

## ORDINANCE NO. 523

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA AMENDING THE CODE OF ORDINANCES SECTION 74-278 ENTITLED “FENCES AND FENCE WALLS”; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Commission wishes to provide protection of the rights, safety, health and welfare of its citizens; and

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

**WHEREAS**. Fences and walls can enhance or detract from the aesthetic appearance according to neighborhood character; and

**WHEREAS**, at the January 15, 2019 Town Commission meeting, the Commissioners expressed their desire for the Planning and Zoning Board to review additional requirements related to fences and fence walls, to address vegetative plantings, use of materials and other Town fence and fence wall requirements; and

**WHEREAS**, the Planning and Zoning Board at their regular meeting on May 13, 2019, heard proposals to amend Section 74-287 of the Belleair Code of Ordinances, and voted to recommend the proposed amendments to the Town Commission.

**WHEREAS**, the Commission desires to amend code Section 74-278 by striking all previous language; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA:**

**SECTION 1. ORDINANCE AMENDMENTS.** Section 74-278 of the Town of Belleair Code of Ordinances, entitled “Fences and Fence Walls,” is hereby amended as follows:

- (a) All fences shall comply with the provisions of the Standard Building Code, 1988 edition, Section 1205, Appendix D, or subsequent editions, and subject to the Town of Belleair property maintenance provisions, Article VIII, Section 74-517 of the Code of Ordinances.
- (b) The posts of each fence must be resistant to decay, corrosion and termite infestation. Wood fence posts shall be pressure treated or otherwise preserved.
- (c) Fence walls may be constructed of concrete, concrete block, stone, brick or any suitable masonry material. Concrete and concrete block walls shall be finished with a painted stucco finish on both sides. All perimeter retaining walls that are visible from public rights-of-way or open spaces/parks shall require caps.
- (d) Fences and fence walls may be located in side, rear and secondary front yard setback areas and shall not exceed the height of six feet except as otherwise provided in this section,

exclusive of decorative supporting posts which may extend no more than nine inches above the maximum six-foot height of the fence or fence wall; provided, however, any fence or fence wall placed along any property line which abuts the Pinellas Trail may not exceed ten feet in height.

- (e) Fences, fence walls, and hedges within ten feet of the mean high-water line or sea wall shall be no more than 48 inches in height.
- (f) The height of a fence or fence wall shall be determined from grade to the average top elevation of the fence or fence wall. Landscape berms, in conjunction with fences, shall be included in height determinations. Fences and fence walls shall be of uniform height along a running face, as topography allows, unless prohibited by other requirements of this code
- (g) Fences and fence walls shall be prohibited within the front yard setback area and within the primary front yard setback area of corner parcels.
- (h) In areas where the property faces two roadways, or is located in any other area construed to be a corner lot, no fence, fence wall, or landscape buffer shall be located in the clear visibility triangle.
  - (1) No fence, wall, gate, or landscape buffer shall be allowed to constitute a visual obstruction to motorists, pedestrians, or bicyclists upon the streets, roads, sidewalks, bike paths, driveways, and alleyways of the Town.
- (i) Except as provided in subsections (c) and (k), fences and walls may be constructed of wood, masonry, composite materials, vinyl, metal or wire, and shall be constructed of one material type only, except where specifically permitted herein, or by approval of the Town Manager.
- (j) Fences shall be placed with the finished side out.
- (k) Chain-link fences with canvas (or similar material) backing or mesh may only be permitted as a temporary construction fence, or on any parcel zoned Public District. Except as provided below, all chain-link fences shall:
  - (1) Be shielded on the exterior side (the side facing out) as to completely obscure the fence by a hedge or similar planting;
  - (2) Be coated with a black vinyl coating. Green vinyl coatings may only be used for properties zoned Public District; and
  - (3) Have a top rail.
  - (4) **May not be utilized along a primary or secondary front yard setback.**

All fences, or fence walls placed along a front yard setback or a primary front yard setback or along or within a secondary front yard setback area shall be shielded on the exterior side (the side facing out) by a hedge or similar planting. Any planting must grow

to shield said fence over 85 percent of its surface within two years of planting. Should the shielding material die or be destroyed below the 85 percent coverage standard it shall, upon notification by the city, be replaced immediately or the city may take code enforcement action as provided in Division 4 of Article II.

- (l) No fence or fence wall shall be constructed or installed in such a manner as to adversely affect drainage on or adjacent to the site. To provide adequate drainage or to prevent the obstruction of drainage on or adjacent to the site, a fence or fence wall may be constructed so as to allow the bottom of the fence or fence wall to begin no more than two inches above the ground without being in violation of the maximum height restrictions set out in subsections (d), (e) and (f) of this section.
- (m) Any fence or fence wall required to be shielded by a hedge or similar planting shall be shielded by plant material approved by the town and such plant material shall be, at minimum, a size equivalent to a three-gallon plant and each such plant shall be planted not more than two feet apart. In addition, any fence or fence wall which is required to be shielded by a hedge or similar planting as provided in this section must be set back off a property line a sufficient distance to allow for the planting and growth of the hedge or similar planting and for the maintenance thereof.
  - (1) The Town Manager may waive the requirement for fence or walls to be shielded with plant material depending on the fence or fence wall materials, or zoning district; **if greater than 50% of the fence area is open and unobstructed when viewed at a right angle from the public right of way. Except as a security measure for parcels zoned Public District, the vegetative screening requirement may not be waived for chain link fences**
  - (2) All chain-link fences must meet the 85 percent vegetative planting requirement at the time of installation. The Town Manager may waive this requirement for properties zoned Public District, where the fencing is used around recreational play fields.
  - (3) Any fence or fence wall requiring vegetative planting must provide or demonstrate a means of irrigation acceptable to the Town at the time of installation.
- (n) Electrically charged, barbed wire or razor wire fences, or any fence or wall containing broken glass, or other substances reasonably designed to do bodily harm are prohibited.
- (o) New sections of fence being installed shall require the removal of the old sections. Old sections of fence shall not be abandoned in place.
- (p) Temporary fencing during construction is permitted and regulated in Chapter 74, Division 4 of the Code of Ordinances. Once a building permit is closed or becomes inactive, the temporary construction fencing shall be removed. The parcel may remain

without a fence, or a permanent fence can be erected pursuant to this section, and other sections of the Code, as applicable.

**SECTION 2. SEVERABILITY.** In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

**SECTION 3. SUPERSEDING CLAUSE.** All ordinances, resolutions or parts thereof in conflict or inconsistent with this ordinance are hereby superseded insofar as there is conflict or inconsistency.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon passing.

**PASSED ON FIRST READING: June 4, 2019**

**PASSED ON SECOND READING: *\*\*July 16, 2019***

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**Mayor**

**ATTEST:**

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**Town Clerk**