



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
 PLANNING AND DEVELOPMENT SERVICES DIVISION
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PUBLIC HEARING: January 16, 2020 - Planning and Land Development Regulation Commission (PLDRC)

SUBJECT: Review of Residential Fence Height Regulations

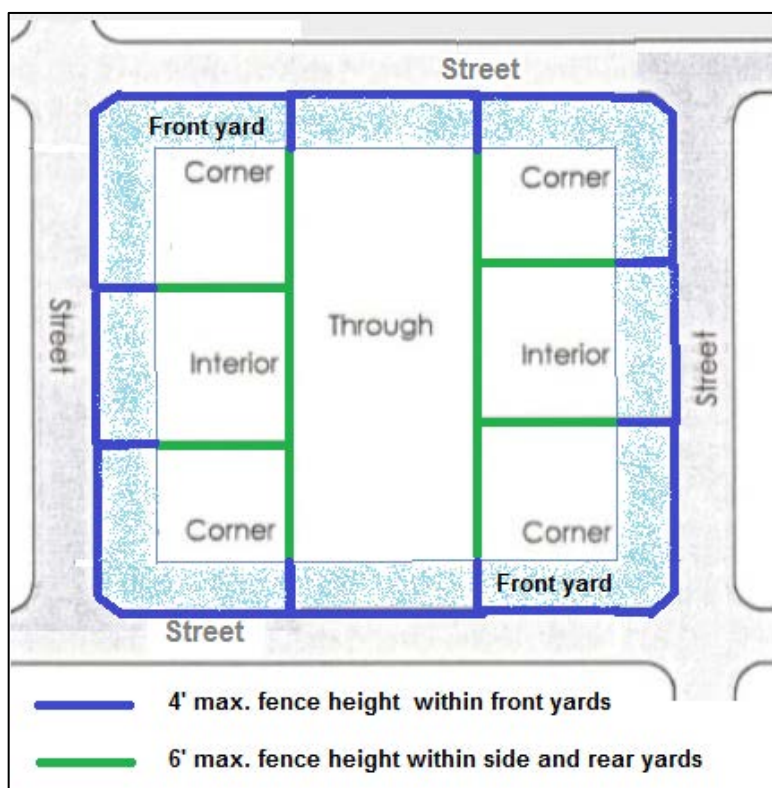
I. INTRODUCTION

In response to the Planning and Land Development Regulation Commission's (PLDRC) request, the County Council directed staff to review residential fence height standards at their meeting on July 16, 2019. Specifically, the PLDRC requested that staff review alternatives for maximum fence height in front yards based on size and scale of the property. This request followed a variance to fence height in the front yard for decorative features of a fence. Staff has reviewed several codes from other jurisdictions for comparison, and has solicited input from Volusia County Public Protection and Transportation Engineering as to the merits of allowing taller fence heights in front yards.

II. BACKGROUND AND OVERVIEW

Pursuant to Section 72-282(2) of the Zoning Ordinance, fences in residential zoning classifications are limited to a maximum of four feet in height within the front yard. Fences erected along rear or side property lines may be up to six feet in height. The graphic to the right illustrates how this is employed on different types of lots.

Rear yard fences. A rear yard is often where residents store extra vehicles, boats, trailers, equipment, and other materials. In addition, rear yards may contain pools and patios, providing a place for residents to congregate for outdoor activities. The additional privacy created by a taller fence (six-foot) is appreciated by both the property owner as well as a neighbor that may not wish to

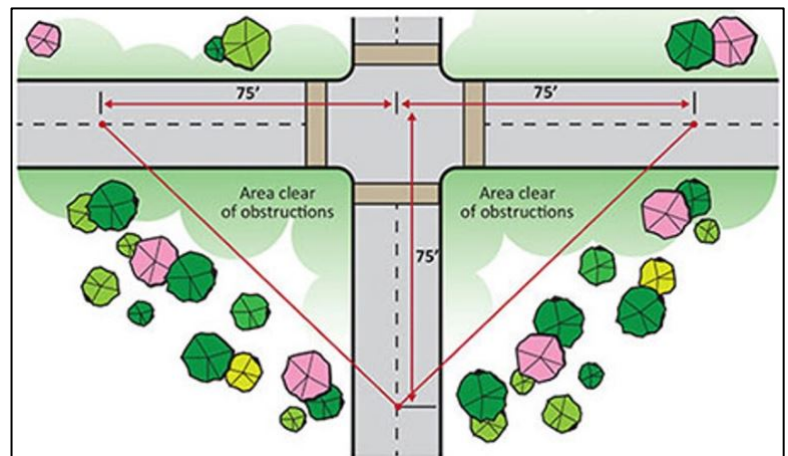


observe adjacent rear yard activities. There are situations where the property owner may desire a rear yard fence taller than six feet; however, the rule of thumb is that a back yard fence should be no more than six feet tall so that it doesn't block light, air flow or the general view shed for neighboring properties. Six-feet is a standard height limitation employed by most jurisdictions.

