the downtown, contribute to the aesthetics of the area and not act as a retaining structure. Decorative fences, only, shall be permitted in the downtown zoning district, upon approval by the Development Review Committee in accordance with this subsection and upon a finding that the same are compatible with the district and the surrounding properties.

b. The maximum fence height shall not exceed three (3) feet.

c. Fences shall be made of aluminum, wrought iron or polyvinyl chloride (PVC) fence panels or pickets, only.

- d. The opacity (openness) of fences shall be a minimum of fifty (50) percent. Opacity is measured as the percentage of open space of the square footage between the ground and top of the fence and between the supporting posts.
- e. The color of any fence material shall be limited to white, black and metallic, only. Treated and untreated wood, without stain or paint, designed and manufactured as fence material, shall be allowed.
- f. Figures of examples of permitted fences in the Downtown Zoning District are provided below:

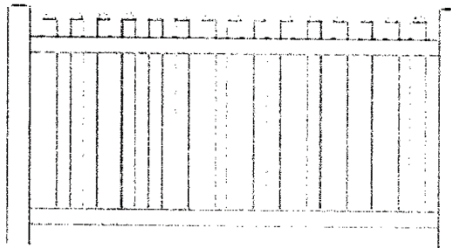


Figure 1: PVC Picket Fence

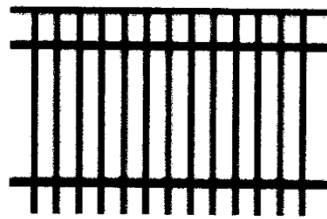


Figure 2: Aluminum Fence

- g. Privacy fences used to screen dumpsters, heating, ventilation and air conditioning (HVAC) units or other ancillary equipment, for commercial purposes, are permitted in the Downtown Zoning District. Such fences are limited to six (6) feet in height and must be fully opaque. Such fences shall be constructed of PVC or masonry material and designed to match the principal structure on the property.
- h. Figures of examples of permitted privacy fences to screen dumpsters, HVAC units or other ancillary uses in the downtown district are provided below:

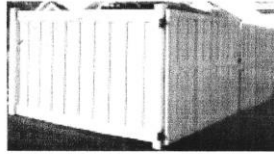


Figure 1: PVC Dumpster Enclosure

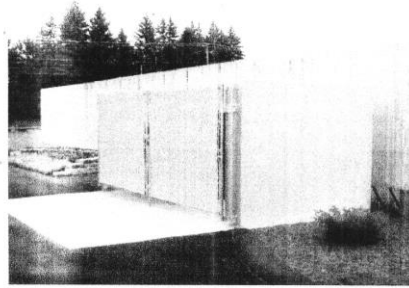


Figure 2: Masonry Dumpster Enclosure

7. Swimming Pool Fences.

- a. It shall be unlawful for any person to own, possess, manage, maintain, operate or control any swimming pool, wading pool, fish pond, reflection pool, garden pool, architectural pool or any other artificial pool or receptacle which is thirty-six (36) inches in depth at any location thereof and which is one hundred (100) square feet in area, regardless of the configuration thereof, unless such pool or receptacle is enclosed by a fence as prescribed in this subsection.
- b. The terms "swimming pool", "wading pool", "reflection pool", "fish pond", "garden pool", "architectural pool" or any other artificial pool shall be construed as any receptacle of water which is designed, built or artificially constructed or artificially filled with water which has a depth of thirty-six (36) inches or greater at any location thereof and which is at least one hundred (100) square feet or greater in area, regardless of the configuration thereof, all of which shall be deemed a "pool" for purposes of this subsection.
- c. Any person who owns, possesses, manages, operates, maintains or controls any real property where any pool is situated shall erect a fence around the perimeter of any such pool which shall be no less than four (4) feet in height nor greater than six (6) feet in height and such a fence may be built, constructed or erected either around the immediate proximity of such pool or around or within the boundary of the real property where such pool is located, whichever method shall provide an obstacle barrier and security for any such pool. The term "immediate proximity of such pool," as used in this subsection, shall be construed as that area which includes the pool, the surrounding patio, or the play or lounge area associated therewith; provided, however, that when any such pool is located within an area of real property where such real property is bounded by a river bank of the Pithlachascotee River, such person shall not be required to erect a fence along the bank of the river; provided, further, however, that the remaining boundaries of such

property, wherein the pool is located, shall be required to be fenced as provided by this subsection.

