

ORDINANCE 2024-08

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING CHAPTER 110 ZONING, ARTICLE VI SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 3 LANDSCAPE FENCES, GATES, HEDGES, AND WALLS OF THE CITY'S LAND DEVELOPMENT CODE TO PROVIDE FURTHER INFORMATION ON DEFINITIONS IN APPLICABILITY OF DIVISION; TO INCLUDE THE VISION TRIANGLE, AMEND FRONT, SIDE AND REAR YARDS, AND INCLUDE FENCES AROUND SWIMMING POOLS IN LOCATION AND HEIGHT OF FENCES, HEDGES, AND WALLS; AND ADD A NONCONFORMITIES SECTION; PROVIDING FOR CONFLICT, CODIFICATION AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff has reviewed the current provisions of Article VI Division 3 of Chapter 110 of the Land Development Code of the City of Madeira Beach and recommends amending the building line definition to be less restrictive; and

WHEREAS, City Staff has reviewed the current provisions of Article VI Division 3 of Chapter 110 of the Land Development Code of the City of Madeira Beach and recommends amending the open fence requirements to be less restrictive and more descriptive and allow for the addition of decorative fencing such as split rail fences; and

WHEREAS, City Staff has reviewed the current provisions of Article VI Division 3 of Chapter 110 of the Land Development Code of the City of Madeira Beach and recommends adding information clarifying that construction fencing does not apply to this section; and

WHEREAS, City Staff has reviewed the current provisions of Article VI Division 3 of Chapter 110 of the Land Development Code of the City of Madeira Beach and recommends amending the height requirements to be more clear on where front, rear and side yards are located by utilizing the building line definition; and

WHEREAS, City Staff has reviewed the current provisions of Article VI Division 3 of Chapter 110 of the Land Development Code of the City of Madeira Beach and

recommends adding information regarding swimming pool fences, nonconforming fences and the intersection sight visibility triangle to reflect other sections of the Land Development Code; and

WHEREAS, the recommendations of staff have been found meritorious by the Board of Commissioners; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:

Section 1. The following verbiage in Chapter 110 Article VI Division 3 of the Land Development Code of the City of Madeira Beach are hereby amended to read as follows:

Sec. 110-446. - Applicability of division.

This division applies to all fences, hedges, and walls that are not specifically exempted from this division. This division does not apply to seawalls (see [chapter 14](#), article V of this Code for regulations on seawalls).

(1) *Definitions.* The following terms and phrases used in this division have the following meanings.

Building line means the line established by the setback required by the zoning district in which the lot is located, beyond which a building must not extend, ~~excepter~~ as specifically provided by this Code or approved variance from this Code. If the furthest vertical structural member of the primary structure on the subject property, or the abutting neighbor's shared property line to the proposed fence extends further than the established setback required by the zoning district, then that furthest vertical structural member shall apply as the building line.

Chain-link fence means an open fence consisting of a woven mesh of thick steel wire having a uniform diamond-shaped pattern.

Grade means a reference plane representing the average of finished ground level along the exterior edge of the fence, hedge, or wall.

Hedge means any installation or placement of plants, structural elements, feature art, ornaments or objects that together form a row, boundary or screen that extends more than three feet before a break (open space) of at least three

feet horizontally and six feet vertically. Hedges can be installed in conjunction with or in lieu of fences, except those fences required by the Florida Building Code, and must meet the same height restrictions as fences and walls except in the rear yard where the natural plant material of the hedge may be allowed to grow to natural height.

Picket fence means an open fence consisting of pickets or pales attached to horizontal stringers between upright posts.

Post means a sturdy vertical component placed into the ground to support a fence. Posts for residential use cannot be greater than five inches wide and posts for non-residential uses cannot be greater than eight inches wide. Posts may extend three inches above the restricted fence height.

Sand fence means an artificial barrier of evenly spaced wooden slats or synthetic fabric erected perpendicular to the prevailing wind and supported by posts.

Wall means a non-bearing landscape wall.

(2) *Building permits required.* All fences and walls except temporary construction fencing must comply with established building permit procedures.

(3) *Design.* All fences and walls on each property must have reasonably complementary or uniform design and materials.

(4) *Openings.* Openings in any fence must not allow passage of a four-inch diameter (102 mm) sphere unless spacing is greater than 12 inches for decorative fences not required by Florida Building Code.

(45) *Open fences.* When a fence is required to be open, the following criteria must be met. Open fences must have openings between vertical or horizontal members shall not be less than three inches and no greater than four inches between vertical and horizontal members. Horizontal members, other than the top and bottom horizontal members which cannot be greater than six inches wide, cannot be greater than two and one-half inches in width. Vertical members, other than posts which cannot be greater than six inches wide, cannot be greater than three and one-half inches wide. Openings in any fence must not allow passage of a four-inch diameter (102 mm) sphere.

Permitted open fences include chain-link and picket fences.

(56) *Materials.* Fences and walls must be constructed of traditional building materials including brick, stone, stucco over concrete block, finished concrete, metal, vinyl, wood (natural, stained, or painted), and composite products manufactured specifically for fences and walls. Non-traditional materials, such as tires, mufflers, hubcaps, etc. are prohibited. Chain-link and other wire fences are not permitted in front yards.

(67) *Finished sides.* Fences and walls must be constructed to present a finished side to all adjoining lots and abutting rights-of-way.

(78) *Maintenance.* After construction, fences and walls must be maintained with original components and remain substantially vertical to serve their function and aesthetic purposes. Structural integrity must be maintained to prevent a danger of destruction or flight during high winds. Hedges must be maintained at or below the maximum height permitted.

(89) *Dangerous structures.* Barbed wire, spire tips, sharp objects, or electrically charged fences or walls are prohibited.

Sec. 110-447. - Location and height of fences, hedges, and walls.

(a) *Setbacks.* Except as otherwise permitted or required by this Code, fences and walls are prohibited:

- (1) Within any right-of-way or street easement, or closer than three feet to any sidewalk or bike path,
- (2) Closer to the Gulf of Mexico than the County Coastal Construction Control Line,
- (3) Closer to the Gulf of Mexico than 18 feet landward of an existing seawall,
- (4) Closer than five feet to the mean high-water line along waterbodies, including canals, except a fence or wall may be permitted immediately landward of, or on top of, an existing seawall.

(5) Within the Intersection visibility triangle as specified in Sec. 110-423 unless three feet in height or less.

(b) *Height.* Height is measured from the average grade elevation ~~along the entire length of the fence, hedge, or wall.~~

(1) *Front yards.* From the required front building line to the right-of-way, all walls, solid fences, and hedges ~~located in front yards~~ must not exceed three feet. Open fences, must not exceed four feet. Chain-link and other wire fences are not permitted in front yards.

(2) *Side yards.* From the required front building line to the required rear building line, all fences, hedges, and walls ~~located in side yards~~ must not exceed six feet.

(3) *Rear yards facing water.* From the required rear building line to the rear property line, ~~a~~All walls and solid fences ~~located in rear yards~~ abutting or facing waterbodies must not exceed three feet, ~~except fences up to six feet~~

~~are permitted adjacent to sewage lift stations and along property lines adjacent to parking associated with nonresidential uses.~~ Open fences must not exceed four feet. Fences up to six feet are permitted adjacent to sewage lift stations, city pocket parks, and along residential property lines that are adjacent to commercial uses. When deemed necessary by the permitting authority to ensure life-safety and security however, a six-foot high solid or open fencing may be allowed or required in the site plan review process for commercial and institutional uses. In rear yards facing the Gulf of Mexico, open and sand fences must not exceed four feet and fencing that is wrought iron in appearance must not exceed six feet.

(4) *Sand fences.* Sand fences may be approved by temporary permits and must be removed when the director determines that sea oats have established a permanent vegetative screen. Permitted sand fences must be accompanied by no less than three rows of one-gallon container sea oats planted seaward of and along the entire length of the sand fence. Each sea oat planting must be no more than 12 inches apart, on-center, and rows separated by no more than 12 inches.

(5) *Rear yards not facing water.* From the required rear building line to the rear property line, a~~All fences and walls located in rear yards~~ not abutting or facing waterbodies must not exceed six feet.

(c) *Swimming pool fence:*

(1) Every outdoor swimming pool, outdoor spa and outdoor permanent wading pool shall be completely surrounded by an appropriate fence not less than four feet in height for all pools, commercial and residential. A building, existing wall or screen enclosure may be used as a part of such enclosure.

(2) For rear yards facing an open water body with a swimming pool, the required swimming pool fence must be four feet in height and must, at a minimum, have the highest foot of the fence constructed as an open fence in compliance with Sec. 110-446(5) (i.e. three-foot solid fence with one-foot lattice)

(3) All gates or doors opening through such enclosure shall be of self-closing and self-latching construction and shall be designed to permit locking. The releasing device for the latch shall be located no less than 54 inches from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside.

Sec. 110-448. - Gates required.

All fences, hedges, and walls must provide gates or openings to allow passage through the side yard from the front yard to the rear yard, with a minimum opening of 29 inches.

Sec. 110-449. – Nonconformities.

Any legally nonconforming fences, gates, hedges, or walls must be brought into conformance once any maintenance requiring a permit on the fence is done.

Secs. 110-4~~49~~50—110-470. - Reserved.

Section 2. For purposes of codification of any existing section of the Madeira Beach Code 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 3. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section 4. In the event a court of competent jurisdiction finds any part or provision of the Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

Section 5. The Codifier shall codify the substantive amendments to the Land Development Code of the City of Madeira Beach contained in Sections 1 through 3 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2024.**

Anne-Marie Brooks, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

APPROVED AS TO FORM:

Thomas J. Trask, City Attorney

PASSED ON FIRST READING: _____

PUBLISHED: _____

PASSED ON SECOND READING: _____