



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

ORDINANCE NO: 2406-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE-FAMILY/ DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the effective regulation of fences and other enclosures is vital to the Public's health safety and welfare, and

WHEREAS, the City's Comprehensive Plan establishes Policy A.5.2 of the Future Land Use Element, which establishes the Policy of neighborhood sustainability and compatibility, and

WHEREAS, Policy B.3.2 of the Future Land Use Element of the City's Comprehensive Plan establishes the compatibility with surrounding land uses and neighborhood design, and

WHEREAS, on April 22, 2019, the Local Planning Agency met for the purpose of transmitting its recommended amendment to the Land Development Code, and

WHEREAS, the Stuart City Commission held duly noticed public hearings on May 13, 2019 and May 27, 2019 to consider this ordinance and provide for full public participation in the Land Development Code amendment process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City of Stuart Land Development Code Chapter 6, Section 6.09.05., "Fences, Walls, Hedges and Enclosures" is hereby amended as follows:

Sec. 6.09.05. Fences, walls, hedges, and enclosures.

- A. *General requirements for all walls and fences.* The regulations set forth in this section 6.09.05 shall apply to any existing or new development for residential, business, public, or industrial property for which a fence or accessory structure permit application has been submitted to the city development department. (Ord. No. 1742, 7-10-00)
1. The requirements of this section shall be in addition to and shall supersede in the event of a conflict those contained in the building code, relating to type of construction and materials of fences or walls.
 2. Any fence or wall over six feet in height must be designed and sealed by a licensed professional engineer or licensed architect.
 3. Wooden fences shall be of the woven or staggered type, with at least 30 percent of their area open to permit the flow of air. Only within the R-1A, R-1, and R-2 zoning districts shall a stockade type fence be permitted. (Ord. No. 1741-00, 7-10-00)
 4. Fences and walls shall be constructed of concrete, cement blocks, brick, chain link, wood, ornamental wrought iron, stone, or any alternate material as approved by the city development director. Concrete or cement block walls shall be stucco or provided with a textured finish. (Ord. No. 1742, 7-10-00)
 5. Metal fences shall be of non-corrodible metal or galvanized wire fabric, having a minimum of 11 gauge, ~~mounted on steel posts.~~
 6. Ornamental iron fences shall meet the requirements of section 6.09.05.A.17 of this Code.
 7. Fences or walls should be generally in harmony and compatible with their surroundings, including, but not limited to the following factors of compatibility: maximum height, materials, fence or wall type and use of landscaping.

8. All fences and walls shall be maintained in good repair on both sides, so as to be structurally sound.
9. All fences and walls on the same property shall be continuous in alignment and of uniform construction and appearance.
10. All new and existing fences and walls shall be finished on the exterior side (all framing facing the interior) and shall be maintained in an attractive condition.
11. No fence shall be constructed of materials which easily corrode, decay or rust, unless specifically treated to inhibit such corrosion, decay or rust.
12. The height of fences and walls shall be measured from existing natural elevation of a lot, prior to any construction or alteration. (Ord. No. 1453-96, 6-1-96)
13. An entryway bower, arbor, or trellis, constructed in conjunction with a fence or wall, shall not exceed a maximum height of nine feet, measured from existing grade.
14. A fence or wall shall only be located on a developed parcel of land - unless the owner or contractor can clearly demonstrate that an extenuating circumstance exists creating a situation that compromises the safety, health, and general welfare of surrounding residents.
15. No fences, walls, or hedges may be located within the intersection sight-triangle as set forth in section 6.04.03.B.8., Visibility triangles. (Ord. No. 1742, 7-10-00)
16. *Electrical fences prohibited.* Electrically charged fences are prohibited, except in prisons or jails.
17. *Barbed wire or razor wire fences.* Barbed wire fences are hereby prohibited, except at the top of fences or walls erected in industrial, business, commercial or public use zoning districts. Razor wire fences shall only be permitted to be used in jails or prisons.
18. *Dangerous materials prohibited.* Unless specifically permitted in this article, no fence, wall, or other enclosures shall include materials or devices, such as broken glass, spikes, razors, nails or similar materials intended or designed to maim, mutilate or cause other bodily injury to any person or animal.
19. *Construction design for wind pressure and other stresses.* All fences and walls shall be adequately secured and designed to withstand wind pressure of at least 50 pounds per square foot and any additional stresses to which they would normally be subjected, unless the Building Code calls for higher standards or more restrictive construction.
20. *Obstruction of water drainage.* In no case shall a fence or wall restrict the natural sheet flow of water or impede movement of drainage water from swales, drainage ditches, etc.

21. All non-residential and multi-family development projects shall also install a construction fence with a temporary six-foot chain link fence with obscure green or black fabric of uniform color or other visual barrier material approved by the Development Director around the site prior to the initiation of the construction phase.

B. *Specific requirements, including type, material, and design for fences or walls--in single-family or duplex residential districts.* In single-family and duplex residential zoning districts, all fences and walls constructed shall comply with the following requirements:

1. For Single Family and Duplex lots on R-2 zoned property, fences and walls may be erected or maintained along or adjacent to a lot line to a height not exceeding six feet in the side and rear yards. Opaque fences and walls erected within the front yard shall not exceed a height of four feet, unless otherwise allowed in this chapter. Open fences, such as chain link, picket, lattice, rail or similar fences and are not otherwise opaque, shall not exceed a height of six feet. Opaque fences and walls may be raised to six feet along the side lot line, if at least 10 feet from the front yard property line or sidewalk, whichever is closest. Opaque fences within the front yard may not completely enclose and obscure the house from view of the public right of way, unless they are less than 4 feet high. Such fences and walls may be raised to six feet in height for a total length of 8 feet per property. For all other residential zoning districts, the maximum height of walls or fences along the rear and side yards shall be six feet. All heights are measured from the base of the fence.
2. If the fence or wall abuts (disregarding intervening alleys or unopened rights-of-way) a zoning district other than single-family or duplex residential, then the single-family owner or occupancy may elect to comply with the requirements of such abutting zoning district.

* * *

F. *Height of fences or walls at intersections.*

1. Anything else in this section to the contrary notwithstanding, three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall which is located within 20 feet of the following intersections, unless protected by a traffic-control device:
 - a. The right-of-way lines of two streets;
 - b. The right-of-way line of a street and the right-of-way line of an alley;
 - c. The right-of-way line of a street and the right-of-way line of a railroad.

2. Three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall to which is located within eight feet of the following intersections:

a. The centerline of a driveway and the abutting right-of-way line.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provisions of this ordinance shall be codified.

SECTION 5: This ordinance shall become effective immediately upon adoption.

Passed on first reading the ____ day of _____, 2019.

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

REBECCA S. BRUNER, MAYOR
EULA R. CLARKE, VICE MAYOR
KELLI GLASS LEIGHTON, COMMISSIONER
MERRITT MATHESON, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED on second and final reading this ____ day of _____, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY