

ORDINANCE NO. 15-2008

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE IV OF THE TOWN CODE ENTITLED "WALLS, FENCES AND HEDGES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida ("Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted a Comprehensive Plan which has previously been determined to be in compliance with Chapter 163, Part II, Florida Statutes: and

WHEREAS, the Town Commission has adopted Land Development Regulations (LDRS) to implement its Comprehensive Plan as required by Section 163.3203, Florida Statutes, which are codified in Chapter 78 of the Town Code entitled "Zoning" and

WHEREAS, the LDRS regulate, among other things the materials and maintenance of walls, fences and hedges which are permitted in residential and business areas within the Town; and

WHEREAS, the Town Commission has determined that it would further the public's health, safety and general welfare to amend Chapter 78, Article IV of the Town Code entitled "Walls, Fences and Hedges".

THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA THAT:

Section 1. The whereas clauses are hereby incorporated as true and correct as the legislative findings of the Town Commission.

Section 2. Article IV entitled “Walls, Fences and Hedges” of Chapter 78 of the Town Code entitled “Zoning” is amended as follows:

ARTICLE IV. WALLS, FENCES AND HEDGES

Sec. 78-111. In residential areas.

(a) *Side and rear yard walls and fences.* The maximum height of all walls and fences located, erected, constructed, reconstructed or altered from along the line side or rear property lines shall be six feet above grade level. Poles and decorative caps may extend an additional six inches above the top of the wall or fence to a maximum of ~~72~~ 78 inches in height above grade level. The walls and fences allowed in this section may be constructed of the following materials: wood (natural, painted or stained), painted concrete, painted wrought iron, painted aluminum, vinyl, vinyl coated chainlink, except in front yards as noted in section (b) ~~(2)~~ (1) of this section. The walls or fences may be solid or opaque. Barbed wire is prohibited in residential areas.

(b) *Front yard walls and fences.* Front yard walls and fences are those that are located, erected, constructed, reconstructed or altered along the front property line and along the side property line between the front building line and front property line to enclose the front yard.

(1) *Front yard fences.* The maximum height of front yard fences shall be 40 inches above grade level. Poles and decorative caps may extend an additional six inches above the top of the wall or fence to a maximum of 46 inches in height above grade level. Front yard fences ~~shall not be more than 30 percent opaque and~~ may be constructed of the following materials: painted/stained wood pickets, painted wrought iron, or painted aluminum. Front yard fences may not be constructed of chainlink fabric, chicken wire or unpainted/unstained wood material.

(2) *Front yard walls.* Front yard walls may be constructed of painted and stuccoed concrete or other masonry, such as brick, but not brick facing, and shall have a maximum height of 30 inches above grade level. Decorative caps may extend an additional six inches above the top of the wall or fence to a maximum of 36 inches in height above grade level.

(3) *Combination wall/fence.* A combination wall/fence consists of a short masonry wall which serves as a base for metal (wrought iron or aluminum) fencing material and shall have a maximum height of 40 inches. Poles and decorative caps may extend an additional six inches above the top of the fence material to a maximum of 46 inches in height above grade level. In a combination wall/fence, the solid wall portion shall be limited to a maximum height of 16 inches ~~and the fencing portion shall be no more than 30 percent opaque.~~

(c) *Corner lots.*

(1) *Generally.* On a corner lot, walls and fences behind the front yard building line with a maximum height of six feet may be constructed along the rear and side yard property lines, with the exception that all fences constructed on the side of the property next to the side yard street shall ~~meet all of the requirements of subsection (b) of this section regarding front yard fences~~ and be set back a minimum of ~~ten~~ three feet or sufficiently to include a landscaped strip between the fence and on the outside of the front the side street right-of-way line. Maintenance of the fence/wall and the associated landscaping is required. Side-yard fences may not be constructed of chainlink fabric, chicken wire or unpainted/unstained wood material. Fences that are required in order to meet the requirement for barriers surrounding swimming pools constructed in the side yard shall meet the height and other requirements of the pool and spa code of the county and may be constructed of any of the materials listed in subsection (a) of this section.

(2) *Exception.* Existing fences constructed prior to 1979 may be reconstructed or altered in order to satisfy swimming pool enclosure requirements provided there shall be no visual obstruction to vehicular traffic.

(d) *Construing term.* In construing this section, a curb of 12 inches or less shall not be construed as a wall under the provisions of subsections (a) and (b) of this section.

(e) Walls and fences in residential areas. Approved walls or fences shall be enhanced by adequate landscaping as required in Section 78-253 (14).

