

# TOWN OF MALABAR

JOINT COUNCIL AND PLANNING AND ZONING ADVISORY BOARD  
WORKSHOP MEETING  
WEDNESDAY MAY 27, 2009

7:00 PM

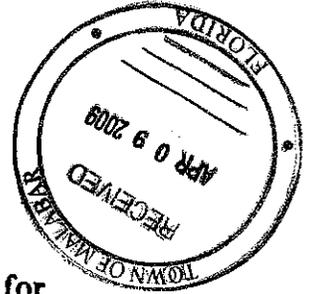
MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA

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## AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
- B. ROLL CALL
- C. DISCUSSION: FENCE REGULATIONS
- D. ADJOURN:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service. In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.



setbacks of buildings.

Entrances and accessways to off-street parking areas for multifamily and commercial zoned lots shall be kept free of obstructions to visibility as directed by the city traffic engineer.

- (5) *Fences, walls and hedges.* Fences, walls and hedges located in the front yard of any district shall not exceed four (4) feet in height, measured from the crown of the street, except as further restricted at intersections. In residential districts,

fences and walls may be erected to six (6) feet in height if located no closer than fifteen (15) feet from the front property line except as further restricted at intersections. A wing wall attached to the building may be erected to a maximum height of a one-story eave. Said wall is not to be roofed and must run approximately parallel to the front of the building and must reduce to six (6) feet in height at the side property line. Fences and walls six (6) feet in height may be located on or within any residential rear lot line. However, fences and walls eight (8) feet in height may be erected along any residential property line which abuts commercial property. In commercial districts fences eight (8) feet in height may be erected to the rear of the front building setback line. No wall or fence shall be erected on a rear lot line so as to endanger either a bulkhead or the dune line. Fences and walls over eight (8) feet in height may be erected wholly within front, side and rear building setback lines.

The heights of fences and walls on the side and rear of lots shall be measured at the intersections of the grades at the property line.

**SECTION 81.30. HEDGES AND FENCES**(a) *Permit:*

- (1) No owner or occupant of any property or any other person shall erect, construct or install any fence or wall within the city without first obtaining a permit therefor from the building official.
- (2) Prior to the issuance of any permit for the erection, construction or installation of any fence or wall within the city, the building official shall first approve the type, design and location of the proposed fence or wall to be erected.
- (3) The use of barbed wire or strands of barbed wire, and electrified fences are prohibited in all residential zone districts unless provided in these regulations.
- (4) The outside (the side nearest and facing abutting property) of any fence shall be the finished side of such fence except when the fence is erected and located within three (3) feet from a required masonry wall separating commercially zoned property from residentially zoned property, in which exceptional event the fence shall not be required to be finished on the outside at such places where the outside of the fence cannot be seen by the public from public property.
- (5) No fence, hedge or other structure shall be placed or constructed within a drainage maintenance access easement or tract.

(b) *Height:*

- (1) No owner, occupant, or other person, or party whosoever shall erect, keep, or maintain in existence any fence, wall or structure, nor plant, keep, or maintain any hedge, bush, or shrubbery, in any front yard between the building setback line applicable to such front yard and the right-of-way line of the street upon which the property fronts, nor in any side yard of a corner lot between the building setback line applicable to lot fronting on the side street, and the right-of-way line of the side street, except as follows:

Residential zoned properties: (i, ii, iv, v, vi)

Commercial and professionally zoned properties: (i, ii)

Manufacturing and industrial zoned properties: (i, iii)

- (i) Opaque: walls, fences, structures, shrubbery, hedges and bushes, three (3) feet in height or less.
- (ii) Chain link fence, four (4) feet in height, or less.
- (iii) Chain link security fence, six (6) feet in height.
- (iv) In the event the subject lot is a corner lot without a key lot adjoining at the rear, and is a corner lot having a rear property line in common with the rear line of another corner lot, then the required front setback or corner setback distance may be reduced to five (5) feet, however, only along the common side yard setback line.
- (vi) A right-of-way buffer wall/fence may be placed on corner lots, on the right-of-way side of the lot which does not have the driveway connecting to the right-of-way, with the approval of the planning commission. Said buffer wall/fence shall apply to only those corner lots which are in subdivisions that were platted before 1990. The planning commission shall review all requests to construct right-of-way buffer walls/fences to ensure the site-triangle distance established in section 52.23 is not violated. The planning commission shall review the types of

materials to be used in the construction, and may allow individual property owners to use wood products.

(2) No owner, occupant or other person or party whomsoever shall erect, keep or maintain in existence any fence or wall exceeding six (6) feet in height upon real property classified as within a residential district under the Zoning Ordinances of the city; except, that the height limitations established by subsection (b)(1) of this section shall be applicable to fences, walls or structures in the specific areas within residential districts as therein described.

(3) No owner or occupant of property whereon a fence, wall or structure is situated within an area as described in subsection (b)(1) of this section shall cause, permit or allow the clear visibility through all portions of such fence, wall or structure which exceeds three (3) feet in height, if any, to be or become obstructed by vines, leaves, flowers, debris or other objects or materials.

(4) No fence or wall exceeding six (6) feet in height shall be erected, constructed, installed or maintained in the city, except as may be permitted under the provisions of subsection (b)(5) of this section.

(5) Upon specific application therefor, and showing of good cause, the city council may authorize the city manager or his representative to issue a permit in writing for the erection, construction, installation or maintenance of a fence exceeding the height limitation established by subsection (b)(4) of this section.

(c) *Corner lots, side fences:*

(1) Any corner lot (which is a lot adjacent to the intersection of two public streets, both having a minimum right-of-way of fifty (50) feet), with at least forty (40) feet of frontage on the street side where the fence is to be erected, can request a fence permit from the building department, which after making a determination that there is no obstruction to the sight triangle, may allow a fence set back ten (10) feet from the property line that complies with fence height requirements.

(Ord. No. 1018-91, §§ 2, 3, 11-20-91; Ord. No. 1080-94, § 3, 7-6-94; Ord. No. 1120-96, § 34, 8-14-96; Ord. No. 1144-97, § 30, 8-20-97; Ord. No. 1240-2000, §§ 12, 13 10-18-00; Ord. No. 1295-2002, § 1, 11-20-02; Ord. No. 1375-2005, § 1, 5-4-05)

**ARTICLE III. STANDARDS FOR WALLS AND FENCES****Sec. 9.41. General intent and applicability.**

(a) *Intent.* The intent of this article is to provide standards for the effective construction of fences and walls, which standards overall protect the public health, safety and welfare, and specifically provide for safety at intersections and safety from certain uses, buffer different uses, reduce noise pollution, protect visual vistas, prevent blocking of light, promote an aesthetically pleasing community appearance and protect the integrity of the zoning districts.

(b) *Applicability.* These regulations shall apply to all fences and walls within the City. No fence or wall may be erected except as permitted in this article.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.42. Definitions.**

*Electric fence:* Any wire, fence, wall or attachment to a fence or wall that carries an electrical current of any amperage or voltage. Power lines, telephone lines and similar uses shall be exempted.

*Height of fences and walls:* The vertical dimension measured from the established average sidewalk or street grade or finished grade at the property line, whichever is lower, to the top of the fence or wall.

*Opaque fence and wall:* A fence or wall made of material that is impenetrable by light and that is neither transparent nor translucent. Such fence or wall shall be unable to be seen through visually from the front while looking perpendicular to the fence or wall. It shall also present an obstructed view from any other angle. Such opaque fence or wall shall be without holes, gaps, breaks or interruptions. Examples of opaque fences and walls are shadowbox fences, solid wood picket fences, and solid concrete, brick and masonry walls. Opacity shall be measured in ten-foot increments.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.43 Standards for fences used in conjunction with single- and two-family residential uses (in the PUD, AEU, EU, R-A, R-1A, R-1AA, R-1AAA, R-2, R-3, and R-4 Zoning Districts).**

(a) *Opacity of front yard fences and walls.* Fences in front yards shall be not more than fifty (50) per cent opaque.

(b) *Height of fences and walls permitted.* Except as otherwise provided herein, fences and walls shall be limited to six (6) feet in height except that fences and walls in a required front yard shall be limited to four (4) feet in height. Fences and walls located on side-corner lots may be six (6) feet in height except between the front building line and the street shall be limited to four (4) feet in height.

Fences used for tennis courts may be permitted up to twelve (12) feet in height.

Fences in an AEU zoning district may be permitted up to eight (8) feet in height.

(Ord. No. 92-11, § 3, 2-25-92; Ord. No. 2004-37, § 6, 5-25-04)

**Sec. 9.44. Standards for residential subdivision perimeter fences, multiple-family residential, professional, commercial, industrial, and institutional fences and walls and**

MELBOURNE

**all other fences and walls.**

(a) *Height of fences and walls permitted.* Except as otherwise permitted in this subsection, fences and walls shall not exceed ten (10) feet in height. Perimeter fences and walls used for common recreation facilities (ball fields, tennis courts, and volleyball courts, etc.) shall not exceed twelve (12) feet in height.

(b) *Fence and wall locations permitted.* Fences and walls may be constructed along the property line of any lot except for the required front yard. Fences and walls in required front yards shall set back ten (10) feet from the property line unless such fences are no greater than four (4) feet in height and do not exceed fifty (50) per cent opaque, in which case front yard fences may be located on the property line.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.44.1. Standards for commercial or industrial property abutting residential property.**

*Applicability.* Wherever the boundary of a commercial or industrial zoning district abuts a residential zoning district, except where the commercial, professional or industrial zoning districts abut a public street, a visual screen shall be provided within the yard setbacks of such commercial or industrial zoning district.

(a) *Formal site plan projects.* New commercial, medium density and high density residential, industrial, and institutional uses requiring formal site plan approval, developing on over one (1) acre, adjacent to single-family zoning districts shall provide a visual screen consisting of a minimum six-foot high masonry wall within their yard setbacks.

(b) *Other projects not classified as "formal."* Other developments may utilize a visual screen consisting of opaque, decorative, ornamental fencing, or masonry wall, which shall be at least six (6) feet in height.

(c) *Construction of visual screens.* All visual screens must be installed within thirty (30) days of commencement of site development.

(d) *Waiver of visual screen provision.* Such visual screen requirement may be waived by the planning and zoning board provided that an alternate landscaping design is provided for a particular use in such commercial or industrial zoning district.

(Ord. No. 2005-123, § 1, 11-8-05)

**Sec. 9.45. Design standards for fences and walls.**

(a) Walls and fences shall be limited to chain link having a minimum of eleven (11) gauge wire, wood, concrete, masonry, brick or ornamental iron. Deviations from these materials may be approved by the Building Official based on unique circumstances that justifies a need for the deviation. Fences and walls that are required for screening purposes shall be limited to termite-resistant wood, brick, concrete or masonry fences. Such required fences and walls shall be opaque and a minimum of six (6) feet in height.

(b) Walls and fences shall be constructed so that the exposed framing, stingers and posts to support each section face the interior yard of the lot on which the fence or wall is placed, regardless of whether or not another fence already exists.

(c) Walls and fences shall not prevent necessary access to facilities (easements, refuse containers, alleys and lawn areas) that need to be maintained on a regular basis.

(d) Visual clearance at corners, curb cuts, and railroad crossings. Notwithstanding any part of this ordinance or any permit granted, or any variance granted by the board of adjustment, no type of structure, vehicle, tree, planting, vegetation, sign, fence, or any other type of obstacle or

**Denine Fusco-Scarbro**

*Cape Can.*

**From:** Todd Morley [morley-cape@cfl.rr.com]  
**Sent:** Thursday, April 09, 2009 10:44 AM  
**To:** Denine Fusco-Scarbro  
**Subject:** Cape Canaveral fence regulations

Cape Canaveral fence regulations:

Sec. 110-470. Fences, walls and hedges.

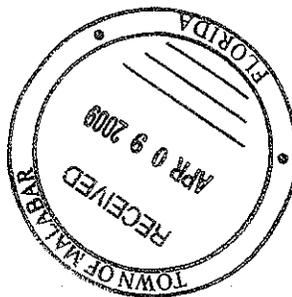
(a) Fences and walls may be permitted in any yard, except as specified in section 110-469, provided the following restrictions shall apply:

- (1) In any residential district, no fence or wall in any side or rear yard shall be over six feet in height or over four feet in height if within 25 feet of any public right-of-way, unless otherwise specified in this section;
- (2) In any residential district where property abuts a public beach access parking area, the fence or wall in a side, rear or front yard which abuts the public parking area shall not exceed six feet in height;
- (3) In any commercial or industrial district, no fence or wall in any side or rear yard shall be over eight feet in height or over four feet in height if within 25 feet of any public right-of-way. When the boundary of a commercial or industrial zoning district abuts any residential zoning district, and a fence or wall is used to meet the requirements of section 110-566, the fence or wall shall have a minimum height of six feet and a maximum height of eight feet;
- ✓ (4) No wall shall be built along unimproved property boundaries until and unless the owner has obtained and paid for a building permit for the principal structure;
- (5) All concrete boundary walls are to be finished by stuccoing or painting in neutral colors at the time they are constructed. All fences shall be constructed or installed such that the finished side faces abutting properties or public rights-of-way. If chain-link is used for fencing, the same must have a top rail and the rail and chain-link must be coated in a rubber or vinyl material; and
- (6) No words or symbols, other than street addresses and names of occupants in residential districts, shall be permitted on exterior boundary fences or walls, except a small sign, not to exceed 32 square inches, may be attached identifying the fence manufacturer or installer. If there are such nonallowed words or symbols, they shall be covered or removed within seven days of notification to the owner by the city.

