

Sec. 23-90. - Fences, walls and hedges.

- (a) *Applicability.* All fences, walls and hedges shall be regulated by the provisions contained in this section.
- (b) *Permit.* All fences and walls shall require a building permit prior to the installation or erection and, prior to the issuance of such permit, plans for the fences, or walls shall be determined to be in compliance with the requirements of this section and all applicable requirements of the City's code, and the South Florida Building Code. Application for such permit shall accurately identify the property upon which the fence, wall or hedge is to be placed, and the actual location on the property of the fence, wall or hedge which shall be clearly inside of the property line.
- (c) *Materials.* All fences and walls shall be constructed of materials appropriate to their purpose and location. Treated wood, concrete/masonry, chain link, or similar materials as approved by the Building Department are permitted. Provided, however, that barbed wire, oriented in toward the property on which the fence is located, shall be permitted in U-1 (utility) district, CS (community services) district, and on any other municipally-owned property, regardless of the zoning district designation, such fence to be shielded by hedge material and/or landscaping; and further providing that barbed wire shall not be installed on fences of less than eight feet in height nor on fences surrounding swimming pools. Applicants are encouraged to use recycled plastic and/or other attractive, non-deteriorating materials. All walls shall have, at minimum, a "drip edge" detail at the top of the wall to prevent water damage. The Chief Building Official or his designee shall make all final decisions as to the design and materials for fences or walls.
- (1) Rear or side yard concrete masonry walls on double frontage residential lots shall be maintained by the property owner, as specified herein.
- a. The property owner shall maintain said wall in a clean condition, free from cracks greater than 1/16 of an inch in width, graffiti, peeling paint and missing materials.
- b. When repainting is needed, the wall shall be repainted with "Sherwin Williams Creamy White" (No. SW2445) and the trim shall be repainted with "Glidden The Hunt" (No. 03884), or a product identical in color, shade and hue.
- (d) *Easements and rights-of-way.* No fence, wall or hedge may be located within any easement or right-of-way or enclose any water meter box, manhole, fire hydrant and/or utility pole except as follows:
- (1) No fence, wall or hedge shall be located within any public or private right-of-way, right-of-way easement, utility or drainage easement, unless specifically authorized by the City Engineer and Public Works Director, and/or the holder of the easement.
- (2) No fence, wall or hedge shall enclose a water meter box, manhole, fire hydrant, and/or utility pole unless specifically authorized by the City Engineer.
- (3) Fences, walls and hedges may be permitted within utility and drainage easements subject to:

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- a. A suitable gate or opening being provided which enables access to any utilities, meters or like facilities;
- b. The right of the City to remove, without cost or obligation to replace or restore, any such fence or wall and landscaping as may be necessary to maintain the utilities located in the easement;
- c. Easement agreement from easement holders—Florida Power and Light, Central Broward Water Control District, the authorized franchise phone company, the authorized franchise cable company, the City's Utility Department, etc.; and
- d. Approval of plans showing that fence, wall or hedge will not interfere with or cause damage to any utilities located in said easement.

(e) *Orientation*.

- (1) Fences and walls shall be oriented so that the side of the fence or wall facing or viewable from a street right-of-way or an adjoining property is the finished side, with all support posts and stringers facing inward toward the property upon which the fence or wall is located. However, as determined by the Building Official or designee, if access to a portion of a fence is wholly or partially blocked by a building, fence, wall or other structure or by foliage which conceals the fence proposed to be constructed, located upon adjoining property and adjacent to, but not necessarily abutting, the property line, the support posts for that portion of the fence, but not the stringers, may be installed on the outside of the fence, facing away from the property upon which the fence is located.
- (2) All fences constructed on residential lots in yards which abut a public or private road right-of-way and are along an uninterrupted line of fencing of double frontage lots (i.e., double frontage lot rear fences and street side yard fences associated with those double frontage lot rear fences), subsequent to the effective date of this section (July 25, 2006), shall be shadowbox design on the exterior street-side view with a natural wood appearance in order to maintain visual continuity along the streetscape of the double frontage lots. Where adjacent roadway or sidewalk construction or improvements have modified the uninterrupted shadowbox fence adherence criteria, an alternative fencing material may be substituted for the shadowbox design where it is of compatible color and design to the modified condition or where it will blend with the adjacent fence material to maintain visual continuity along the streetscape. Any duly-recorded covenants and restrictions or Homeowners' Association regulations otherwise filed with the City governing the uniform and perpetual maintenance of fences as a specific design shall prevail with regard to this provision. Fences of other construction which were legally constructed prior to the effective date of this section shall comply with the non-conforming use provisions contained within section 23-156 of this Code.

Provisions of this section shall supersede fence requirements of section 25-72(d), provided such fences shall match finish/color to that which exists in the existing fence line directly to each side of that which is to be installed.