(Ord. No. 27-1971, § 1, 1-5-1971; Ord. No. 16-1979, § 2, 8-15-1979; Ord. No. 10-1981, § 1, 5-20-1981; Ord. No. 10-1982, §§ 1--3, 5-19-1982; Ord. No. 13-1983, § 1, 8-3-1983; Ord. No. 4-2000, § 2, 8-16-2000; Code 1978, § 32-67)

Sec. 78-112. In business areas.

(a) In commercial districts, the walls and fences located, erected, constructed, reconstructed or altered outside of the building line shall not be over eight feet in height.

(b) Whenever ~~the rear of~~ lots in € business districts abut residential lot lines in R residential districts, there shall be a solid masonry wall a minimum of six feet and a maximum of eight feet in height erected on the rear of where the business property and the residential property abut, the wall shall run the full length of the lot line adjoining the residential property.

(c) Whenever ~~the rear of~~ lots in € business districts are separated from residential lots in R residential districts by a dedicated alley, there shall be a solid masonry wall a minimum of six feet and a maximum of eight feet in height erected on that part of the alleyway closest to the R residential district, the full length of the business lot line which lies across the alley from the residential property.

(d) The costs and expenses of the building and maintenance of the separating wall shall be fairly apportioned, by special assessments, between the owners of the commercial lots and in the case where the residential units on abutting lots are multiple-family, then the owners of the multiple-family property. The town shall determine the apportionment of such expenses.

(e) The wall must be maintained and kept in good repair so as to meet the minimum standards of subsections (b) and (c) of this section by the property owners as described in

subsection (d) of this section. Any repair or replacement of an existing wall or section of a wall shall be made by replacing or repairing said wall with solid masonry block construction whenever the repairs or replacement exceeds 50 percent of any five-foot section of wall.

(f) Other fences or walls erected in nonresidential zoning districts shall be constructed of material listed in section 78-114. Maximum height shall not exceed eight feet. Barbed wire fencing or strands on top of other fence materials is prohibited in all zoning districts with the following exceptions:

(1) Up to three strands of barbed or razor wire may be placed on top of any fence fencing used to enclose outdoor storage areas in the following industrial areas:

a. Lots bordering on Reed Road, Miller Way, Newman Road, and Brant Road.

b. Lots bordering on 15th Street, 14th Street, 13th Street, 12th Street, Joulie Road, Kinetic Road, Industrial Avenue, Watertower Road Extension (to the east of Old Dixie Highway), Gateway Road, North and South Killian Drive, and 10th Court.

c. In the above stated industrial areas barbed wire is prohibited on fences that front or run parallel to Old Dixie Highway, Silver Beach Road, Watertower Road, and Park Avenue Extension when completed.

d. Properties located along Old Dixie Highway or 10th Street south of Northern Drive that exceed 3 acres and have exterior inventories that exceed \$300,000 in value, or structures that might be prone to potential national security risks (e.g. cell towers) may apply to the Community Development Department for a waiver to place barbed wire along the tops of their fences.

(g) Junkyards, or other unsightly occupancies shall be surrounded by a solid wall or fence of sufficient height and opacity to preclude a view from the outside. Such wall or fence shall be enhanced by adequate landscaping as required in Section 78-253.

(h) All fences and walls, including pool barriers, shall meet the construction requirements of all applicable building and life/safety codes.

(i) Special Materials Waiver. The Town Commission may, at its sole discretion, waive the requirement that alleyway separating walls be of solid masonry block construction and may instead approve a black or green vinyl coated, chain link fence six feet in height. A chain link fence shall be screened along its full length and height by appropriate hedging. Hedge shrubs shall be planted on two foot centers and be capable of reaching a height of 6 feet within 2 years of planting. The hedging shall be maintained at a height of no less than six feet.

(Code 1966, § 45-47; Ord. No. 15-1966, § 24, 6-6-1966; Ord. No. 9-1968, § 1, 8-19-1968; Ord. No. 10-1970, § I, 8-3-1970; Ord. No. 3-1972, § I, 1-5-1972; Ord. No. 1-1977, §§ 1, 2, 1-19-1977; Ord. No. 10-1985, § 1, 6-5-1985; Ord. No. 4-2000, § 2, 8-16-2000; Code 1978, § 32-68)

Sec. 78-113. Enclosing swimming pools.

- (a) All fences and walls erected to enclose swimming pools shall be of nonclimbable construction and shall be equipped with self-closing gates.
- (b) All fences and walls erected to enclose swimming pools shall be not less than five feet nor more than six feet in height.
- (c) Other suitable enclosures of greater height may be used when erected within the setback lines.

(Code 1966, § 45-48; Ord. No. 27-1971, § II, 1-5-1971; Ord. No. 16-1979, § 3, 8-15-1979; Code 1978, § 32-69)

Cross references: Swimming pools, ch. 26.

Sec. 78-114. Materials.

- (a) Fences and walls shall be constructed of the following materials only:
 - (1) Wood which is of a rot-resistant and termite-resistant species or which is chemically pressure-treated to resist rot and termite attack.
 - (2) Steel posts and wire fabric, fabric of minimum 11-gauge galvanized or other non-corrodible metal and may be coated with black or green colored vinyl.
 - (3) Painted ornamental iron or aluminum or vinyl.
 - (4) Painted concrete or masonry.
- (b) Prohibited materials:
 - (1) Barbed wire. Except as noted herein.
 - (2) Chicken wire.
 - (3) Razor wire. Except as noted herein.

(Ord. No. 4-2000, § 2, 8-16-2000; Code 1978, § 32-70)

Sec. 78-115. Maintenance.

- (a) All walls and fences shall be maintained to provide a safe, healthy and finished appearance. There shall be no excessive leaning; gates shall be in working order with a straight and true appearance.
- (b) All walls and fences shall be painted or stained on all sides sufficiently to maintain a finished and uniform appearance, prevent mildew from forming thereon and to protect the health of the persons on either side of the wall. The paint may be baked on before the wall or fence is first erected, or shall be painted on after the wall or fence has been erected and at such times thereafter as it shall be necessary to maintain a finished appearance. As an alternative, coloring may be applied to or incorporated into the wall or fence material before the wall is constructed. Walls and fences colored in this manner shall be cleaned, repaired and patched as necessary to maintain a finished appearance. Holes or broken areas of masonry shall be repaired. Deteriorated, rotted or broken wood slats or posts shall be replaced.
- (c) All walls and fences shall be erected or constructed to present, face, or display the finished side of the wall or fence to the adjoining or abutting lot or right of way. When the wall or fence is located in a manner where both sides of the wall or fence are visible from a right of way, both sides of the wall or fence shall be finished.

(Ord. No. 4-2000, § 2, 8-16-2000; Code 1978, § 32-71; Ord. No. 16-2003, § 2(32-71), 12-3-2003)

Sec. 78-116. Plans; permits.

A building permit is required prior to any fencing being constructed, repaired, replaced, extended or altered. Plans showing the location and height of fences or walls, materials, coloring, and type of construction, and landscaping shall be submitted to and a permit therefore obtained from the community development department. A survey of the property is required for all fencing permits. A fee is required.

Sec. 78-117. Nonconforming fencing.

(a) Nonconforming fencing is any fencing which was established pursuant to the issuance of a fencing permit or fencing approved as part of a development order on or before the effective date of these regulations and which is rendered nonconforming by the provisions of this article.

(b) All fencing that does not conform to the terms of this article may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. Nonconforming fencing may not be enlarged or altered.

2. Any nonconforming fence for which a building permit is required to repair, replace, reconstruct, construct, or alter must conform to all provisions of this article.

(Ord. No. 4-2000, § 2, 8-16-2000; Code 1978, § 32-72)

Secs. ~~78-117~~ 118 --78-140. Reserved.

Section 3. Severability.

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, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Codification.

The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

Section 5. Repeal of Laws in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon adoption by the Town Commission.

Upon First Reading this 20 day of August, 2008, the foregoing Ordinance, was offered by Commissioner Osterman who moved its approval. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	_____	____/_____
VICE MAYOR ED DALY	____/_____	_____
COMMISSIONER CHUCK BALIUS	____/_____	_____
COMMISSIONER JEFF CAREY	____/_____	_____
COMMISSIONER PATRICIA OSTERMAN	____/_____	_____

PUBLISHED IN THE PALM BEACH POST THIS 24 DAY OF August, 2008

Upon Second Reading this 3 day of September, 2008, the foregoing Ordinance, was offered by Commissioner Carey who moved its adoption. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	____/_____	_____
VICE MAYOR ED DALY	____/_____	_____
COMMISSIONER CHUCK BALIUS	____/_____	_____
COMMISSIONER JEFF CAREY	____/_____	_____
COMMISSIONER PATRICIA OSTERMAN	____/_____	_____

The Mayor thereupon declared **Ordinance No. 15-2008** duly passed and adopted this 3 day of September, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian Mendez Lemley
Town Clerk, Vivian Mendez Lemley
(Town Seal)

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA