

ORDINANCE 21-

AN ORDINANCE AMENDING TITLE XV “LAND USAGE”, CHAPTER 158, “ZONING CODE”, ARTICLE XI “SUPPLEMENTARY USE REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE BY AMENDING SECTION 158.216 “FENCES AND WALLS”; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie, Florida adopted amendments to the City of Port St. Lucie Comprehensive Plan by Ordinance 12-19 (the “Comprehensive Plan”); and

WHEREAS, Section 163.3202, Florida Statutes, provides for the amendment and enforcement of land development regulations that are consistent with and implement the adopted comprehensive plan; and

WHEREAS, Section 163.3174, Florida Statutes, provides that the Local Planning Agency shall review proposed land development regulations and make recommendations to the governing body as to the consistency of the proposed land development regulations with the adopted Comprehensive Plan; and

WHEREAS, this City initiated code amendment, P21-___, proposes to amend section 158.216 to clearly state the permitted usable materials and design for residential fencing and privacy walls; and

WHEREAS, the City of Port St. Lucie Planning and Zoning Board having been duly designated as the local planning agency pursuant to Section 163.3174, Florida Statutes, and having held a public hearing thereon, has considered this proposed amendment to the Code of Ordinances (P21-___) and submitted its recommendations thereon to the City Council; and

WHEREAS, having considered the recommendations of the Planning and Zoning Board, the Port St. Lucie City Council has found and determined that the adoption of an amendment to section 158.216 will foster and preserve the public health, safety and welfare; improve and protect the environment and value and character of the community; and implement the adopted comprehensive plan.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. **Ratification of Recitals.** The City Council of the City of Port St. Lucie, Florida, hereby adopts and ratifies those matters as set forth in the foregoing recitals.

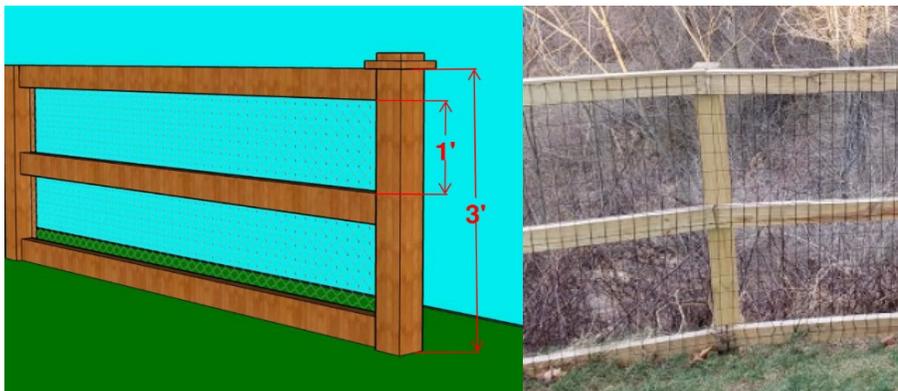
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Section 2. Section 158.216 (Fences and Privacy Walls), Article XI (Supplementary Use Standards), Chapter 158 (Zoning Code), Title XV (Land Usage) of the Code of Ordinances of the City of Port St. Lucie is amended as follows:

Sec. 158.216 – Fences and Privacy Walls

(A) **Construction.** All fences placed on property with residential zoning designation shall consist of the following materials:

