

CITY OF WINTER HAVEN FACT SHEET
CITY COMMISSION MEETING
May 9, 2016

DATE: April 20, 2016

TO: Honorable Mayor and City Commissioners

VIA: Deric C. Feacher, City Manager *DF*
Merle Bishop, Growth Management Director *MB*
Eric Labbe, Planning Manager *EL*

FROM: Sean Byers, Senior Planner *SB*

SUBJECT: Ordinance O-16-09: Administrative request to amend Chapter 21, Section 21-68 of the Winter Haven Code of Ordinances for the purpose of revising the permitting requirements for the installation of a fence.

BACKGROUND:

Section 21-68 of the Code of Ordinances establishes standards for the placement of fences, walls, hedges, and berms in the City. One of the requirements contained in this Section is the need for a building permit to install a fence or wall. As part of the permitting process, an application, plans for the fence, and a survey are required to be submitted for review. While the application and plans require little effort on the part of an applicant or contractor to complete, the survey has proven to be a burden if the property owner does not already possess one. To mitigate this burden, staff allows a "hold harmless" letter to be submitted in lieu of the survey.

In the last several months, staff as well as members of the public, have questioned the need to permit fences. The only review conducted by staff is to ensure fence height requirements are being met and if the fence is interfering with the function of an easement. The Florida Building Code does not require fence review. Upon completion of the fence, staff can only check the height of the fence (inspections are not typically performed). Placement cannot be verified unless a surveyor has marked the lot lines.

A review of surrounding jurisdictions generally found fences six feet in height or less do not require a building permit.

This request proposes to eliminate the permitting requirement for all fences 6 feet or less in height. Fences greater than 6 feet in height and walls will continue to require a permit as they are required to meet requirements contained in the Florida Building Code.

FINANCIAL IMPACT:

Over the last three years, the City has collected an average of \$9,690 per year in permitting fees for fences. This revenue will no longer be received upon adoption of this change;

however staff resources devoted to processing fence permit applications will be freed up for other functions.

CONCLUSION:

After a review of the City's permitting process for fences, the requirements of the Florida Building Code, and requirements of surrounding jurisdictions, continuing to require permits for fences 6 feet in height or less no longer serves a beneficial public purpose. Installation and maintenance requirements contained in Section 21-68 are currently and will continue to be enforced by Code Compliance staff on an as needed basis through citizen complaints and field monitoring.

RECOMMENDATION:

Staff recommends the City Commission approve Ordinance O-16-09.

ATTACHMENT:

Ordinance O-16-09

ORDINANCE NO. O-16-09

AN ORDINANCE AMENDING CHAPTER 21, ARTICLE II, DIVISION 3, Section 21-68, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA, RELATING TO PERMITTING REQUIREMENTS FOR FENCES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proposed amendment to the Winter Haven Land Development Code, has been studied, documented, advertised, and heard by the Winter Haven Planning Commission; and

WHEREAS, the City Commission of the City of Winter Haven, Florida, finds that it is expedient to revise language pertaining to permitting requirements for fences.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

1. That Chapter 21, Article II, Division 3, Section 21-68, of the Code of Ordinances of the City of Winter Haven, Florida is hereby amended to read as shown in Exhibit "A", attached hereto and made a part hereof.

2. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this ordinance full force and effect.

3. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

4. It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, section of this ordinance may be renumbered or relettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

5. This ordinance shall become effective immediately upon passage on second reading.

INTRODUCED on first reading this 9th day of May, 2016.

PASSED on second reading this _____ day of _____, 2016.

CITY OF WINTER HAVEN, FLORIDA

MAYOR-COMMISSIONER

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

Ordinance O-16-09 Exhibit "A"
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New text is underlined and deleted text is ~~stricken through~~.

Sec. 21-68. - Fences, walls, berms and hedges.