- (f) *Height and location on lot.* Fence and wall heights shall be measured from the existing finished first floor level and the top of the fence or wall shall not exceed six feet above the said first floor level nor exceed seven feet above grade when abutting a residential lot. For double frontage lots along SW 100th Avenue between SW 49th Street on the north to SW 53rd Street on the south, fence and wall heights along rear property lines may not exceed six feet as measured from the finished elevation of the abutting sidewalk. For the safety of the adjacent roadways and neighborhood:
- (1) No fence, wall or hedge will be allowed to be installed or constructed within the setback area from a street right-of-way, except as provided for in subsection (3) hereof.
 - (2) No fence or wall will exceed six feet in height, except as permitted in subsection (f) above or subsection (j)(2) below. Any fence or wall which exceeds six feet in height shall require a signed plan from a licensed architect or engineer.
 - a. Fences or walls in U-1 (utility) district, CS (community services) district, on any municipally-owned property regardless of its zoning district designation, and surrounding swimming pools that are open and available for public or semi-private use (i.e., swimming pools in common areas owned by homeowners' associations for the exclusive use of the residents and invitees of the subdivision), shall be permitted to be eight feet in height.
 - (3) On a corner lot in a residential district, fences, walls or hedges may be erected in the side yard abutting the street. On corner lots in a residential district, the location of fences, walls and hedges shall conform to district regulations, except if the fence, wall or hedge will not obstruct the view of a driver approaching the intersection, only then may the fence, wall or hedge be brought out to the property line, but may never extend past the front of the house. When the corner lot is other than rectangular in shape, prior approval by the Building Official and the Police Chief, or their designees, shall be required to ensure adequate vision to a driver of a vehicle.
 - (4) Where a hedge is required to screen an off-street parking area or other vehicular use area from a public right-of-way or abutting property in a residential district, the hedge shall be maintained at height of not less than four feet. Provided, however, that where hedge materials are planted within 30 inches of a free-standing masonry wall, the hedge shall be maintained at a height equal to the height of the wall. This section is not intended to amend the provisions of the landscaping code which shall prevail as to the minimum required height of hedges at the time of installation. Property owners, including homeowners' association,

which violate the provisions of this section, shall be subject to an administrative fine of \$300.00 per violation, said fine to be expended on the purchase and installation of additional plant materials within the development or property subject to the fine.

a. For purposes of this section, the following definitions shall be applicable:

1. A violation shall be determined if 40 percent or more of any mature, continuous, contiguous hedge, exclusive of any breaks or interruptions for the display of architectural detailing pursuant to subsection b, below, is trimmed below the height of the adjacent freestanding masonry wall.
2. Hedge shall be defined as a continuous row of plantings including the following plant materials:

Botanical Name	Common Name
Allamanda neriifolia	Shrub Allamanda
Schefflera arboricola	Dwarf Schefflera
Conocarpus erectus	Green Buttonwood
Conocarpus e. "sericeus"	Silver Buttonwood
Chrysobalanus icaco	Cocoplum
Hedge Eugenia uniflora	Cherry Hedge
Ficus benjamina	Ficus Hedge
Galphimia gracilis	Thyrallis
Hamelia patens	Firebush
Hibiscus rosa sinensis	Hibiscus
Hedge Ixora "nora grant"	Ixora Hedge
Jatropha hastata	Jatropha

Ligustrum lucidum	Glossy Privet
Murraya paniculata	Orange Jasmine
Myrica cerifera	Wax Myrtle
Nerium oleander	Oleander Hedge
Podocarpus macrophyllus	Japanese Yew
Syzygium peniculatum	Myrtifolia
Viburnum odoratissmum	Sweet Viburnum
Viburnum suspensum	Sandankwa Viburnum

- b. Exemption: In any case where a free-standing masonry wall includes a particular architectural feature (including but not limited to a line of accent tiles or color within 12 inches of the top of the wall, or an interruption in the wall for decorative fencing), hedges may be maintained at a height lower than the height of the wall to ensure visibility of such architectural feature, not to exceed six inches below the level of the architectural feature.

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In instances where there are extraordinary circumstances or conditions, the Chief Building Official shall be entitled to determine the beginning elevation and height of the fence, wall or hedge.

- (g) New double frontage lots: The City Code specifically prohibits double frontage lots, however, should the City Commission waive the prohibition of double frontage lots as provided in section 24-63(a) of this Code, then the following conditions shall affect a fence or wall constructed at the rear yards of such lots:

(1) A landscaped buffer zone shall be required as set forth in section 25-42 of the City Code.

(2) The fence or wall shall be constructed at the rear of the required "buffer zone" from the street right-of-way. The fence shall be constructed in shadowbox design with a natural wood appearance.

(3) Any fence or wall constructed by any developer of a subdivision subsequent to the date of the

adoption of this Code section shall provide for a homeowners' association or similar owner association which shall be responsible for the maintenance of the "buffer zone" landscaping and irrigation and the fence or wall.

