

ORDINANCE 92-8

AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES CHAPTER 8, BUILDING AND BUILDING REGULATIONS, ARTICLE II, BY ADDING DIVISION 14, FENCE CODE; PROVIDING FOR REGULATION OF FENCES AND WALLS; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABLE ZONING DISTRICTS; PROVIDING FOR PERMIT REQUIREMENT PRIOR TO CONSTRUCTION; PROVIDING FOR STANDARDS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR VARIANCES; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR INCLUSION OF THIS ORDINANCE INTO THE HERNANDO COUNTY LAND DEVELOPMENT REGULATIONS AND CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 163.3167, Florida Statutes, required Hernando County, Florida to prepare and adopt a comprehensive plan as scheduled by the Department of Community Affairs; and

WHEREAS, The Board of County Commissioners of Hernando County conducted public hearings relating to the adoption of the Hernando County Comprehensive Plan in accordance with Chapter 163.3167 Florida Statutes; and

WHEREAS, It is the responsibility of the Board of County Commissioners to adopt regulations that adequately plan for and guide growth and development within the County; and

WHEREAS, Section 163.3202 Florida Statutes, requires that Hernando County adopt Land Development Regulations to implement the Hernando County Comprehensive Plan; and

WHEREAS, Fences and walls can be used for visual privacy and noise reduction; and

WHEREAS, Fences and walls can be used for security and property protection, particularly in an industrial or commercial setting; and

WHEREAS, Fences and walls can provide a safety enclosure for small children and domestic animals; and

WHEREAS, Fences and walls can provide aesthetic decoration and a neat appearance according to neighborhood character; and

WHEREAS, Fences and walls can serve as a marked boundary of private property especially for insurance liability purposes;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. INTENT AND PURPOSE

It is the intent of this Ordinance to establish regulations for the use of fences and walls in order to protect the health, safety, and welfare of the citizens of Hernando County. This shall include fences for the purpose of enclosure, exclusion, property protection, privacy, security and aesthetics.

SECTION 2. DEFINITIONS

Clear-sight or vision triangle:

Driveways: This triangular area is the property on both sides of an exit driveway formed by the intersection of each side of the driveway and the public right-of-way (ROW) line, with the distance being twenty (20) feet along the public right-of-way line, ten (10) feet along the driveway lines and the third line connecting the ends of the other sides.

Street Intersection: This triangular area is the property on a corner at the intersection of any two right of way lines of streets, or a street and a railroad, and a straight line intersecting these two right-of-way lines at points twenty-five (25) feet from their intersection, and the third line connecting the ends of the other sides.

Courtyard:

Any open space, unobstructed from ground to sky, fully enclosed by walls and attached to a building.

Fence:

An artificial structure of any material, or combination of materials serving as an enclosure, barrier, or boundary, usually made of posts, boards, wire or rails; For the purposes of this ordinance, the term "fence" shall include fences and walls unless otherwise specified. The term fence does not include screens and privacy panels of less than 24 feet in length located within the building setback area.

Front yard:

The front yard is that portion of the yard extending the full width of the lot and measured between the front lot lines(s) (which is any lot line abutting street rights-of-ways) and a parallel line(s) tangent to the nearest part of the principal building.

Height:

The measurement from the lowest point of finished grade on either contiguous side of the fence to the average top elevation; Berms, when used in conjunction with fences and walls shall be included in the height determination.

Rear yard:

For the purpose of this ordinance, the rear yard is that portion of the yard extending the full width of the lot and measured between the rear lot line (which is the lot line opposite the front lot line) and the required rear set back line.

Residential district area:

Any property zoned R-1A, R-1B, R-1C, R-2.5, RM, R-2, R-3, R-1-MH, R-R, R/PDP, MH/PDP, residential portions of C/PDP or other residential districts as defined in the Hernando County Zoning Ordinance.

Side yard:

Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the nearest parts of the principal building.

Wall:

An upright structure of masonry, wood, plaster, or other building material which is constructed on a footer serving to enclose, divide, or protect an area .

Wing wall:

A decorative wall which is attached to and extends outward from a building.

SECTION 3. APPLICABLE ZONING DISTRICTS

(a) All of the regulations of this ordinance pertaining to fences and walls apply in residential district areas.

(b) In commercial and industrial districts the only applicable provision of this ordinance is the requirement to secure a permit for the construction of a fence or wall. All other provisions of this ordinance do not apply to commercial and industrial zoning districts.