Let me know if you have a more specific question – I'll be glad to help.

-Todd

Todd Morley  
Building Official  
City of Cape Canaveral  
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Cape Canaveral, FL 32920  
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Fax 321-868-1247



# WALLS AND FENCES

## § 170.110 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

*FENCE.* A barrier made of approved materials contained herein serving as an enclosure or boundary.

(Ord. 95-12, passed 3-16-95; Am. Ord. 2002-36, passed 5-16-02)

## § 170.111 PLANS, PERMIT, FEE.

Plans showing the location of any proposed fence or wall and the type of construction shall be submitted to the Building Official and a permit obtained therefor from the Building Official, upon payment of a fee as set forth in § 170.007.

(74 Code, § 8-85) (Ord. 63-10, passed 10-3-63; Am. Ord. 83-63, passed 10-6-83; Am. Ord. 89-14, passed 4-27-89; Am. Ord. 2002-36, passed 5-16-02)

## § 170.112 REQUIRED CONSTRUCTION PRIOR TO INSPECTION OR ISSUANCE OF CERTIFICATE OF OCCUPANCY.

(A) Where a fence or visual screen is required to be constructed, such fence or visual screen shall be drawn on the plans of any new construction or alteration, and shall actually be constructed before the Building Official may make a final inspection or issue a certificate of occupancy for the premises.

(B) Where the visual screen is to be made of plant material such as trees or shrubs, it shall meet the provisions of the zoning code set forth in Chapter 185 of this title and all information concerning it, such as plant name (common and botanical), planting size, size at maturity, quantity, and how transplanted to the site, shall be indicated on the plans of any new construction or alteration.

(74 Code, § 8-86) (Ord. 68-8, passed 9-5-68; Am. Ord. 83-63, passed 10-6-83; Am. Ord. 89-14, passed 4-27-89; Am. Ord. 2002-36, passed 5-16-02)

## § 170.113 TYPES OF FENCES AND WALLS PERMITTED.

Fences and walls constructed within the city shall conform to one (1) or any combination of the following:

## **Brevard County Code on Fences:**

### **Sec. 22-702. Definitions.**

*Dilapidated or structurally unsound fences* shall be defined as any fence missing boards or materials of which it was built or leaning beyond 20 percent to the vertical such that it no longer serves the function or aesthetic purpose for which it was built, or such that the integrity of the fence has been compromised to the point that the fence would present a danger of flight or destruction during severe weather.

*Fence* means a barrier made of approved materials contained herein serving as an enclosure or boundary.

(Ord. No. 2000-13, § 2, 2-22-00)

### **Sec. 22-703. Types of fences permitted.**

Fences constructed within the unincorporated area of the county shall conform to one or any combination of the following:

(1) Wood fences constructed of rot and termite resistive species of wood or wood chemically treated to resist rot and termite attack. All portions of a wooden fence shall display the finished side on the outside.

(2) Posts of pressure treated wood or non-corrodible metal and wire fences with a fabric of a minimum of 12 1/2-gauge galvanized or other non-corrodible metal.

(3) Ornamental iron.

(4) PVC material.

(Ord. No. 2000-13, § 3, 2-22-00)

### **Sec. 22-704. Use of certain wire prohibited.**

The utilization or installation of barbed tape, razor tape and/or razor wire and concertina barbed wire for fencing, partitions or obstacles is prohibited for residential fencing.

(Ord. No. 2000-13, § 4, 2-22-00)

### **Sec. 22-705. Construction permit required.**

It shall be unlawful to construct or perform any major repair on any fence in the unincorporated areas of the county without first obtaining a construction permit. All alterations and major repairs to fences where more than 50 percent of the fence will be repaired, replaced or altered, shall be considered new construction and shall meet the requirements of this article. In the event of declared state of emergency, the permitting requirements for the repairs to fences shall be waived for a period of 90 days.

(Ord. No. 2000-13, § 5, 2-22-00)

### **Sec. 22-706. Permit issuance.**

(a) Prior to issuance of a construction permit for the installation of a fence the exact location of the fence and the proposed height shall be indicated on a copy of a boundary survey or other documents determined to be sufficient for review by the required review agency to provide evidence of the property line and submitted to the building official for approval. The type of materials to be used and construction details must be submitted. Prior to the issuance of a building permit, the proposed locations and heights of the fence must be in conformity with the zoning classification, the setbacks, and the lot and street configurations for the parcel on which the fence is to be placed or repaired. The applicant will have the right to appeal the construction permit denial to the board of county commissioners.

(b) Where a property owner plans to fence or enclose any utility easement, the owner must agree, as a condition precedent to permit issue, to hold harmless the county and any utility

company and their respective employees, agents, official, and independent contracts, in both their official and individual capacities, if the fence or enclosure is removed or destroyed in the act of installing, removing, repairing or maintaining any utilities, or right-of-way.  
(Ord. No. 2000-13, § 6, 2-22-00)

**Sec. 22-707. Fence height.**

The height of a fence is measured from the finished grade of the property adjacent to the highest point of the fence. The height of fences on property lines or parallel to property lines shall be measured from the lowest grade on either side of the property line.  
(Ord. No. 2000-13, § 7, 2-22-00)

**Sec. 22-708. Existing fences.**

(a) No owner shall permit any fence located on their property to become dilapidated or structurally unsound.

(b) Any fence in existence on the effective date of this section shall be exempt from the provisions hereof; providing however, that pre-existing fences are subject to the requirements of paragraph (a) that any replacement thereof shall be in compliance with all the provisions of this section.

(Ord. No. 2000-13, § 8, 2-22-00)

**Sec. 22-709. Permit fee required.**

A fair and reasonable sum in the amount of \$34.00 shall be assessable against individuals receiving the benefit of plans examination, plot plan review and inspections by county staff. All fees and charges shall be collected by the county and shall be received in full upon immediate demand and prior to the issuance of the construction permit.

(Ord. No. 2000-13, § 7, 2-22-00)

**Sec. 22-710. Revision of permit fees and charges.**

The fees and charges as established herein may, by resolution of the board of county commissioners of Brevard County, Florida, be amended or repealed, in whole or in part, as required for the economical provision of the permit.