- d. All fences shall be constructed of sound material erected in accordance with good trade practice with no space between adjacent fence components of greater than four (4) inches including those types of fences commonly known as chain link, wood picket, stockade, woven wire or woven wood. All gates providing ingress or egress into the pool area shall have an effective locking mechanism incorporated therein and the owner and the person who owns, occupies or possesses the real property where any such pool is located shall keep any such gate in a locked condition when such pool is not actually being used or supervised by any such person or by any person having the permission to use or supervise any such pool by such person. A solid wall of brick, stone or masonry material of at least four (4) feet in height but no greater than six (6) feet in height shall be sufficient to provide an enclosure for any such pool. The purpose of this section is to provide a barrier which shall be comprised of any or a combination of all of the above and foregoing types of fence or walls which are intended to prevent the unrestricted entry of persons or animals into such a pool area. The side of a building may also be considered to be part of any such barrier. Such pools which are wholly enclosed by screen enclosures or other similar enclosure devices shall be exempt from the provisions of this section.
- e. Commercial swimming pools, including those which are incorporated as a part of any hotel, motel, apartment or condominium complex, shall not be exempted from this section and in the case of any such commercial swimming pool there shall be erected a fence or wall as prescribed in this section which shall be no less than four (4) feet in height nor greater than six (6) feet in height erected thereat within the immediate proximity of the boundaries of such a pool; provided, however, that any building structure of any such hotel, motel, apartment, condominium unit, cooperative apartment unit, rental apartment unit or any other similar type of structure shall not be considered to be a part of the barrier or fence for any such pool as defined in this section.
- f. Whenever any pool is under construction or excavation, the person who is building, constructing, installing or excavating such pool, while such pool is filled with water beyond thirty-six (36) inches in depth and is unattended by any such person shall install a temporary fence, wall or barrier around or over the immediate proximity of such pool and such temporary wall or barrier shall comply with the specifications for the height and composition that are required for permanent fences, walls and barriers as prescribed in this section.
- g. If any pool shall be erected above the surface level of the ground and shall have a side elevation of four (4) feet or greater above ground surface, such pool shall be exempt from the provisions of this subsection, except that if there is a ladder or other scaling device associated therewith such device shall be removed and/or immobilized from the exterior portion of the pool whenever the pool is not being supervised by any such person who owns, possesses, manages, maintains, operates or controls the real property where such a pool is located.

- h. The provisions of this subsection shall supersede any conflicting provisions within this section.

SECTION 2. Sections 6-196 through 6-203, of Article VII of Chapter 6, of the New Port Richey Code of Ordinances, pertaining to construction of fences, are hereby repealed, as follows (strikeout text is deleted and underlined text is added):

ARTICLE VII. —~~FENCES RESERVED.~~

~~Sec. 6-196.— Fence permit~~

~~It shall be unlawful for any person to build, erect, construct or install any fence or fence wall upon any real estate lot, tract or parcel of real property within the limits of this city without first obtaining a written fence permit from the office of the building inspector. The fee for the issuance of any such permit shall be set by resolution by the city council of the City of New Port Richey.~~

~~Sec. 6-197.— Height of fences on residential property.~~

~~All fences which are constructed on real property that is owned, used and occupied for residential purposes shall not exceed the height of four (4) feet from ground surface; provided, however, that where a public park, boat landing, picnic ground, recreational area or a commercial or business activity shall be situated or located on real property which is adjacent to any such residential property, a screen fence not to exceed the height of six (6) feet from ground surface shall be permitted to be built, erected and installed along the boundary which separates such a residential property from such public park, boat landing, picnic ground, recreational area, or a commercial or business area, in order to screen and obscure such public or commercial activities from the residential property.~~

~~Sec. 6-198.— Height of fences on business or commercial property.~~

~~All fences which are constructed on real property that is owned, used and occupied for business or commercial purposes shall not exceed the height of six (6) feet from ground surface. Any person, who is engaged in any business or commercial activity whereby junked, wrecked, disabled or derelict motor vehicles are stored on the real property shall be required to erect a fence enclosure around the area where such motor vehicles are stored. Such fence enclosure shall be constructed of suitable materials to obscure, screen, shield and conceal any such junked, wrecked, disabled or derelict motor vehicles from public view outside the perimeter of the fence, and shall be of an elevation of six (6) feet from ground surface. If the erection of any such fence shall encroach beyond and in front of the front setback line of the property whereon the same is to be located, the owner, occupier, user or possessor of such property shall be required to secure a waiver of the setback line requirement in accordance with the procedure set forth and prescribed in section 6-199.~~