(c) The following areas are exempt from the provisions of this ordinance: agricultural zoning districts, agricultural-residential zoning districts, and mining zoning districts as defined by the Hernando County Zoning Ordinance.

SECTION 4. PERMIT REQUIRED PRIOR TO CONSTRUCTION

Prior to construction, all fences and walls shall receive a permit in accordance with these regulations and the permitting requirements in effect at that time. Applications for a permit shall be accompanied by a fee, as set by the Board of County Commissioners. The County shall not inspect or approve the location of a fence in regard to property boundary issues and is not liable for the legal location of the fence.

SECTION 5. STANDARDS

(a) All construction shall conform to the Hernando County Construction Code.

(b) All construction shall be of acceptable and durable materials. Materials shall either be new or

in new condition. All construction shall be installed with good workmanship. The posts of each fence shall be resistant to decay, corrosion, or termite infestation.

(c) All fences and walls shall be maintained in a safe condition.

(d) The height of any fence or wall in front yards within any residential district area shall not exceed four (4) feet. The height of any fence or wall in side and rear yards within any residential district area shall not exceed eight (8) feet. Fences in the rear yard which are adjacent to waterfront areas, golf courses, common areas or similar open space areas shall have a maximum height of four (4) feet. These fences shall be chainlink, split-rail, picket, or of similar construction such that at least 25% of the fence area is open and unobstructed when viewed at a right angle to the fence line.

(e) Fences in the front yard shall be chainlink, split-rail, picket, or of similar construction such that at least 25% of the fence area is open and unobstructed when viewed at a right angle to the fence line. Existing fences and walls in the front yard which do not meet the provisions of this ordinance shall be brought into conformity by June 30, 1997.

(f) If 51% of the replacement value of a non-conforming fence or wall is destroyed or removed, the replacement fence must conform to this ordinance.

(g) The top of chain link fences shall have "knuckles up" (no twisted sharp ends) in residential district areas.

(h) When reviewing a planned-development project (PDP), the Board of County Commissioners may approve specific fence or wall provisions which vary from the provisions of this Fence Code.

(i) Stockade fences shall be installed with the rails to the enclosed areas. The smooth side shall face rights-of-ways or adjoining properties.

SECTION 6. PROHIBITIONS

(a) No fence or wall over two (2) feet in height that blocks any driver's view shall be permitted within the clear-sight triangle of a driveway or street intersection. Any existing non-conforming fence or wall lying within the clear-sight triangle that blocks any driver's view must be removed or altered by January 1, 1993, to conform to these rules.

(b) The following are prohibited in any residential district area:

- (1) Electric fences;
- (2) Barbed wire fences;
- (3) Razor wire fences;
- (4) Corrugated/scrap/sheet metal fences;
- (5) Chicken wire fences;
- (6) Fences and walls containing hazardous materials, broken glass, spikes, nails, barbs, or any materials which can inflict pain or injury to any person or animal;

(c) No fence or wall shall be constructed in a manner that impedes drainage flow. However, fences may be constructed within utility easements. A fence owner is responsible for ensuring that access is available through the utility easement when access is required. Also, removal of said fences, if required, is the responsibility of the property owner AT THE OWNER'S EXPENSE.

SECTION 7. EXEMPTIONS

Walls, wing walls and courtyards are exempt from these rules if the walls meet minimum building setback requirements for the zoning district.

SECTION 8. VARIANCES

A variance may be granted from the terms and provisions of this ordinance for just cause. (Hardship need not be proven.) The procedure for securing a variance from this ordinance shall be the same as for securing a variance from the zoning ordinance.

SECTION 9. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby.

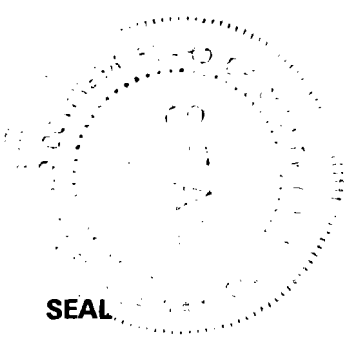
SECTION 10. INCLUSION INTO THE CODE

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances and the Land Development Regulations of Hernando County, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 11. EFFECTIVE DATE

This Ordinance shall become effective upon receipt of the official acknowledgment from the office of the Secretary of State of the State of Florida that this Ordinance has been filed with said office.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION THIS 30TH DAY OF JUNE, 1992.



**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

BY 
JOHN RICHARDSON, CHAIRMAN

ATTEST 
KAREN NICOLAI, CLERK