- (h) *Landscaping and irrigation.* Fences and walls located within a setback area from a street right-of-way shall be landscaped and irrigated on the outside, or right-of-way side, of the fence or wall in accord with all provisions and specifications contained in this subsection and in accord with a landscape plan approved by the City Commission or the Public Works Director or his designee, as provided in the City Code. All plant materials shall be maintained by the property owner in a healthy and orderly condition; any materials not so maintained may be ordered to be replaced at the direction of the code enforcement officer. Any landscaping in proximity to a public sidewalk shall be maintained so that none of the landscaping encroaches upon the sidewalk. All required plant materials shall adhere to the following:
- (1) Shrubs or hedges shall be planted along the lineal distance of the fence or wall generally parallel to the street right-of-way.
 - (2) All fences and walls located within a setback area from a street right-of-way shall be provided with an opening or gate of sufficient width to allow access outside of the area enclosed by the fence or wall to such right-of-way for the purpose of facilitating maintenance of any required landscaping, irrigation and the street right-of-way.
 - (3) Shrubs shall be planted at a minimum height of two feet so as to achieve a minimum maintained height of three feet upon maturity, achieve a density so as to obscure the fence or wall and maintained no higher than the fence or wall.
- (i) *Maintenance.* All fences, walls and hedges installed or constructed pursuant to this section shall be maintained as set forth in the approved plans and in a structurally sound and aesthetically attractive manner. Specifically:
- (1) A fence or wall shall be maintained in a vertical position, and shall not be allowed to sag or lean at more than ten degrees from vertical, unless the fence or wall is specifically designed and permitted to be maintained at such an angle.
 - (2) Each support post or footer shall be solidly attached to the ground.
 - (3) Each fence stringer shall be securely fastened to the support posts and face of the fence.
 - (4) Each fence face shall be securely fastened to the support post and fence stringers; and
 - (5) All fence or wall surfaces shall be painted, stained, treated or otherwise maintained so as to present a uniform appearance; however, this section is not intended to prohibit the maintenance of fences in which a deteriorated section of the fence is replaced with new material which will take some time to "age" or "weather" to replicate the appearance of the original fence. All fence's finish/color shall match that which exists in the existing fence line

directly to each side of that which is installed or to be installed. Provided, however, this shall not apply if the applicant replaced the fence with recycled plastic or other non-deteriorating materials.

- (6) All walls shall be maintained in a clean condition, free from cracks greater than 1/16th of an inch in width, dirt, grime, stains, graffiti, peeling paint and missing materials, and mildew, discoloration, fading, mold and be aesthetically pleasing to surrounding properties, and shall be in good repair. All walls finish/color shall match that which exists in the existing wall line directly to each side of that which is installed or to be installed.
- (7) When any single sight view of a fence or wall is subject to any of the abovementioned deficiencies, then the owner shall upon notice by the City take immediate steps to correct the violation.
- (j) *Miscellaneous provisions:*
 - (1) The following persons shall be responsible for the implementation of the provisions of this section of the code:
 - a. Any person whom the current real estate property tax rolls of the Broward County Property Appraiser's Office reflects hold a legal interest, or
 - b. A person with a recognizable legal interest in the premises, or in control of a dwelling or part of the premises with or without the legal consent of the true owner.
 - (2) Non-residential zone classifications, either directly or across an alley, street, drainage ditch or waterway, from residential districts, must have a seven foot wall constructed on the boundary lines of the property so abutting such residential districts. Such wall must be constructed of concrete masonry, and its height shall be measured from the highest adjacent grade. The Chief Building Official shall make all final decisions as to the appropriate height of the wall.
 - (3) Requirements of this section may be superseded on projects subject to design approval by the City Commission.
 - (4) The City Commission, in considering any subdivision plat, may require that masonry walls be constructed for screening purposes, and may fix the height of said wall, which height may exceed the limitations set forth in this chapter when the wall is required for screening purposes. The City Commission in requiring a wall be constructed for screening purposes, may take into consideration the following:
 - a. Design of wall for appearance;
 - b. Location of wall; and
 - c. Impairment of visibility at streets or driveways.
 - d. Appropriate landscaping and irrigation.
 - (5) Those properties located within a subdivision which, in conjunction with the approval of the

subdivision, were required to have a fence, wall or hedge shall not be permitted any additional or substitute fences or walls which otherwise contravene the general purpose and uniformity afforded by the plan.

(k) *Notice and penalties:*

- (1) In enforcing the provisions of this section against residential premises, the City may utilize those procedures set forth in code section 6-43 through 6-45 by citing the property owner and/or the occupant of the affected property.
- (2) The provisions of this section shall be in addition to such other remedies as may be provided by law or ordinance. The violation of, or failure to comply with any provisions of this section, shall subject the offender, upon conviction, to a fine not to exceed \$500.00.
- (3) Under the provisions of this section, each day a violation of this section exists shall constitute a separate offense and shall be subject to a separate penalty.

(Ord. 98-1-1, § 1, 1-13-98; Ord. No. 98-8-1, § 1, 8-11-98; Ord. No. 01-1-4, § 1, 1-23-01; Ord. No. 06-07-03, § 1, 7-25-06; Ord. No. 14-4-2, § 2, 4-22-14; Ord. No. 18-7-1, § 2, 2018; Ord. No. 19-6-1, § 2, 2019)