1. Chain Link steel wire (6-9 gauge), aluminum, vinyl coated steel, polyester powder steel, Cedar, white oak, cypress, redwood, or pressure treated lumber.
 - a. Ornamental designs are permitted.
 - b. Imitation wood fences are permitted if the material is:
 - i Vinyl, composite, or other similar plastic fencing material.
 - ii Masonry material and/or any material comparable to masonry are permitted if it follows regulations listed in subsection (2.)
 - c. Lattice design is permitted on top of fencing if it is less than two (2) feet in height and the overall height of the fence and lattice work does not exceed the permitted fence height.
2. Masonry, any material comparable to masonry, or stone walls are:
 - a. Shall meet all Florida Building Code requirements including structural integrity.
 - b. Prohibited in that area extending from the front building line to the front property line, unless use as landscape material and follows requirements of Section 158.216 (H).
3. Chicken wire and barbed wire material in residential zoning districts are not permitted.
4. Vinyl coated welded wire may be used as an **interface** to a wooded fence when and only when:
 - a. The top, sides, and bottom of the wire (cut edge of wire) is hidden by the wooden fence.
 - b. The wood fence has a maximum height of Three (3) feet. Post caps may be in addition to the 3 feet but be limited to 3 inches maximum.
 - c. A Post & Rail fence has a top and bottom rail hiding the edges of the wire and the rails are no more than one (1) foot apart.
 - d. EXAMPLES OF PERMITTED:



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e. EXAMPLES OF PROHIBITED



5. Upon request from the city, the property owner shall remove permitted or unpermitted alterations or improvements within the city-owned easement.
 - a. The cost of removing permitted or unpermitted alterations or improvements within easements shall be that of the property owner.
 - b. The city will not be held responsible for any and all claims, loss, damage, or expense which may arise as a result of the placement or removal of any permitted or unpermitted alterations or improvements within an easement.
 - c. If a property owner fails to remove and restore the easement areas as required by Chapter 55, the city shall take any actions deemed necessary and appropriate to remove and restore the easement area and may collect the costs of such removal and restoration from the owner of the property.

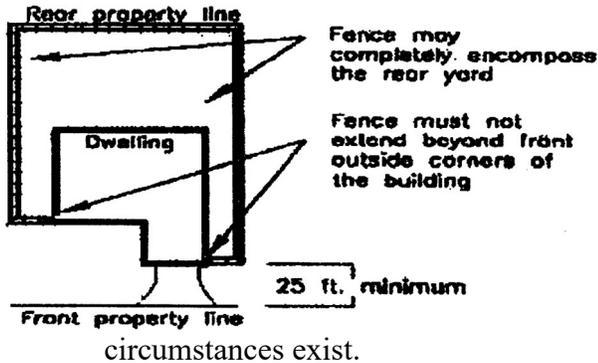
~~(A) Construction. All fences on property zoned residential shall consist of the following materials: Chain link, wood, masonry, or stone, aluminum, vinyl coated steel or polyester powder steel, ornamental and imitation wood fences. Chicken wire or barbed wire fences in residential districts are not permitted. Vinyl coated welded wire may be used as an interface to a wooden fence. Interface is defined as a material placed upon an existing fence, inside its common boundaries for the purpose of providing additional security. Masonry or stone walls shall be prohibited in utility and drainage easements on single-family residential zoned property, unless a specific waiver has been approved by the zoning administrator and City Engineer. All metal or wood fences located in utility or drainage easements shall be constructed to be easily removable.~~

(B) **Height.** No residential fence shall be of a height greater than eight (8) feet measured from the finished grade at the fence location. This height limitation is not intended to apply to enclosures surrounding, or part of, recreational or sporting facilities. Fences permitted for, or enclosures surrounding recreational or sporting facilities, will be evaluated by the Zoning Administrator on an individual basis.

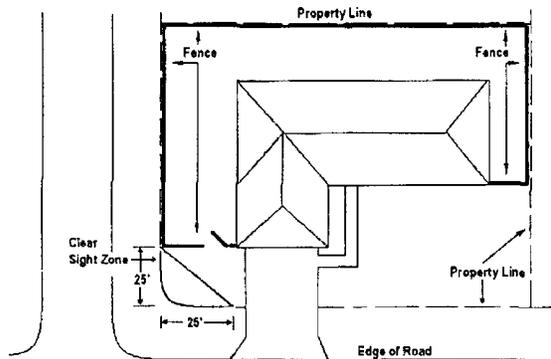
(C) **Distance from the Front Yard Property Line.** All fences on property zoned single-family residential shall be located at least twenty-five (25) feet from the front yard property line or even with the outside front corners of the building, whichever distance from the front yard property line is greater.

