

TOWN OF MELBOURNE VILLAGE

ORDINANCE 2014-02

AN ORDINANCE BY THE TOWN COMMISSION OF THE TOWN OF MELBOURNE VILLAGE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 23, ZONING CODE, ARTICLE V, FENCES, PROVIDING FOR SEVERABILITY, FOR RESOLVING CONFLICTS, AND FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF MELBOURNE VILLAGE, BREVARD COUNTY, FLORIDA, THAT:

SECTION 1. That Article V, Fences, of the Town Code be and is hereby deleted in its entirety; and

SECTION 2. That New Article V, Fences be created as follows:

ARTICLE V. FENCES

SECTION 23-36. PERMIT.

(a) **PERMIT REQUIRED.** It shall be unlawful for any person, association, corporation or other entity to install, erect, alter, or locate a fence or wall within the town without first obtaining a fence permit for such activity. Notwithstanding the foregoing, a fence permit shall not be required for the replacement or repair of an existing fence or wall unless the replacement or repair exceeds fifty (50) percent or more of the existing fence or wall before its repair or replacement. Any fence repaired or replaced beyond the fifty (50) percent shall meet all requirements of this article.

(b) **APPLICATION PROCEDURES.** Application for a fence permit under this section shall be made to the Building Official and shall include the following:

(1) A lot plan (or photocopy) provided by the applicant, to which the applicant has added;

a) The location, length and height of the proposed fence or wall; and

b) A description of the materials contained in the proposed fence or wall.

(c) **ISSUANCE OF PERMITS.** The Building Official shall issue a fence permit to an applicant under this section upon finding that the proposed fence or wall is in compliance with the provisions of this article and upon payment of the appropriate fees.

(d) **CONSTRUCTION TO WITHSTAND FORCES OF NATURE.** All fences and walls shall be constructed to withstand the force of wind and to allow, and not inhibit, divert or

alter, the free flow of surface water from the natural course it followed prior to installation of the fence or wall. Final acceptability is at the discretion of the building official.

SECTION 23-37. TYPES OF FENCES AND WALLS PERMITTED. Fences and walls shall be constructed and/or composed of a least one (1) of the following groups of materials:

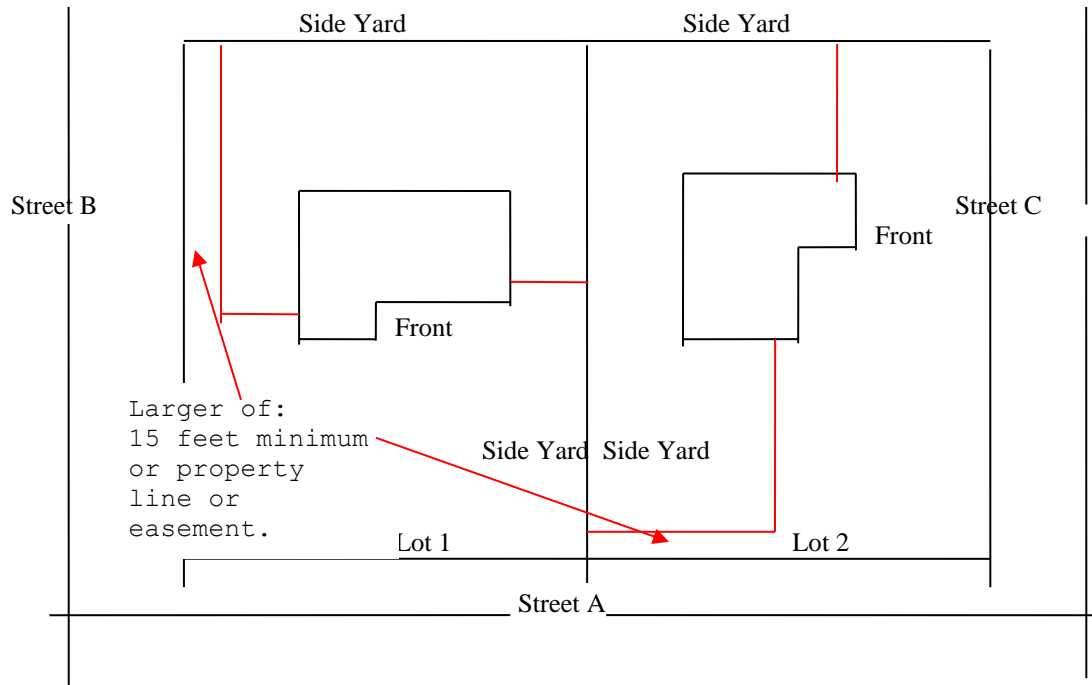
- (a) Termite-resistant species of wood or wood which has been treated to resist rot and termites;
- (b) Steel posts and wire fabric of a minimum of 12 gauge galvanized or other noncorrosive metal;
- (c) Ornamental metal;
- (d) DELETED
- (e) Rigid synthetic material.