(Ord. No. 2000-13, § 8, 2-22-00)

**Sec. 22-711. Exemptions.**

Any property owner required by F.S. ch. 588, to prevent livestock from running at large, and whose property is zoned AU agricultural use, GU general use, RR-1 rural residential, AGR, PA, REU or SEU shall be exempted from the requirements herein. These exemptions shall not relieve property owners from their responsibility to comply with section 315.2.1 of the Standard Swimming Pool Code, as adopted by the county.

# MELBOURNE VILLAGE CODE

(c) Ornamental iron;

(d) Concrete or masonry. Within any residential district, installation shall have at least twenty-five (25) percent of the wall ventilated; and

(e) Rigid synthetic material.

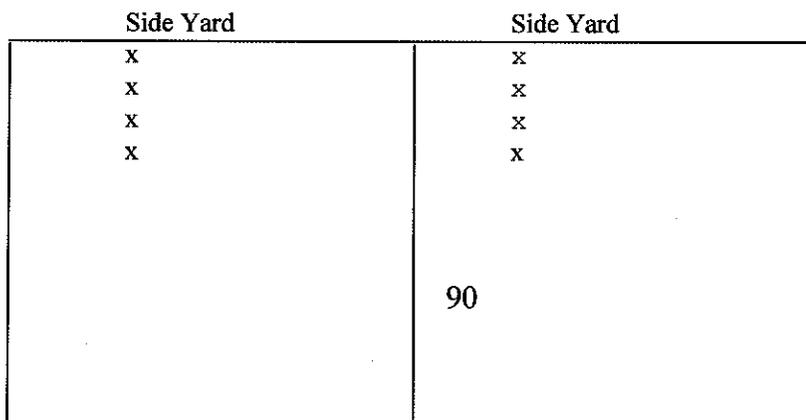
EXEMPTIONS: Natural barriers consisting of vegetation, trees, flowers or hedges are exempt from this Article and shall not be construed as a fence or wall.

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

(a) All fences shall not exceed six (6) feet in height and shall be located only within the rear yard.

(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. No fence or wall shall extend forward of the rear corners of the main structure. 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 have two front yards and two side yards. Side yards shall be opposite of front yards. A fence or wall may extend from each rear corner of the main structure to the side yard but, in no case, shall a fence or wall extend forward of the main structure towards the street. Please refer to illustration below:



**ARTICLE IV.  
COMMERCIAL DISTRICTS\***

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\*Code of Ordinances Reference--Regulations regarding projections, fences and walls in certain zoning districts, § 6-306.  
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**DIVISION 1.  
GENERAL PROVISIONS**

**Sec. 59-261. Commercial zoning districts.**

*Established.* Within the corporate area of the City, the following commercial zoning districts are established:

- (1) Hospital-medical (HM).
- (2) Tourist (T).
- (3) Neighborhood commercial (NC).
- (4) Community commercial (CC).
- (5) Regional commercial (RC).
- (6) Office/professional (OP).
- (7) Commercial marine (CM).

(Ord. No. 7-1992, 4-16-92)

**Sec. 59-262. Screening.**

Any commercial development which abuts a residential zone or use shall provide screening pursuant to section 35-38.

(Ord. No. 7-1992, 4-16-92)

**Sec. 59-263. Fences and walls.**

- 
- (a) No fence or wall shall exceed six (6) feet in height as measured on the exterior surface and shall include any berm retaining wall or other man-made improvement which would artificially circumvent the intent of this section except as provided in item "f" below.
  - (b) No fence or wall shall be permitted in any required front or corner side setback except as may be permitted in conjunction with the provisions of item "f" below.
  - (c) No fence or wall shall be constructed, either wholly or in part, of barbed wire, razor wire, electrified wire, glass shards or other similarly dangerous material except as may be permitted in conjunction with the provisions of item "f" below.
  - (d) Fencing material shall be compatible with and complement the architectural theme of the principle structure(s).
  - (e) All walls and fences shall be constructed so that all support structures, poles and/or bracing, the exposed framing, stringers and post to support each section face the interior yard of the lot on which the fence and/or wall is placed, regardless of whether or not another fence already exists. The good side (i.e. side with no structures bracing or support) shall be required to face the neighboring property and/or rights-of-way abutting the property where a fence is being erected.

**SECTION 81.30. HEDGES AND FENCES****(a) Permit:**

- (1) No owner or occupant of any property or any other person shall erect, construct or install any fence or wall within the city without first obtaining a permit therefor from the building official.
- (2) Prior to the issuance of any permit for the erection, construction or installation of any fence or wall within the city, the building official shall first approve the type, design and location of the proposed fence or wall to be erected.
- (3) The use of barbed wire or strands of barbed wire, and electrified fences are prohibited in all residential zone districts unless provided in these regulations.
- (4) The outside (the side nearest and facing abutting property) of any fence shall be the finished side of such fence except when the fence is erected and located within three (3) feet from a required masonry wall separating commercially zoned property from residentially zoned property, in which exceptional event the fence shall not be required to be finished on the outside at such places where the outside of the fence cannot be seen by the public from public property.
- (5) No fence, hedge or other structure shall be placed or constructed within a drainage maintenance access easement or tract.

**(b) Height:**

- (1) No owner, occupant, or other person, or party whosoever shall erect, keep, or maintain in existence any fence, wall or structure, nor plant, keep, or maintain any hedge, bush, or shrubbery, in any front yard between the building setback line applicable to such front yard and the right-of-way line of the street upon which the property fronts, nor in any side yard of a corner lot between the building setback line applicable to lot fronting on the side street, and the right-of-way line of the side street, except as follows:

Residential zoned properties: (i, ii, iv, v, vi)

Commercial and professionally zoned properties: (i, ii)

Manufacturing and industrial zoned properties: (i, iii)

- (i) Opaque: walls, fences, structures, shrubbery, hedges and bushes, three (3) feet in height or less.
- (ii) Chain link fence, four (4) feet in height, or less.
- (iii) Chain link security fence, six (6) feet in height.
- (iv) In the event the subject lot is a corner lot without a key lot adjoining at the rear, and is a corner lot having a rear property line in common with the rear line of another corner lot, then the required front setback or corner setback distance may be reduced to five (5) feet, however, only along the common side yard setback line.
- (vi) A right-of-way buffer wall/fence may be placed on corner lots, on the right-of-way side of the lot which does not have the driveway connecting to the right-of-way, with the approval of the planning commission. Said buffer wall/fence shall apply to only those corner lots which are in subdivisions that were platted before 1990. The planning commission shall review all requests to construct right-of-way buffer walls/fences to ensure the site-triangle distance established in section 52.23 is not violated. The planning commission shall review the types of

materials to be used in the construction, and may allow individual property owners to use wood products.

(2) No owner, occupant or other person or party whomsoever shall erect, keep or maintain in existence any fence or wall exceeding six (6) feet in height upon real property classified as within a residential district under the Zoning Ordinances of the city; except, that the height limitations established by subsection (b)(1) of this section shall be applicable to fences, walls or structures in the specific areas within residential districts as therein described.

(3) No owner or occupant of property whereon a fence, wall or structure is situated within an area as described in subsection (b)(1) of this section shall cause, permit or allow the clear visibility through all portions of such fence, wall or structure which exceeds three (3) feet in height, if any, to be or become obstructed by vines, leaves, flowers, debris or other objects or materials.

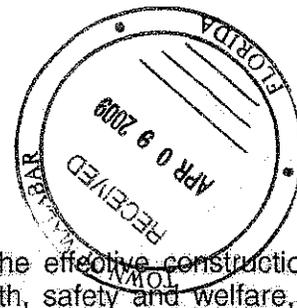
(4) No fence or wall exceeding six (6) feet in height shall be erected, constructed, installed or maintained in the city, except as may be permitted under the provisions of subsection (b)(5) of this section.

(5) Upon specific application therefor, and showing of good cause, the city council may authorize the city manager or his representative to issue a permit in writing for the erection, construction, installation or maintenance of a fence exceeding the height limitation established by subsection (b)(4) of this section.

(c) *Corner lots, side fences:*

(1) Any corner lot (which is a lot adjacent to the intersection of two public streets, both having a minimum right-of-way of fifty (50) feet), with at least forty (40) feet of frontage on the street side where the fence is to be erected, can request a fence permit from the building department, which after making a determination that there is no obstruction to the sight triangle, may allow a fence set back ten (10) feet from the property line that complies with fence height requirements.

(Ord. No. 1018-91, §§ 2, 3, 11-20-91; Ord. No. 1080-94, § 3, 7-6-94; Ord. No. 1120-96, § 34, 8-14-96; Ord. No. 1144-97, § 30, 8-20-97; Ord. No. 1240-2000, §§ 12, 13 10-18-00; Ord. No. 1295-2002, § 1, 11-20-02; Ord. No. 1375-2005, § 1, 5-4-05)

**ARTICLE III. STANDARDS FOR WALLS AND FENCES****Sec. 9.41. General intent and applicability.**

(a) *Intent.* The intent of this article is to provide standards for the effective construction of fences and walls, which standards overall protect the public health, safety and welfare, and specifically provide for safety at intersections and safety from certain uses, buffer different uses, reduce noise pollution, protect visual vistas, prevent blocking of light, promote an aesthetically pleasing community appearance and protect the integrity of the zoning districts.

(b) *Applicability.* These regulations shall apply to all fences and walls within the City. No fence or wall may be erected except as permitted in this article.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.42. Definitions.**

*Electric fence:* Any wire, fence, wall or attachment to a fence or wall that carries an electrical current of any amperage or voltage. Power lines, telephone lines and similar uses shall be exempted.

*Height of fences and walls:* The vertical dimension measured from the established average sidewalk or street grade or finished grade at the property line, whichever is lower, to the top of the fence or wall.

*Opaque fence and wall:* A fence or wall made of material that is impenetrable by light and that is neither transparent nor translucent. Such fence or wall shall be unable to be seen through visually from the front while looking perpendicular to the fence or wall. It shall also present an obstructed view from any other angle. Such opaque fence or wall shall be without holes, gaps, breaks or interruptions. Examples of opaque fences and walls are shadowbox fences, solid wood picket fences, and solid concrete, brick and masonry walls. Opaqueness shall be measured in ten-foot increments.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.43 Standards for fences used in conjunction with single- and two-family residential uses (in the PUD, AEU, EU, R-A, R-1A, R-1AA, R-1AAA, R-2, R-3, and R-4 Zoning Districts).**

(a) *Opaqueness of front yard fences and walls.* Fences in front yards shall be not more than fifty (50) per cent opaque.

(b) *Height of fences and walls permitted.* Except as otherwise provided herein, fences and walls shall be limited to six (6) feet in height except that fences and walls in a required front yard shall be limited to four (4) feet in height. Fences and walls located on side-corner lots may be six (6) feet in height except between the front building line and the street shall be limited to four (4) feet in height.

Fences used for tennis courts may be permitted up to twelve (12) feet in height.

Fences in an AEU zoning district may be permitted up to eight (8) feet in height.

(Ord. No. 92-11, § 3, 2-25-92; Ord. No. 2004-37, § 6, 5-25-04)

**Sec. 9.44. Standards for residential subdivision perimeter fences, multiple-family residential, professional, commercial, industrial, and institutional fences and walls and**

MELBOURNE

**all other fences and walls.**

(a) *Height of fences and walls permitted.* Except as otherwise permitted in this subsection, fences and walls shall not exceed ten (10) feet in height. Perimeter fences and walls used for common recreation facilities (ball fields, tennis courts, and volleyball courts, etc.) shall not exceed twelve (12) feet in height.

(b) *Fence and wall locations permitted.* Fences and walls may be constructed along the property line of any lot except for the required front yard. Fences and walls in required front yards shall set back ten (10) feet from the property line unless such fences are no greater than four (4) feet in height and do not exceed fifty (50) per cent opaque, in which case front yard fences may be located on the property line.

(Ord. No. 92-11, § 3, 2-25-92)

**Sec. 9.44.1. Standards for commercial or industrial property abutting residential property.**

*Applicability.* Wherever the boundary of a commercial or industrial zoning district abuts a residential zoning district, except where the commercial, professional or industrial zoning districts abut a public street, a visual screen shall be provided within the yard setbacks of such commercial or industrial zoning district.

(a) *Formal site plan projects.* New commercial, medium density and high density residential, industrial, and institutional uses requiring formal site plan approval, developing on over one (1) acre, adjacent to single-family zoning districts shall provide a visual screen consisting of a minimum six-foot high masonry wall within their yard setbacks.

(b) *Other projects not classified as "formal."* Other developments may utilize a visual screen consisting of opaque, decorative, ornamental fencing, or masonry wall, which shall be at least six (6) feet in height.

(c) *Construction of visual screens.* All visual screens must be installed within thirty (30) days of commencement of site development.

(d) *Waiver of visual screen provision.* Such visual screen requirement may be waived by the planning and zoning board provided that an alternate landscaping design is provided for a particular use in such commercial or industrial zoning district.