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- (D) **Distance ~~F~~ from the Rear Yard Property Line ~~W~~ when ~~A~~ abutting a Public Road Right-Of-Way.** All fences on property zoned single-family residential shall be located at least (25) twenty-five feet from the rear yard property line, when the rear yard property line abuts a public road right-of-way. The Zoning Administrator may waive this requirement if special



- (E) **Distance ~~F~~ from the Side Yard Property Line for Corner Lots.** On corner lots zoned single family residential, fences may be erected inside and adjacent to the side yard property line abutting a street right-of-way if the fence will not encroach into the sight triangle. The sight triangle shall be the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of street lines, or in case of a rounded



property corner from the intersection of street property lines extended.

- (F) **Fences to be Inside Property Line, Maintenance Responsibility.** All fences shall be erected inside the property line as set out on the plat adopted by the City. The maintenance of the property on both sides of the fence shall be the responsibility of the property owner.

- (G) **Enclosures for Swimming Pools.**

1. Shall meet all Florida Building Code requirements.

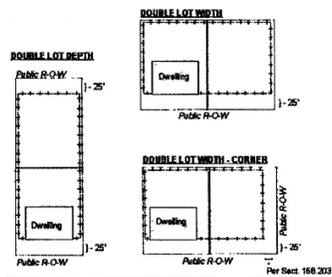
~~1. Where any pool is constructed on a lot located in the city, there shall be a fence or a suitable enclosure as set forth in the Florida Building Code, Residential around the pool area. The pool area shall be considered to include the concrete patio.~~

~~2. If the enclosure around the pool area shall be a fence, the fence shall be a minimum of four (4) feet in height, and a maximum of six (6) feet in height.~~

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~~3. The requirements of this section shall not apply to those residential lots wherein a residential fence otherwise complying with all of section 158.006 and being at least of a height of five (5) feet from the ground level has been constructed.~~

- (H) **Fences and privacy walls used as Landscape Material.** On property zoned single-family residential, segments of fencing including gates, may be utilized as landscaped treatment in that area extending from the front building line to the front property line provided that no property is enclosed. Fence material, including gates, shall not exceed four (4) feet in height. A two-foot break is required for each twenty feet in length. ~~The fence material shall be limited to wood, masonry, stone, vinyl or metal picket.~~ Fence material shall be regulated as in Section 158.216 (A). No gates or structure may be placed in the two-foot break.
- (I) **Nonresidential Fences.** Fences adjacent to residential property shall conform to the requirements of subsections (B) through (F) above, and Chapter 154, as well as other applicable codes and regulations of the City.
- (J) **Fences on vacant residential lots.** Fences shall only be permitted on a vacant residential lot/s when the following criteria have been met:
1. The vacant lot/s shall be adjacent to a lot that has an existing primary use.
 2. Both the vacant lot/s and the adjacent lot with a primary use shall be in common ownership.
 3. All lots must be located in the same zoning district and in the same future land use designation.
 4. The proposed fence shall meet the side, front, and/or rear setback requirements when abutting a public right-of-way as defined in subsections(C), (D) and (E).
 5. In the event that the abutting street to the subject property has a predominant fence setback that is greater than the requirements of this chapter, all proposed fences on that street shall be located to conform to that setback.



- (K) ~~The permit applicant shall sign an affidavit from the Building Department accepting responsibility for compliance with the City's regulations as stated in § 158.216 for all fence installations.~~

Section 3. All remaining provisions of section 158.216 shall remain in full force and effect.

Section 4. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

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Section 5. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 6. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

Section 7. Effective Date. This Ordinance shall become effective ten (10) days after final adoption on second reading.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney