

Agenda Item 11
Meeting of 2/3/10

ORDINANCE 10-12601

AN ORDINANCE RELATING TO FENCES AND WALLS; AMENDING SECTION 56-37(b)(1) AND SECTION 56-54(a), OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO PROVIDE FOR POOL SAFETY FENCES, CLARIFY THE BASE POINT OF MEASUREMENT AND ADDRESS RETAINING WALLS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, City Council has directed staff to modify the requirements for fence and wall heights; and

WHEREAS, following a public hearing, the Planning Advisory Board has considered the recommendation of the staff and the public input and has recommended by a vote of 7 to 0 that the provisions of the Code of Ordinances pertaining to fence and wall heights be revised; and

WHEREAS, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that it is in the best interest of the City of Naples to approve Text Amendment Petition No. 09-T7;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 56-37(b)(1), Fences and Walls, of the Code of Ordinances, City of Naples, Florida, is hereby amended as follows, (with ~~striketrough~~ indicating deletions and underline indicating additions):

Sec. 56-37. Fences and walls.

. . .

(b) *Standards for all zoning districts except for R1-15A residence (see section 58-124), C commercial, I industrial, and D downtown.*

(1) *Height.* The maximum permitted fence or wall heights are as follows:

a. Side, rear yards, and adjacent building envelope: 6 feet.

b. Front yard within building envelope: 6 feet including appurtenances, gateposts, gates, and other architectural embellishments except that fence posts are permitted to be 6 feet 6 inches with a minimum spacing of 6 feet between posts except for gates.

c. Front yard outside building envelope: 3 feet maximum fence or wall height. Fence or wall height shall not exceed 3 feet except as follows:

1. Fence posts shall not exceed ~~3 feet~~ 6 inches above the fence they are supporting. Fence posts

that extend above the allowable fence height must maintain with a minimum spacing of 6 feet between posts except for gates.

2. In addition to the 3 feet, decorative metalwork, or materials providing a similar appearance, ~~wrought-iron~~ not to exceed 18 inches is permitted.
3. ~~Gates and gateposts~~ shall not exceed a height of 6 feet including architectural embellishments. Gateposts shall not exceed a width of 2 feet 4 inches and may extend 6 inches taller than the gate they are supporting.
4. On properties with more than one front yard, a fence meeting the minimum requirements necessary to comply with of the Florida Building Code for pool safety may extend ~~a maximum of five feet~~ into a the required front yard.
5. Pool safety fences may be built to the minimum height necessary to meet Florida Building Code requirements in required side and rear yards.

~~In addition, a maximum of 18 inches of decorative wrought iron may be provided. Gates and gateposts shall be permitted at a maximum height of 6 feet including architectural embellishments. Gateposts shall be a maximum of 2 feet in width.~~

- d. Barbed wire fences shall not be permitted in the front, rear or side yards, excluding city-owned property.
- e. The height of a retaining wall is measured from the average elevation of the crown of road along the property frontage to the top of the finished grade and shall be governed by Section 56-54, Yards. The total height of walls extending above finished grade shall be governed by this section.

Section 2. That Section 56-54(a), Yards, of the Code of Ordinances of the City of Naples, Florida, is hereby amended as follows, (with ~~strikethrough~~ indicating deletions and underline indicating additions):

Sec. 56-54. Yards.

(a) Encroachments into required yards. Structures less than 30 inches in height, other than swimming pools, are not considered encroachments upon minimum required yards. Every part of every required yard shall be open and unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of road along the property frontage ~~general ground level of the graded lot upward~~, except as provided in this section or section 56-45, Pools. Bermed earth, plant materials and driveways that follow the contours of the grade are not considered encroachments.

- (1) Cornices, overhangs, decorative awnings with no ground support installed over windows and at entrances, eaves and gutters, chimneys, bay windows, balconies and means of egress may project at maximum of 36 inches into required yards, except as limited in the R1-15A zoning district. Larger awnings, such as porte cocheres, requiring pole supports to be placed in a setback area, or those without pole supports which encroach more than 36 inches into required yards, may be approved at the discretion of the city manager. These encroachments are permitted in all zoning districts except single-family districts, and such awnings must function as decorative architectural elements as opposed to garage, carport or other similar storage facilities. Air conditioning and pool equipment permitted and installed prior to the effective date of this ordinance may be maintained and replaced provided the new equipment does not encroach more than 36 inches into any required yard.
- (2) In single-family districts, excluding the R1-15A district, the following encroachments are permitted into the required side yard as the line of setback bends to a 12:12 slope beyond the first 15 feet of height:
 - a. Chimneys are permitted to encroach a maximum of 5 feet vertically or the minimum distance necessary to meet the fire safety requirements of the Florida Building Code.
 - b. Balcony railings are permitted to encroach a maximum of 4 feet vertically. These railings must be at least 50 percent transparent and open in design, and the width of the balcony and railing cannot exceed 50 percent of the width of the facade on which it is located, as measured from the base of the structure.
 - c. Overhangs are permitted to project 36 inches beyond the line of setback. An overhang shall include only that part of the roof that extends beyond the vertical extension of the outside face of the wall.
 - d. No other part of a structure, including any portion of a roof, may encroach into the required side yard as it bends to the 12:12 slope.
- (3) Horticultural growth and support therefor, such as arched arbors or trellises, poles, play equipment, wires, lights, mailboxes, and outdoor furniture are not considered yard encroachments.
- (4) Boat shelters are permitted in accordance with this chapter.
- (5) Chickees may be permitted in rear yard setback areas by the approval of a conditional use permit. Such structures may not be enclosed, must be constructed of natural materials, may not obstruct the view or interfere with the privacy of an adjacent neighbor, and may be used only to provide shade or serve as a decorative architectural element and may not be used as a

carport, storage shed, boat shelter or the like.

- (6) The height of a retaining wall is measured from the average elevation of the crown of road along the property frontage to the top of the finished grade. Retaining walls exceeding 30 inches in height are not permitted in required yards unless otherwise allowed as part of a pool deck. The total height of walls extending above finished grade shall be governed by Section 56-37, Fences and walls.

Section 3. That it is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Naples, Florida, and that the sections of this ordinance may be renumbered to accomplish such intention.

Section 4. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict therewith, be and the same are hereby repealed to the extent of such conflict.

Section 6. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 20TH DAY OF JANUARY, 2010.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 3RD DAY OF FEBRUARY, 2010.

Attest:

Tara A. Norman
Tara A. Norman, City Clerk

M:\REF\COUNCIL\ORD\2010\10-12601

Bill Barnett
Bill Barnett, Mayor

Approved as to form and legality:

Robert D. Pritt
Robert D. Pritt, City Attorney

Date filed with City Clerk: 2-18-10