- (a) Permitting. ~~No All walls or and permanent fences over 6 feet in height shall be installed in any zoning district without the issuance of~~ require a permit from the City. Applications for a permit shall include a plan which details the proposed wall or fence construction, including ~~fence~~ location in relation to property lines and easements, height, as well as any other information deemed necessary by the City for reviewing the application. ~~Fences and w~~Walls and fences over 6 feet in height shall be designed and constructed to withstand a maximum sustained wind speed and a maximum wind gust as regulated by applicable sections of the Florida State Building Code, as amended. ~~A fee shall be charged for the issuance of a permit. A list of fees is on file at the Building Division.~~
- (b) No fence, wall, or hedge shall be constructed or planted in any right-of-way, except as may be placed as part of a public highway safety or beautification project.
- (c) In residential, OP, C-1, and C-2 zoning districts, no fence or wall above forty-eight (48) inches (four (4) feet) in height shall be allowed in front yards. Fences located in a side yard that abuts a street shall be permitted to a height of six (6) feet from the rear property line to a point parallel to the front building line of the principal structure. The following uses shall be exempt from the above requirements:
- (1) Utility and power substations;
 - (2) Water and wastewater facilities;
 - (3) Public swimming facilities;
 - (4) Stormwater retention ponds.
- (d) No fences shall be installed, constructed or erected without complying with the following regulations:
- (1) Fences shall be a maximum of eight (8) feet in height in front, rear, and side yards in C-3, C-4, I-1 and I-2 zoning districts.
 - (2) Fences located in any residential district, or in an OP, C-1, or C-2 zoning district, shall be a maximum height of six (6) feet in the rear yard and in the side yard from the rear property line to the front of the principal building.
 - (3) Fences placed on property that is located in an office, commercial, or industrial zoning district, and is presently being utilized for residential purposes, shall have a maximum fence height of six (6) feet in the front, rear, and side yards.

- (4) Fences must be constructed of new materials designed for that purpose or aged for proper architectural effect. Fences having a side with exposed or irregular structural components, and a more finished, uniform and aesthetically attractive side, shall be constructed and installed so that the more finished side faces outward from the fences' property toward the adjoining property.
 - (5) Except for fences in the C-3, C-4, I-1 and I-2 zoning districts, no fence shall contain any substance designed or reasonably likely to inflict injury to any person or animal, including, but not limited to, razor or barbed wire, glass or electrically charged wire. In C-3, C-4, I-1 and I-2 zoning districts, three (3) strands of barbed wire may be used on top of a six-foot fence. Barbed wire may also be used in agricultural districts.
 - (6) In addition to the above requirement, all fences shall comply with article II, section 21-328 [sic], fencing requirements for swimming pools, and any other City ordinances or applicable building code requirements related to fencing.
 - (7) Notwithstanding the provisions of this section, the use of security fencing may be used at sites, such as electrical substations and communications facilities, where such fencing is required by federal, state or local law, or other sections of this Code. Further, temporary security fencing may be utilized for construction sites while a permit for the work is active for the construction site. All temporary fences shall be removed prior to the issuance of a certificate of occupancy.
- (e) The Development Special Magistrate may, upon specific approval, grant a variance to the above height limitations if a valid circumstance exists such as the character of the neighborhood, slope or terrain, architectural necessity, or a residentially zoned lot abutting a commercial establishment.
 - (f) The property owner shall maintain any fence to its original designed condition. Missing boards, pickets, posts, gates, etc. shall be replaced in a timely manner with material of the same type, quality, and finish as the existing fence.
 - (g) Single-family subdivisions may have decorative subdivision screening walls. The wall height shall be no greater than six (6) feet in height and the poles/columns shall be no greater than eight (8) feet in height provided all of the following criteria are met:
 - (1) The wall shall be constructed of brick, stucco, split-face block, wrought iron, wood, stone, or a combination thereof. Synthetic materials made to appear as one (1) of the approved materials may be substituted, as approved by the community development director or his/her designee.
 - (2) The total design and construction of the wall including, but not limited to, overall configuration, articulation, material, and color, shall be in such a manner that is residential in character and in keeping with established Central Florida architecture. In connection with such character, all masonry materials (brick, block, stucco, stone) or related simulated materials shall be finished with a warm, earth-tone color, such as brown, beige, or gray.
 - (3) The wall shall be installed a minimum setback of five (5) feet from the property line.
 - (4) No portion of the wall shall be located within any easement.
 - (5) Landscaping (combination of trees and shrubbery) shall be installed within the setback area. One (1) tree shall be planted for each fifty (50) linear feet.

- (6) Ground cover and irrigation shall be provided.
- (h) The use of berms for screening and buffering in place of a wall or fence is encouraged. Berms provide a natural, more aesthetically pleasing form of screening between differing land uses. The following design criteria shall apply to all new berms constructed in the City:
 - (1) Berms shall not exceed five (5) feet in height. Berms over two (2) feet in height are required to remain outside of any visibility triangle as defined by section 21-126.
 - (2) No berm shall have a slope greater than twenty-five (25) percent.
 - (3) All berms shall be planted with grass or other approved ground covers to ensure stability and prevent erosion.
 - (4) Continuous berms greater than two hundred fifty (250) feet in length shall be interrupted, at a minimum, every two hundred fifty (250) feet by twenty-five (25) feet of landscaping, wall, or fence.
 - (5) No portion of a berm shall be permitted to encroach onto a public or private right-of-way. Berms shall not be located over underground utility facilities.