~~Sec. 6-199.— Front setback lines.~~

~~(a) The front setback line for all fences which are built, erected, constructed or installed on real property within all zoned areas shall be governed by the front building setback lines which are set forth and prescribed by the particular zoning classification ordinance which controls and regulates real property located in the zoning district where the fence is being built, erected, constructed or installed.~~

~~(b) Notwithstanding subsection (a) above, the front setback line for fences or fence walls which are to be built, erected, constructed or installed on any real property which is zoned for and is to be used for business or commercial purposes may, upon application to the city council by the owner, possessor or occupier of any such real property and after a public hearing thereon, be granted a variance by the city council to adjust the front setback line in order to allow such a fence to be constructed across the front of the subject property at any distance from the front right-of-way line thereof as the city council shall deem to be consistent with the appropriate usage of the real property as well as public safety. The factors which the city council shall take into consideration in granting any such variance shall be traffic visibility; the need of the owner, possessor or user of the property to protect his property or any goods, merchandise or wares located thereon; the adverse effect, if any, upon the value of other properties in proximity thereto; the aesthetic appearance of the neighborhood; and the impairment, if any, of vehicular or pedestrian traffic.~~

~~(c) There shall be at least a fifteen day written notice to all property owners, occupiers, users or possessors of real property within a distance of two hundred (200) feet from the subject real property designating the time, date and place of the hearing on such an application and all interested parties shall be heard at the hearing prior to the granting of any variance by the city council as aforesaid.~~

~~Sec. 6 200. Side, rear setback lines~~

~~In all zoning districts there shall be no side or rear setback lines for any such fences or fence walls except that it shall be unlawful for any fence to be installed or constructed in any manner whereby the fence protrudes or encroaches upon any easement or right of way; provided, however, that where the rear or side boundary of any real property shall abut a street or roadway, the following setback requirements shall govern the construction of such a fence:~~

~~(1) The rear setback lines shall be governed by the front building setback lines which are set forth and prescribed by the particular zoning classification ordinance which controls and regulates real property located in the zoning district where the fence is being built, erected, constructed or installed.~~

~~(2) The side setback lines shall be no less than ten (10) feet from the edge of the side property line thereof.~~

~~(3) In residentially zoned districts R-1, R-2, R-3, MF-1, MF-2, PMF and MHP, a privacy screen or wall may be installed in front of glass doors, such as sliding glass doors, for the purpose of screening or obscuring from view the area of the glass doors. For the purpose of this section, one (1) section of privacy screen or wall is not to exceed six (6) feet in height and eight (8) feet in width and shall not be constructed further than ten (10) feet away from the glass doors. Glass doors located on corner properties will be permitted to have two (2) sections of screen or wall after approval by the building official of the city.~~

~~Sec. 6 201. Exterior facade of fences to face outward from property.~~

The exterior facade of all fences which are built, erected and constructed in this city shall face outward from the property whereon any such fence is located, so that the posts, poles or other supporting devices of all such fences shall be erected in such a manner that the same shall be exposed to the interior of the property whereon such fence is located.

Sec. 6-202.— Fencing of pools.

~~(a) It shall be unlawful for any person to own, possess, manage, maintain, operate or control any swimming pool, wading pool, fish pond, reflection pool, garden pool, architectural pool or any other artificial pool or receptacle which is thirty-six (36) inches in depth at any location thereof and which is one hundred (100) square feet in area, regardless of the configuration thereof, unless such swimming pool, wading pool, reflection pool, fish pond, garden pool, architectural pool, or any artificial pool shall be enclosed by a fence as prescribed in this section.~~

~~(b) The term "swimming pool, wading pool, reflection pool, fish pond, garden pool, architectural pool or any other artificial pool" shall be construed as any receptacle of water which is designed, built or artificially constructed or artificially filled with water which has a depth of thirty-six (36) inches or greater at any location thereof and which is at least one hundred (100) square feet or greater in area, regardless of the configuration thereof.~~

~~(c) Any person who owns, possesses, manages, operates, maintains or controls any real property where any such pool is situated shall erect a fence around the perimeter of any such pool which shall be no less than four (4) feet in height nor greater than six (6) feet in height and such a fence may be built, constructed or erected either around the immediate proximity of such pool or around or within the boundary of the real property where such pool is located, whichever method shall provide an obstacle barrier and security for any such pool. The term "immediate proximity of such pool," as used in this subsection, shall be construed as that area which includes the pool, the surrounding patio, or the play or lounge area associated therewith; provided, however, that when any such pool is located within an area of real property where such real property is bounded by a river bank of the Pithlachascotee River, such person shall not be required to erect a fence along the bank of the river; provided, further, however, that the remaining boundaries of such property, wherein the pool is located, shall be required to be fenced as provided by this section.~~