Front yard fences. Generally, fence heights are limited to three to four feet in front yards, and many jurisdictions also regulate the percentage of opacity for front yard fences. Volusia County allows up to four feet and does not regulate the opacity.

There are three general reasons for limiting the fence height in front yards to a lower height. Maintaining aesthetic appeal of a given neighborhood is one of the reasons for limiting front yard fence height. Front yards typically face neighborhood streets. A maximum of four feet helps maintain a sense of community by preventing the visual impact of walled off properties from the adjacent roads and neighborhood. The aesthetics of a fence depends on the type of fence installed and how it's maintained; however, when erected adjacent to a sidewalk or a roadway, taller and/or opaque fences can be unwelcoming to passerby pedestrians or motorists.

Second, taller fences can also create potential traffic hazards. The primary reason for shorter front yard fences is that taller fences may obscure the sight distance of drivers. Drivers exiting a driveway have a better chance of seeing oncoming traffic, and passerby traffic has a better view of the oncoming traffic and potential hazards in the road ahead. Intersections are most critical, and often fences are additionally limited within the intersection sight-distance triangle. This triangular area requires sufficient sight distance to the adjacent roadway approaches, as illustrated in figure to the right. Fences within this area are reviewed by Traffic Engineering to ensure that traffic visibility is maintained.



Law enforcement is the third reason for limiting the fence height in front yards. The lower fence height allows law enforcement to see into yards adjacent the streets they are patrolling. A taller fence reduces visibility of the yard and hinders their ability to notice suspicious activities. It is also a safety factor, as responding officers are better able to scan properties prior to exiting their vehicles.

III. ANALYSIS

Comparison with other jurisdictions. Staff conducted a review of fence regulations for the cities within Volusia County and for a few nearby counties. The scope of the review was thus narrowly focused on fence height in front yards. However, side and rear fence heights were also captured, and material specifications or particular restrictions were

noted if applicable to residential fences. It should be noted that fence codes vary in complexity and it is important to understand that there are nuances to each jurisdictions codes that are not captured in this review.

Of the 19 jurisdictions reviewed, 15 limit the fence height to four feet within the front yard. A few limit fence height to three feet, and only two allow a fence height higher than four feet. Ormond Beach allows a six-foot fence if it is less than 50 percent opaque, otherwise fence height is limited to three feet. Deltona allows a five-foot fence. Lake Helen allows a six-foot fence; however, it must be 25 feet back from the property line and not opaque. Nearly all jurisdictions discuss that there shall be no obstructions within the sight triangle, and Ponce Inlet limits fence height to three feet within this area. No other jurisdiction, with the exception of Ormond Beach made an allowance for a higher fence in the front yard, if decorative or less opaque. This exercise confirmed that Volusia County fence regulations are not unusually restrictive. (See attachment.)

Variance Activity. Staff reviewed case history for variances to fence height. Within the last five years there have been 10 cases, some with multiple requests. All were approved with the exception of two. All approved cases had unique circumstances that compelled the determination.

Variances for Fence Height - 2014 through 2019			
Case #	YARD	Description	Determination
V-15-060	Front	Existing fence on corner lot-side street, from 4' to 6'.	Approved
V-16-005	Side	Atypical lot, existing fence, incorrectly permitted.	Approved
V-16-022	Side Front	Side yard from 6' to 8', and front yard from 4' to 8', corner lot-side street. Side street was an unopened r/w, which was later vacated.	Approved
V-16-024	Rear	From 6' to 8', rear yard adjacent to I-95.	Approved
V-17-009	Front	From 4' to 6', Corner lot-side street side for pool privacy.	Approved
V-18-057	Front	From 4' to 6'. Property has 3 front yards, variance denied for primary front yard, approved for side streets as they were emergency maintained only.	Approved and Denied
V-19-024	Front	From 4' to 6', Through lot (rear).	Approved
V-19-032	Front	From 4' to 5', Decorative features (gate) for wrought iron fence.	Approved
V-19-039	Front	From 4' to 6', Corner lot-side street, existing fence.	Approved
V-20-008	Front	From 4' to 5'.	Denied

Departmental Considerations. Transportation Engineering and the Sherriff's Office were consulted regarding amending the fence height standards. Transportation Engineering expressed concern that higher fence heights adjacent to roads may block visibility at the sight triangle and along curved roadway segments. The Sherriff's Office also expressed concern regarding traffic safety, and also felt that higher fence heights may compromise officer safety.

Size of Property. The issue raised by PLDRC was specifically related to the size of property versus fence heights in front yards. The case that triggered the request was for a five-foot high wrought iron fence to be located along the front property line on a six-acre property. The fence was 4.5 feet in height, and the gates were 5 feet in height. The justification provided by the applicant was to provide additional security since the property was large and the house was located 600 feet from the property entrance.

