

## ORDINANCE NO. 578

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING SECTION 74-287 (FENCES AND FENCE WALLS) OF THE LAND DEVELOPMENT CODE OF THE TOWN OF BELLEAIR TO PROVIDE FOR COMPLIANCE WITH VISIBILITY TRIANGLE STANDARDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, Town staff has completed a review and analysis of Section 74-287 of the Town's Land Development Code regarding fences and fence walls; and

**WHEREAS**, Town staff has recommended a change to Section 74-287 requiring fences and fence walls to comply with the visibility triangle provisions set forth in Sec. 74-153(g) of the Town's Land Development Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Commission of the Town of Belleair, Florida, that:

**Section 1.** Section 74-287 (Fences and Fence Walls) of Article IV (Accessory Structures and Uses) of Chapter 74 (Land Use Regulations) of the Land Development Code of the Town of Belleair, is hereby amended to read as follows:

### **Sec. 74-287. Fences and fence walls.**

- ~~(a)~~ ~~(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)~~ Fences must comply with the provisions set forth in Sec. 74-153(g) (Street Design Standards/Clear Visibility Triangle).
- ~~(b)~~~~(c)~~ The posts of each fence must be resistant to decay, corrosion and termite infestation. Wood fence posts shall be pressure treated or otherwise preserved.
- ~~(e)~~~~(d)~~ 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)~~~~(e)~~ 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)~~(f) 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)~~(g) 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)~~(h) 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)~~(i) 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)~~(j) 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)~~(k) Fences shall be placed with the finished side out.

~~(k)~~(l) Chainlink 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 chainlink 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;
- (3) Have a top rail; and
- (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)~~(m) 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)~~(n) 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 percent 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 chainlink fences.
- (2) All chainlink 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.

~~(mi)~~(o) 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.

~~(mii)~~(p) New sections of fence being installed shall require the removal of the old sections. Old sections of fence shall not be abandoned in place.

~~(miii)~~(q) 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.** Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

**Section 3.** For purposes of codification of any existing section of the Code of Ordinances, Town of Belleair, herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

**Section 4.** If any section, subsection, sentence, clause, provision, or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of

this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Town Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

**Section 5.** The Codifier shall codify the substantive amendments to the Code of Ordinances, Town of Belleair, contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

**Section 6.** This Ordinance shall be effective immediately upon its passage and adoption.

**ADOPTED ON FIRST READING** by the Town Commission of the Town of Belleair, Florida, at the meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2024.

**PUBLISHED** on the \_\_\_\_ day of \_\_\_\_\_, 2024.

**PASSED AND ADOPTED ON SECOND READING** by the Town Commission of the Town of Belleair, Florida, at the meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2024.

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Michael Wilkinson, Mayor

ATTEST:

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Christine Nicole, CPM, MMC, Town Clerk