~~(d) All such fences shall be constructed of sound material erected in accordance with good trade practice with no space between adjacent fence components of greater than four (4) inches including those types of fences commonly known as chain link, wood picket, stockade, woven wire or woven wood. All gates providing ingress or egress into the pool area shall have an effective locking mechanism incorporated therein and the owner and the person who owns, occupies or possesses the real property where any such pool is located shall keep any such gate in a locked condition when such pool is not actually being used or supervised by any such person or by any person having the permission to use or supervise any such pool by such person. A solid wall of brick, stone or masonry material of at least four (4) feet in height but no greater than six (6) feet in height shall be sufficient to provide an enclosure for any such pool. The purpose of this section is to provide a barrier which shall be comprised of any or a combination of all of the above and foregoing types of fence or walls which are intended to prevent the unrestricted entry of persons or animals into such a pool area. The side of a building may also be considered to be part of any such barrier. Such pools which are wholly enclosed by screen enclosures or other similar enclosure devices shall be exempt from the provisions of this section.~~

~~(e) Commercial swimming pools, including those which are incorporated as a part of any hotel, motel, apartment or condominium complex, shall not be exempted from this section and in the case of any such commercial swimming pool there shall be erected a fence or wall as prescribed in this section which shall be no less than four (4) feet in height nor greater than six (6) feet in height erected thereat within the immediate proximity of the boundaries of such a pool; provided, however, that any building structure of any such hotel, motel, apartment, condominium unit, cooperative apartment unit, rental apartment unit or any other similar type of structure shall not be considered to be a part of the barrier or fence for any such pool as defined in this section.~~

~~(f) Whenever any pool is under construction or excavation, the person who is building, constructing, installing or excavating such pool, while such pool is filled with water beyond thirty-six (36) inches in depth and is unattended by any such person shall install a temporary fence, wall or barrier around or over the immediate proximity of such pool and such temporary wall or barrier shall comply with the specifications for the height and composition that are required for permanent fences, walls and barriers as prescribed in this section.~~

~~(g) If any pool shall be erected above the surface level of the ground and shall have a side elevation of four (4) feet or greater above ground surface, such pool shall be exempt from the provisions of this section, except that if there is a ladder or other scaling device associated therewith such device shall be removed and/or immobilized from the exterior portion of the pool whenever the pool is not being supervised by any such person who owns, possesses, manages, maintains, operates or controls the real property where such a pool is located.~~

~~(h) Any person who violates the provisions of this section shall be subject to the penalties that are prescribed in [section 1-14](#) of this Code. Each day that a violation of this section exists shall be considered to be separate and distinct offense.~~

~~(Code 1964, § 6-36)~~

~~Sec. 6-203. Electric and barbed wire fences.~~

~~It shall be unlawful to erect any fence which is electrically charged or which has any component or portion thereof which is made of barbed wire; provided, however, that a three strand barbed wire crown shall be permitted atop all fences which surround properties that are used for governmental, industrial, or commercial purposes in order to provide additional security for such properties; provided, further, that the city council may grant a special permit for the erection of a barbed wire fence at the request of the county school board or the board of trustees of the Pasco-Hernando Junior College if the fence is erected for the purpose of providing an enclosure for livestock which are being maintained as a part of a duly accredited course in animal husbandry or a similar course of study for students in any school or college campus within this city.~~

SECTION 3. If any phrase or portion of this ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION 4. Any ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall be codified and made a part of the New Port Richey City Code, and that the sections of this ordinance may be renumbered to accomplish such codification, and that the word ordinance may be changed to “section” to accomplish such codification.

SECTION 6. Ordinance 2020-2202, providing for a moratorium on the issuance of approvals and permits for fences in the front yard of residential properties is hereby repealed in its entirety and shall have no further force and effect.

SECTION 7. This ordinance shall become effective immediately upon its adoption as provided by law.

The above and foregoing ordinance was read and approved on first reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2021.

The above and foregoing ordinance was read and approved on second reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2021.

ATTEST:

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: _____
Timothy P. Driscoll, City Attorney

CA Approved 2-18-2021