(Ord. No. 2005-123, § 1, 11-8-05)

**Sec. 9.45. Design standards for fences and walls.**

(a) Walls and fences shall be limited to chain link having a minimum of eleven (11) gauge wire, wood, concrete, masonry, brick or ornamental iron. Deviations from these materials may be approved by the Building Official based on unique circumstances that justifies a need for the deviation. Fences and walls that are required for screening purposes shall be limited to termite-resistant wood, brick, concrete or masonry fences. Such required fences and walls shall be opaque and a minimum of six (6) feet in height.

(b) Walls and fences shall be constructed so that the exposed framing, stingers and posts to support each section face the interior yard of the lot on which the fence or wall is placed, regardless of whether or not another fence already exists.

(c) Walls and fences shall not prevent necessary access to facilities (easements, refuse containers, alleys and lawn areas) that need to be maintained on a regular basis.

(d) *Visual clearance at corners, curb cuts, and railroad crossings.* Notwithstanding any part of this ordinance or any permit granted, or any variance granted by the board of adjustment, no type of structure, vehicle, tree, planting, vegetation, sign, fence, or any other type of obstacle or

**From:** Todd Morley [morley-cape@cfl.rr.com]  
**Sent:** Thursday, April 09, 2009 10:44 AM  
**To:** Denine Fusco-Scarbro  
**Subject:** Cape Canaveral fence regulations

Cape Canaveral fence regulations:

Sec. 110-470. Fences, walls and hedges.

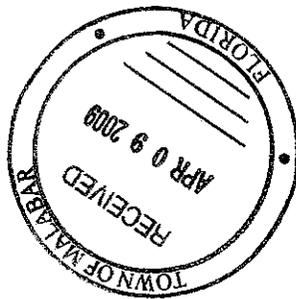
(a) Fences and walls may be permitted in any yard, except as specified in section 110-469, provided the following restrictions shall apply:

- (1) In any residential district, no fence or wall in any side or rear yard shall be over six feet in height or over four feet in height if within 25 feet of any public right-of-way, unless otherwise specified in this section;
- (2) In any residential district where property abuts a public beach access parking area, the fence or wall in a side, rear or front yard which abuts the public parking area shall not exceed six feet in height;
- (3) In any commercial or industrial district, no fence or wall in any side or rear yard shall be over eight feet in height or over four feet in height if within 25 feet of any public right-of-way. When the boundary of a commercial or industrial zoning district abuts any residential zoning district, and a fence or wall is used to meet the requirements of section 110-566, the fence or wall shall have a minimum height of six feet and a maximum height of eight feet;
- ✓ (4) No wall shall be built along unimproved property boundaries until and unless the owner has obtained and paid for a building permit for the principal structure;
- (5) All concrete boundary walls are to be finished by stuccoing or painting in neutral colors at the time they are constructed. All fences shall be constructed or installed such that the finished side faces abutting properties or public rights-of-way. If chain-link is used for fencing, the same must have a top rail and the rail and chain-link must be coated in a rubber or vinyl material; and
- (6) No words or symbols, other than street addresses and names of occupants in residential districts, shall be permitted on exterior boundary fences or walls, except a small sign, not to exceed 32 square inches, may be attached identifying the fence manufacturer or installer. If there are such nonallowed words or symbols, they shall be covered or removed within seven days of notification to the owner by the city.

Let me know if you have a more specific question – I’ll be glad to help.

-Todd

Todd Morley  
Building Official  
City of Cape Canaveral  
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Cape Canaveral, FL 32920  
Phone 321-868-1222  
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Fax 321-868-1247



## **WALLS AND FENCES**

### **§ 170.110 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**FENCE.** A barrier made of approved materials contained herein serving as an enclosure or boundary.

(Ord. 95-12, passed 3-16-95; Am. Ord. 2002-36, passed 5-16-02)

### **§ 170.111 PLANS, PERMIT, FEE.**

Plans showing the location of any proposed fence or wall and the type of construction shall be submitted to the Building Official and a permit obtained therefor from the Building Official, upon payment of a fee as set forth in § 170.007.

('74 Code, § 8-85) (Ord. 63-10, passed 10-3-63; Am. Ord. 83-63, passed 10-6-83; Am. Ord. 89-14, passed 4-27-89; Am. Ord. 2002-36, passed 5-16-02)

### **§ 170.112 REQUIRED CONSTRUCTION PRIOR TO INSPECTION OR ISSUANCE OF CERTIFICATE OF OCCUPANCY.**

(A) Where a fence or visual screen is required to be constructed, such fence or visual screen shall be drawn on the plans of any new construction or alteration, and shall actually be constructed before the Building Official may make a final inspection or issue a certificate of occupancy for the premises.

(B) Where the visual screen is to be made of plant material such as trees or shrubs, it shall meet the provisions of the zoning code set forth in Chapter 185 of this title and all information concerning it, such as plant name (common and botanical), planting size, size at maturity, quantity, and how transplanted to the site, shall be indicated on the plans of any new construction or alteration.

('74 Code, § 8-86) (Ord. 68-8, passed 9-5-68; Am. Ord. 83-63, passed 10-6-83; Am. Ord. 89-14, passed 4-27-89; Am. Ord. 2002-36, passed 5-16-02)

### **§ 170.113 TYPES OF FENCES AND WALLS PERMITTED.**

Fences and walls constructed within the city shall conform to one (1) or any combination of the following:

## **Brevard County Code on Fences:**

### **Sec. 22-702. Definitions.**

*Dilapidated or structurally unsound fences* shall be defined as any fence missing boards or materials of which it was built or leaning beyond 20 percent to the vertical such that it no longer serves the function or aesthetic purpose for which it was built, or such that the integrity of the fence has been compromised to the point that the fence would present a danger of flight or destruction during severe weather.

*Fence* means a barrier made of approved materials contained herein serving as an enclosure or boundary.

(Ord. No. 2000-13, § 2, 2-22-00)

### **Sec. 22-703. Types of fences permitted.**

Fences constructed within the unincorporated area of the county shall conform to one or any combination of the following:

- (1) Wood fences constructed of rot and termite resistive species of wood or wood chemically treated to resist rot and termite attack. All portions of a wooden fence shall display the finished side on the outside.
- (2) Posts of pressure treated wood or non-corrodible metal and wire fences with a fabric of a minimum of 12 1/2-gauge galvanized or other non-corrodible metal.
- (3) Ornamental iron.
- (4) PVC material.

(Ord. No. 2000-13, § 3, 2-22-00)

### **Sec. 22-704. Use of certain wire prohibited.**

The utilization or installation of barbed tape, razor tape and/or razor wire and concertina barbed wire for fencing, partitions or obstacles is prohibited for residential fencing.

