

GROUP 4, ITEM B

FENCES AND WALLS

AMENDMENT SUMMARY

- Issue:** Existing land development regulations pertaining to residential fences and walls pose more restrictive height and setback regulations to property owners who live on corner lots or on lots abutting drainageways or other non-navigable bodies of water that wish to place privacy fences on their properties. Current regulations also require fence heights to be measured from the grade of an abutting property, which does not account for grade changes or drainage requirements for new construction, thereby diminishing the ability for a privacy fence to provide the requisite privacy expected by these fences.
- Solution:** Amend existing land development regulations pertaining to residential fences and walls to provide equitability in the placement and height of residential fences and walls.
- Outcome:** These modifications provide the ability for residential property owners on corner lots or on lots that abut non-navigable waterbodies to construct privacy fences that are commensurate with the privacy fences allowed on single-family residential lots that are not subject to these site constraints. They also provide greater latitude in measuring fence height and include other non-substantive changes to streamline the LDC and provide for ease in administration.

CHAPTER 34- ZONING

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 17. – FENCES, WALLS, GATES, AND GATEHOUSES

Sec. 34-1744. Location and height of fences and walls other than residential project fences.

- (a) *Setbacks.* Except as may be specifically permitted or required by other sections of this chapter or Chapter 10, no fence or wall, excluding seawalls, may be erected, placed or maintained:
- (1) Within any street right-of-way or street easement.
 - (2) Closer to the Gulf of Mexico than permitted by Chapter 6, Article III.
 - (3) Closer than five feet to the mean high-water line along natural water bodies, including canals created from sovereign lands, except that, where the canal is seawalled, the fence may be built landward of the seawall.
- (b) *Height.*

Staff note: The LDC currently provides four inches of discretionary relief in the case of fence height determination. This is intended to account for varying grade at time of final fence inspection. Where quarter-acre sites have steep drainage swales between lots due to modern septic tank elevation requirements, four inches proves insufficient. LDC section 34-3104 requires a drainage plan for all sites greater than 18 inches above the centerline of the adjacent street or any adjacent developed lot as measured at the common property line. Basing fence heights on existing grade results in a fence height measurement of more than six feet in height with no change the height of the fence material when accounting for post-construction grade changes. This subsection proposes an increase in discretion from four inches to 24 inches to compensate for grade variations and drainage needs provided that the height of the fence material complies with the maximum permitted fence height while prohibiting placement of a fence on a berm, retaining wall, or other similar improvement. This will streamline the fence inspection process and codify

staff's practice of assessing fence height without permitting an increase in the structural length of the fence or wall materials.

- (1) *Determination of height.* Except as set forth in §section 10-416 for required buffers, fence or wall height will be measured from the existing elevation of the abutting property.

In rear and side yards, the building official has the discretion to allow a deviation of up to ~~four~~ 24 inches in height where required to compensate for variations in grade, drainage, or weed maintenance, provided that the ~~length~~ height of the above-ground structural materials for the fence do not exceed the permitted height, and the fence or wall is not built on top of a berm, retaining wall or similar improvement.

- (2) *Maximum height.* Except as provided for in §section 34-1743(b)(1), the maximum permitted height for fences and walls is as follows:

- a. *Residential areas.*

Staff note: Residential lots with multiple road frontages, including corner lots, are often subject to onerous privacy fence location limitations. The LDC requires application of principal structure street setbacks in these situations which often results in significant areas of private property limited to enclosure by way of 4-foot open-mesh fencing. Property owners unaware of this local requirement seek variances which generally do not meet the standard for variance approval. Staff proposes revisions to fence location requirements to permit multiple-frontage lots with the ability to locate privacy fencing closer to a secondary street right-of-way in a manner that does not interfere with vehicle visibility.

- i. A fence or wall located between a street right-of-way or easement and the minimum required street setback line may not exceed three feet in height, ~~except fences~~ with the following exceptions:
 1. Fences may be a maximum height of four feet so long as the fence is of open mesh screening and does not interfere with vehicle visibility requirements (see §section 34-3131) at traffic access points.
 2. A fence or wall located along any secondary street right-of-way or easement, as defined in section 34-1174(b)(2), may not exceed six feet in height, provided:
 - i. The fence or wall is set back 5 feet from the street right-of-way or street easement or outside the width of any other easement, whichever is greater.
 - ii. The fence or wall complies with vehicle visibility requirements (see section 34-3131).

For the purposes of this section only, the term "open mesh screening" may include vertical picket-type fencing, provided that the minimum space between vertical members must be a minimum of 1½ times the width and thickness of the vertical members or bars. i.e., if the vertical members are two and one-quarter inches wide and three-quarter inch thick (total three inches), then the minimum space between them must be 4½ inches (1.5 times 3.0 equals 4.5). In no case may the space between vertical members or bars be less than 3¾ inches.

- ii. A fence or wall located between a side or rear lot line and the minimum required setback line for accessory buildings is limited to a maximum height of six feet. For the purposes of this section, the side yard will be considered that portion of the lot extending from the minimum required street setback line to the rear lot line.

Staff note: The LDC requires opaque fencing greater than 42 inches in height (3.5 feet) to be set back 25 feet from all waterbodies regardless of if the waterbody is navigable or considered scenic. The LDC defines both natural and artificial waterbodies as "a depression or cavity...which water stands or flows for more than three months of the year." The broad nature of these definitions creates unnecessary privacy fencing constraints for property along

drainage canals, ditches and other non-navigable artificial waterbodies. Staff proposes a minor revision to allow residential privacy fencing for property abutting drainage canals and other non-navigable artificial waterbodies. The Land Development Code's existing 5-foot waterbody setback for fences along navigable waterbodies will remain (see LDC Section 34-1744(a)(3)). No-Rise Certification requirements in regulatory floodways will also continue to influence the location of fencing adjacent to floodways.

- iii. A fence located within 25 feet of a waterway, as defined in section 26-41, or a natural body of water must be open mesh screening above a height of 3½ feet.
- b. ~~*Commercial and industrial areas.* A commercial or industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see Section 34-3131) at traffic access points.~~
- c. ~~*Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided it complies with the same regulations as are set forth for residential project fences in Section 34-1743.~~

Staff note: subsections (b) and (c) are proposed to be reordered for more intuitive sequencing. No change in language is proposed.

- b. *Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided it complies with the same regulations as are set forth for residential project fences in section 34-1743.
- c. *Commercial and industrial areas.* A commercial or industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.
- d. *Agricultural fences.* An open mesh or wire fence for bona fide agricultural uses may be a maximum height of eight feet along any property line in an agricultural district, provided that the fence does not interfere with vehicle visibility requirements (see Section 34-3131) at traffic access points.