

ORDINANCE NO. 2017-11

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, RELATING TO FENCES, WALLS AND HEDGES, AMENDING ARTICLE V, CHAPTER 110, SECTION 110-524, ENTITLED "FENCES, WALLS AND HEDGES"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CONFLICT, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the City of Clewiston, Florida, has determined to amend Section 110-524 to allow for changes to the requirements for fences, walls and hedges.

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

SECTION 1. The Code of Ordinances of the City of Clewiston, Section 110-524, is hereby amended to read as follows:

Sec. 110-524. Fences, walls and hedges.

1. Permit required. No person shall erect, move, add to or structurally alter any fence in the city without first obtaining a permit for such purposes issued by the building official. Fence permits will be issued only to the owner of the property, or to a licensed or bonded contractor acting as his agent. A permit fee shall be charged in accordance with city ordinance.
2. Plot plan. The applicant shall submit a sketch or plot plan which shows the location of all property lines, easements, rights-of-way and utility lines, all structures, and existing fences and walls. The plot plan shall also show the location of all proposed fences. When doubt exists as to the exact location of property lines, the building official shall require a survey by a licensed surveyor.

General regulations.

3. All fences and walls constructed and maintained within the city shall comply with the state building code and a building permit shall be required for the construction of any such wall or fence.
4. The posts and fence material of any such fence or wall must be resistant to decay, corrosion, and termite infestation. Posts, if wood, shall be pressure-treated for strength and durability.
5. All fences, walls, hedges, and trees must be located completely within the boundary limits of the property on which they are located, and must not encroach into any city road right-of-way, alleyway or public utility easement. ~~No fences walls or hedges that obstruct clear vision shall exceed four feet in height when located in the front of any lot or along the side lines of any such lot, as far back as the front setback for that lot. Chainlink fences or wire fences that do not obstruct clear vision may not exceed five feet in height in the front portion of any lot and as far back on the sides as the front~~

~~setback. Fences, walls and hedges located in the rear portion of any lot and along the sides of said lot, from the front setback rearward, shall not exceed eight feet in height.~~

6. No fence, wall or hedge shall be located on any property in such a manner that it obstructs vision of traffic at any intersection.
7. Any fence or wall located adjacent to a public right-of-way or private road shall be constructed with the finished side facing that right-of-way.
8. Any fence or wall separating parcels of privately owned property shall be constructed with the finished side facing the adjacent private property.
9. Fences required for safety and protection from hazards by any governmental agency, may, upon approval given by the city commission, exceed the height limitations provided for in this section.
10. No fence or wall shall be constructed, or hedge grown, in such a manner as to interfere with drainage.
11. No electrical fences or electrical shock security devices shall be allowed, except low-voltage, buried pet fences.
12. There shall be a three-foot-side opening or gate in the rear portion of any fence, wall or hedge, providing reasonable access to the property for meter readers and other utility personnel.
13. Barbed wire may be utilized as part of fences or walls in commercial and industrial sites or may be incorporated in fences or walls on property in a mixed use or adjacent to residential use zoning only when approved by the Planning Commission and demonstrated to be necessary for security, and not aesthetically detrimental to abutting properties. Barbed wire, when approved for use, shall not exceed three strands; the lowest strand shall be no lower than six feet above ground level; and the top strand shall not exceed eight feet above ground level. The use of barbed wire in fences or walls located on residentially zoned property is specifically prohibited.
14. Attachment to neighboring fences. No fence shall be attached to a neighboring fence, but a fence may abut a neighboring fence if such fence is on the property line.
15. Interference with off-street parking or public services. No fence shall be erected or maintained which blocks required off-street parking or interferes with city or public utility service. Notwithstanding the foregoing, a permit for a fence within a public easement may be issued by the public works director under the following conditions:
 - a. Only those easements which are limited to storm water uses are eligible for this permit if the fence does not interfere with drainage. General purpose easements and rights-of-way or easements intended or dedicated for purposes other than utility uses are not eligible for this permit.
 - b. The property owner, or the owner's authorized agent, shall submit a sketch or other drawing accurately describing the easement and the proposed location of the fence.
 - c. The property owner shall execute an agreement with the city acknowledging that the use of the easement for a fence is subservient to the use for which the easement has been created, and that the fence is subject to removal by the city or by any utility company having facilities or rights to install facilities in the easement, if necessary, and that the owner does not have any right of reimbursement or other claim if the fence has to be removed. Gate(s) may be required. The agreement shall be in recordable form and recorded in the public records of Hendry County at the owner's expense.
 - d. The city is authorized to charge a reasonable permit fee for the processing and issuance of the permit.
16. Maximum height in residential zoned property including single-family, multi-family and mobile home residential districts. Except as otherwise provided in this section, fences and hedges located within the front yard adjoining front setbacks shall not exceed a height of four feet above the existing ground grade prior to site alteration. Fences and hedges located within the side and rear setbacks

shall not exceed a height of six feet above the existing ground grade prior to any site alteration. Pergolas, trellises, and arbors are exempt from the height limits but cannot exceed eight feet in height and eight feet in width and require a building permit and cannot be located within the visibility triangle and are limited to one on each lot or parcel.

17. Maximum height in commercial and public zoned property. Fences and hedges located within a side and rear setbacks shall not exceed a height of eight feet above the existing ground grade, except that such fence or hedge, if located within the front setbacks shall not exceed the height of four feet for a solid fence or hedge or five feet for a clear fence or hedge above the existing ground grade. If no front setback is required the front building line of the principle structure shall become the front setback for purposes of this paragraph. If the lot is vacant, any fence shall not exceed six foot within the area as far back as the median setback for lots within the block as determined by the building official. Pergolas, trellises, and arbors are exempt from the above height limits but cannot exceed eight feet in height and eight feet in width, require a building permit and cannot be located within the visibility triangle and are limited to one on each lot or parcel.
18. Fencing around sports courts (i.e., tennis courts, basketball courts, baseball courts, volleyball courts, etc.) shall be exempt from the height limitations of paragraphs 15 and 16. All chain link fences (including all poles, rails, gates, supports and the like), except those used by single-family dwellings and industrial uses, shall be green, brown or black plastic or vinyl-coated material only.
19. Temporary fences. Temporary fences are permitted after review and approval of all required applications by the building official. All provisions and regulations governing the erection, maintenance, height, location and relocation of fences shall govern temporary fences. A temporary fence permit shall not exceed the expiration date as stated on the permit application and the permit. For cause, one or more extensions of time may be granted by the building official. The building official is authorized to extend the use of a temporary fence for three months after review of a resubmittal of an application for a temporary fence. A temporary fence shall not be permitted for a period of time longer than two years.
20. Swimming pool enclosures. All swimming pools must be within a screened cage, or shall be enclosed on all open sides by a fence which is a minimum of four feet above the existing ground grade and a maximum of six feet above the existing ground grade. All gates which are part of a pool fence or screening cage must have safety locks.
21. Sport enclosures. Tennis courts and racquetball courts may be enclosed on all open sides by an open chain link fence, ten feet above the existing ground grade. Batting cages must be enclosed in a screened cage.
22. Nonconforming fences.
 - (1) Intent. It is the intent of this subsection (1) to encourage the eventual elimination, as expeditiously as is reasonable, of existing fences that are not in conformity with the provisions of this chapter.
 - (2) Continuance. A nonconforming fence may be continued, provided that it has not been determined detrimental to the public health, safety and welfare. It shall then be maintained in good condition, but it shall not be:
 - a. Enlarged or changed to any other nonconforming structure.
 - b. Structurally altered so as to prolong the life of the fence.
 - c. Re-erected if removed.
 - d. Re-erected after damage or destruction if the estimated expense of re-erection exceeds 50 percent of the appraised replacement cost.
 - (3) Determination by building official. It shall be the duty of the building official to determine whether or not a nonconforming fence is in the interest of public health, safety and welfare.

SECTION 2. INCLUSION IN THE CODE OF ORDINANCES. The provisions of this ordinance shall become and be made a part of the City Code of Ordinances and the sections of this ordinance may be renumbered and codified to accomplish this end.

SECTION 3. CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed. All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect.

SECTION 4. SEVERABILITY. If any part of this ordinance is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts shall continue to be in full force and effect.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and approval consistent with all requirements of general law.

PASSED on first reading by the City Commission on May 15, 2017.

PASSED AND ADOPTED on second and final reading by the City Commission on June 19, 2017.

ATTEST:

CITY OF CLEWISTON, FLORIDA

Mary K. Combass, Interim City Clerk

Mali Gardner, Mayor

(MUNICIPAL SEAL)

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
Gary M. Brandenburg, City Attorney