(Ord. No. 2000-13, § 4, 2-22-00)

### **Sec. 22-705. Construction permit required.**

It shall be unlawful to construct or perform any major repair on any fence in the unincorporated areas of the county without first obtaining a construction permit. All alterations and major repairs to fences where more than 50 percent of the fence will be repaired, replaced or altered, shall be considered new construction and shall meet the requirements of this article. In the event of declared state of emergency, the permitting requirements for the repairs to fences shall be waived for a period of 90 days.

(Ord. No. 2000-13, § 5, 2-22-00)

### **Sec. 22-706. Permit issuance.**

(a) Prior to issuance of a construction permit for the installation of a fence the exact location of the fence and the proposed height shall be indicated on a copy of a boundary survey or other documents determined to be sufficient for review by the required review agency to provide evidence of the property line and submitted to the building official for approval. The type of materials to be used and construction details must be submitted. Prior to the issuance of a building permit, the proposed locations and heights of the fence must be in conformity with the zoning classification, the setbacks, and the lot and street configurations for the parcel on which the fence is to be placed or repaired. The applicant will have the right to appeal the construction permit denial to the board of county commissioners.

(b) Where a property owner plans to fence or enclose any utility easement, the owner must agree, as a condition precedent to permit issue, to hold harmless the county and any utility

company and their respective employees, agents, official, and independent contracts, in both their official and individual capacities, if the fence or enclosure is removed or destroyed in the act of installing, removing, repairing or maintaining any utilities, or right-of-way.  
(Ord. No. 2000-13, § 6, 2-22-00)

**Sec. 22-707. Fence height.**

The height of a fence is measured from the finished grade of the property adjacent to the highest point of the fence. The height of fences on property lines or parallel to property lines shall be measured from the lowest grade on either side of the property line.  
(Ord. No. 2000-13, § 7, 2-22-00)

**Sec. 22-708. Existing fences.**

(a) No owner shall permit any fence located on their property to become dilapidated or structurally unsound.

(b) Any fence in existence on the effective date of this section shall be exempt from the provisions hereof; providing however, that pre-existing fences are subject to the requirements of paragraph (a) that any replacement thereof shall be in compliance with all the provisions of this section.

(Ord. No. 2000-13, § 8, 2-22-00)

**Sec. 22-709. Permit fee required.**

A fair and reasonable sum in the amount of \$34.00 shall be assessable against individuals receiving the benefit of plans examination, plot plan review and inspections by county staff. All fees and charges shall be collected by the county and shall be received in full upon immediate demand and prior to the issuance of the construction permit.  
(Ord. No. 2000-13, § 7, 2-22-00)

**Sec. 22-710. Revision of permit fees and charges.**

The fees and charges as established herein may, by resolution of the board of county commissioners of Brevard County, Florida, be amended or repealed, in whole or in part, as required for the economical provision of the permit.  
(Ord. No. 2000-13, § 8, 2-22-00)

**Sec. 22-711. Exemptions.**

Any property owner required by F.S. ch. 588, to prevent livestock from running at large, and whose property is zoned AU agricultural use, GU general use, RR-1 rural residential, AGR, PA, REU or SEU shall be exempted from the requirements herein. These exemptions shall not relieve property owners from their responsibility to comply with section 315.2.1 of the Standard Swimming Pool Code, as adopted by the county.

# MELBOURNE VILLAGE CODE

(c) Ornamental iron;

(d) Concrete or masonry. Within any residential district, installation shall have at least twenty-five (25) percent of the wall ventilated; and

(e) Rigid synthetic material.

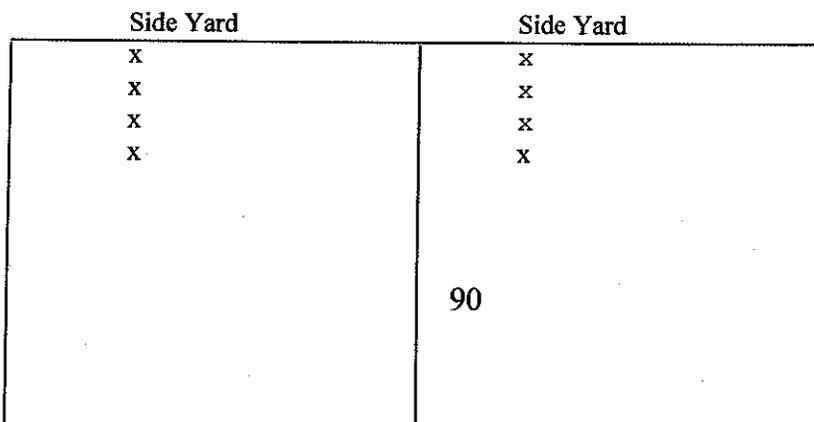
EXEMPTIONS: Natural barriers consisting of vegetation, trees, flowers or hedges are exempt from this Article and shall not be construed as a fence or wall.

## 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 yard.

(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. No fence or wall shall extend forward of the rear corners of the main structure. 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 have two front yards and two side yards. Side yards shall be opposite of front yards. A fence or wall may extend from each rear corner of the main structure to the side yard but, in no case, shall a fence or wall extend forward of the main structure towards the street. Please refer to illustration below:



**ARTICLE IV.  
COMMERCIAL DISTRICTS\***

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**\*Code of Ordinances Reference--Regulations regarding projections, fences and walls in certain zoning districts, § 6-306.**  
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**DIVISION 1.  
GENERAL PROVISIONS**

**Sec. 59-261. Commercial zoning districts.**

*Established.* Within the corporate area of the City, the following commercial zoning districts are established:

- (1) Hospital-medical (HM).
- (2) Tourist (T).
- (3) Neighborhood commercial (NC).
- (4) Community commercial (CC).
- (5) Regional commercial (RC).
- (6) Office/professional (OP).
- (7) Commercial marine (CM).

*(Ord. No. 7-1992, 4-16-92)*

**Sec. 59-262. Screening.**

Any commercial development which abuts a residential zone or use shall provide screening pursuant to section 35-38.

*(Ord. No. 7-1992, 4-16-92)*

**Sec. 59-263. Fences and walls.**

- (a) No fence or wall shall exceed six (6) feet in height as measured on the exterior surface and shall include any berm retaining wall or other man-made improvement which would artificially circumvent the intent of this section except as provided in item "f" below.
- (b) No fence or wall shall be permitted in any required front or corner side setback except as may be permitted in conjunction with the provisions of item "f" below.
- (c) No fence or wall shall be constructed, either wholly or in part, of barbed wire, razor wire, electrified wire, glass shards or other similarly dangerous material except as may be permitted in conjunction with the provisions of item "f" below.
- (d) Fencing material shall be compatible with and complement the architectural theme of the principle structure(s).
- (e) All walls and fences shall be constructed so that all support structures, poles and/or bracing, the exposed framing, stringers and post to support each section face the interior yard of the lot on which the fence and/or wall is placed, regardless of whether or not another fence already exists. The good side (i.e. side with no structures bracing or support) shall be required to face the neighboring property and/or rights-of-way abutting the property where a fence is being erected.



accumulate as a result of construction or manufacturing processes, wood and paper boxes, wrapping materials, wastes, plastics, and paper products. Also included are materials that are considered hazardous waste by the department of environmental protection, per Florida Administrative Code, or would affect ground water quality. Any other material must be approved by permit obtained from the town engineer.

(Ord. No. 92-8, § 1(E), 8-18-92; Ord. No. 97-4, § 2, 3-17-97)

#### **Section 1-5.5. Wastewater facilities.**

Whenever a lot is not served by an approved sanitary sewer, adequate open space as required by the Brevard County Environmental Services Unit shall be provided for a septic tank and drainage field to serve the uses erected on the subject lot. The sanitary installations may be located in a front or side yard, but not closer than five (5) feet to any lot line or within any easements. Notwithstanding, no septic tank shall be located within seventy-five (75) feet of mean high water (MHW) along the Indian River, or any tributary thereof. All package plants must conform to the applicable standards of the Florida Department of Environmental Regulation (FDER), including, but not limited to, location relative to the mean high water line.

#### **Section 1-5.6. Accessory buildings.**

*A. Presence of Principal Building Required.* No accessory building shall be constructed upon a lot until the construction of a principal building has been issued a certificate of occupancy and no accessory building shall be used unless the principal building is in use. No structure which has been constructed as a principal use for the housing of animals or for agricultural purposes shall be used as a residence.

*B. Prohibited in Required Yard.* No accessory building or structure shall be located in any required yard area.

*C. General Regulations of Accessory Building.* No mobile homes, travel trailers, or old cars shall be permitted as an accessory structure. No accessory structure shall be built without a permit first being issued by the Building Official expressly authorizing the accessory structure. If the Building Official is in doubt as to the type of added accessory structure or whether a proposed accessory use is a duly authorized accessory use or structure within the district in which it is proposed, then the Building Official shall forward the issue to the Planning and Zoning Board and the Town Council for action.

#### **Section 1-5.7. Storage of gasoline and other combustible fluids.**

Any storage of gasoline and other combustible fluids shall be subject to compliance with all State and local laws pertaining to storage of gasoline and other combustible fluids.

**Cross reference**—Fire prevention and protection, ch. 8.

#### **Section 1-5.8. Fences and walls.**

##### *(a) Definitions.*

For purposes of this section, the following terms shall have the following definitions:

*Abut or abutting property* means a lot or parcel sharing a common boundary with the lot or parcel in question, or a lot or parcel immediately across a public or private right-of-way or street from the lot or parcel in question.

*Building line* means a line within a lot or parcel established by yard or setback requirements in the land development regulations of the Town, outside of which no principal building or structure may be erected.

*Commercial district* means any area of the Town having the zoning classification CL or CG in accordance with the land development regulations of the Town.

*Fence* means a vertical row of nonliving material, exclusive of masonry products, placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) adjacent parcels of land or portions of parcels of land.

*Height* means the distance from existing grade to the top of such fence or wall including post and/or columns measured on the side facing abutting property.

*Industrial district* means any area of the Town having the zoning classification IND in accordance with the land development regulations of the Town.

*Institutional district* means any area of the town having the zoning classification INS in accordance with the land development regulations of the town.

*Opaque* shall mean that objects located on one side of a fence or wall are not visible from the opposite side when the viewer's line of sight to such object is through such fence or wall.

*Residential district* means any area of the Town having the zoning classification RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, R-L/C or R-MH, in accordance with the land development regulations of the town.

*Wall* means a vertical row of masonry materials placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) parcels of land or portions of parcels of land.

*Yard* means an open, unoccupied space on the same lot or parcel with a building or buildings, other than a court, which is unobstructed from the ground upwards by buildings or structures.

- (1) *Required front yard* means an open, unoccupied space extending across the full width of the lot, the depth of which is the minimum horizontal distance established by the Land Development Code beyond which no building may be erected. Is determined by the frontage to which the address is assigned to such lot or parcel.
- (2) *Required rear yard* means an open, unoccupied space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line.
- (3) *Required side yard* means an open, unoccupied space between the front and rear building lines and the side lot line and the side building line.

3. For any corner lot of which the rear lot line abuts the side lot line of another lot, that portion of such fence or wall located between the side right-of-way line and the side building line adjacent to the side right-of-way shall be not more than four (4) feet in height.
4. For any lot or parcel not containing a structure, the requirements of subsection (e)1, (2) and (3) shall be applied to required front and corner building lines in the same manner as if a structure had been constructed in accordance with such required yard area or setback as specified within the zoning district requirements.
5. Any lot or parcel located within a RR-65 District shall be permitted a fence or wall fifty-four (54) inches or less in height within the required front yard. Higher fences and walls, not to exceed six (6) feet in height within the required front yard may be authorized by the Town Council after considering the recommendation of the Planning and Zoning Board. Prior to approving subject structure the Town Council shall render a finding that the structure is safe and visually compatible in the area. Such fence or wall shall be constructed in a manner that provides adequate visibility at any public or private right-of-way, driveway or street providing access to such lot or parcel, and at any abutting intersection.

(f) *Height restrictions for fences or walls in commercial, industrial and institutional districts.* Fences or walls located, erected, constructed, reconstructed or altered on any property located in a commercial, industrial and institutional district shall comply with the following height requirements:

1. Commercial district shall be no more than six (6) feet in height. An additional twelve-inch section for security with barbed wire attached may be permitted, total height shall not exceed seven (7) feet in height.
2. Industrial and institutional districts shall be no more than eight (8) feet in height including barbed wire for security.

(g) *Maintenance of fences and walls.* All fences or walls in the Town shall be maintained in good repair and in a structurally sound condition. All fences shall be upright and plumb continuous in alignment.

(h) *Restriction of fences or walls on public easements, utility easements and public rights-of-way.*

1. No wall shall be constructed on any public easement, utility easement or public right-of-way.
2. No fence shall be constructed on any public right-of-way, and except as provided in subsection (3) hereof, no fence shall be constructed on any easement.