Although the variance was granted, the argument for higher fence heights on larger properties for added security is poor. Primarily, a six-foot fence can be erected in front of a house, subject to simply meeting the front yard setback. Any fence erected beyond the front yard setback line can be up to six feet in height. In this case, the property was zoned Rural Residential, which requires a front yard setback of 40 feet. The parcel was large enough to accommodate a 40 foot setback for the fence and retain 550 feet of front yard. On larger parcels, the house is often setback further than the minimum required setback, thus providing room for a six-foot fence in front of the house if so desired. If the house is positioned at the setback line, the argument for additional security is less credible.

Secondly, the size of a qualifying parcel becomes a point of contention. An owner of a quarter-acre lot has the same security concerns that an owner of a 10-acre parcel has. It is difficult to argue that larger lots require additional security over smaller lots.

Also, it should be noted that bonifide agricultural parcels, meaning parcels that have an agricultural classification from the Property Appraiser's Office, are exempt from the fence regulations. These parcels are usually five acres in size or greater. They are not required to obtain a building permit for a fence used for bonifide agricultural purpose and therefore are not subject to the height limitations.

IV. STAFF RECOMMENDATION

Generally, staff recommends that no changes be made to the current fence regulations. The number of variance requests in the last five years does not warrant amending the code. Further, where there have been unique circumstances where the board felt a higher fence height was not contrary to the intent of the code, the variances have been granted.

However, staff does recognize that it may be advantageous to revise the code, or allow an administrative variance, for certain decorative fence features. Namely, front yard fences that have less than 50 percent opacity, such as wrought iron or picket fences, where decorative features such as columns or gates may extend above four feet in height. The decorative features of these types of fence is typically six inches to one-foot above the main body of the fence. It would not be contrary to the intent of the fence height regulations to allow for these types of decorative features.

V. ATTACHMENTS

Fence Regulations Comparison by Jurisdiction

Jurisdiction	Maximum Height (front)	Maximum Height (side)	Maximum Height (rear)	Materials	Restrictions
Volusia County	4 feet	6 feet	6 feet	concrete block, brick, wood, decorative aluminum, iron or steel, chain link or composite products manufactured specifically for fences	barb wire, electric fences, non-traditional materials such as hubcaps, tires, mufflers
Daytona Beach	4 feet	6 feet	6 feet	not specified	chain link prohibited between front lot line and front of structure, barbed wire
Daytona Beach Shores	3 feet	6 feet	6 feet	not specified	
DeBary	4 feet	6 feet	6 feet	not specified	
DeLand	4 feet	6 feet	6 feet	wood, steel posts, wire, metal fabrication, concrete, masonry, vinyl, native vegetation may be used in lieu of a fence	barbed wire, electrically charged materials, rubble, scrap iron, bottles, junk, and any other like material
Deltona	5 feet	6 feet	6 feet	wood, chain link, masonry, concrete, vinyl, or wrought iron and with a uniform percentage of opaqueness	razor wire, barbed wire, chicken wire, electric fence
Edgewater	4 feet	6 feet	6 feet	not specified	barbed wire, electrified fences
Holly Hill	4 feet	6 feet	6 feet	wood, masonry, chain link, iron	barbed wire fences, razor wire fences, electric fences, or any type of fences that can harm humans or animals
Lake Helen	6 feet if setback 25' from front property line and fence is not opaque	6 feet	6 feet 8 feet if adjacent commercial	not specified	chain link must be black or green vinyl coated
New Smyrna Beach	4 feet	6 feet	6 feet	not specified	barbed wire
Oakhill	4 feet	6 feet	6 feet	not specified	barbed wire, electrical wire, broken glass, spikes, nails or similar material
Orange City	4 feet	6 feet	6 feet	not specified	
Ormond Beach	3 feet 6 feet if less than 50% opaque	6 feet	6 feet	wood, PVC, masonry, picket, wrought iron style, rail	No fence permitted within 3 feet of a right-of-way. No chain link fences in front and corner yard.

Jurisdiction	Maximum Height (front)	Maximum Height (side)	Maximum Height (rear)	Materials	Restrictions
Ponce Inlet	4 feet 3 feet in sight triangle	6 feet	6 feet	Plastic, vinyl, masonry, metal, or wood, concrete, concrete block, stone, brick or any suitable masonry material.	scrap metal, barbed wire, chicken wire, razor wire, spire tips, sharp objects, or electrically charged fences.
Port Orange	4 feet	6 feet	6 feet	not specified	Barbed wire, razor wire, or similar material. No fence shall be closer than 5 feet to a right-of-way.
South Daytona	4 feet	6 feet	6 feet	not specified	not specified
Flagler County	4 feet	6 feet fence posts- additional 6 inches	6 feet fence posts- additional 6 inches		
Seminole County	3 feet	6 feet 6 inches	6 feet 6 inches		Barbed wire.
Brevard County	4 feet	6 feet	6 feet	wood, iron, pvc	not specified
Indian River County	4 feet	6 feet	6 feet	wood, materials with the appearance of wood, aluminum, metal picket, vinyl, natural stone, brick, iron, steel, chain link, composite products	chain link fences in front yard setback, barb wire, electric fences, non traditional materials