EXEMPTIONS: Natural barriers consisting of vegetation, trees, flowers or hedges are exempt from this Article and shall not be construed as a fence or wall.

Areas used for confinement of gardens, pets, livestock, etc. may be "fenced" with a different material than that of lot perimeter and pool safety fencing (b) above. Material suitable for the intended confinement allowed to be Installed without permit if area does not exceed 10% of total lot size and not within setbacks.

SECTION 23-38. RESIDENTIAL LIMITATIONS AND RESTRICTIONS WITHIN THE R-1, R1-A AND R-2 DISTRICTS.

- (a) All fences shall not exceed six (6) feet in height and shall be located only within the rear or side yard. For side yard fences, no fence shall be permitted within two feet of the leading edge of the residence.
- (b) For the purpose of this section, rear yard shall be the yard extending from both the rear corners of the main structure (residence) to the adjacent side property lines. In case of an irregular shape lot or house, the Building Official shall determine the proper placement based on the intent of this section.
- (c) For the purpose of this section, corner lots shall be permitted to extend the fence toward the side street in the side yard only, providing a minimum setback from the street of 15 feet or to the property line or specified easement, whichever is greater.



SECTION 23-39. COMMERCIAL FENCES WITHIN THE COMMERCIAL DISTRICT AND COMMERCIAL APPLICATIONS WITHIN THE R-1 DISTRICT.

(a) All fences for any commercial application shall be reviewed and approved by the Planning and Zoning Board and the Town Commission.

(b) No fence or wall shall exceed eight (8) feet in height unless used as a required buffer. In that case, the wall must comply with Section 23-21 (8) and be a minimum of 8 foot high as measured on the highest elevation side. If there is a significant disparity in elevation on opposite sides of the required buffer, additional review is required to ensure the Intent of the buffer is met.

SECTION 23-40. PROHIBITED FENCES OR WALLS.

(a) Barbed wire, razor type, electric, fences with broken glass, spikes or other sharp points that may cause injury are prohibited.

SECTION 23-41. MAINTENANCE. All fences and walls shall be maintained in good repair, in a nonhazardous condition, and shall not be allowed to become dilapidated.

SECTION 23-42,---23-44. RESERVED.

SECTION 23-45,---23-53. PROVISIONS AMENDED, RENUMBERED AND TRANSFERRED TO CHAPTER 21. (Ord. No. 85-6, S 13)

Article VI and title, Tree Protection and Removal, deleted from this chapter. (Ord. No. 85-6, S 13)

SECTIONS 23-54,---23-60. RESERVED.

SECTION 1. This ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED by the Town Commission of the Town of Melbourne Village on the First Reading this 22d day of July, AD 2014,

AND on the Second and Final Reading on this _____ day of _____ AD 2014 .

Robert E. Downey
Mayor

ATTEST: _____
Gail E. Griswold
Town Clerk/Treasurer