

1st Reading: September 24, 2019

2nd Reading: October 22, 2019

VILLAGE OF EL PORTAL, FLORIDA

ORDINANCE NO. 2019-04

**CODE AMENDMENT FOR WALLS, FENCES
AND HEDGES STANDARDS IN ZONE 3**

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 24: ZONING AND LAND DEVELOPMENT CODE, SEC. 24-B.15.(G) – WALLS, FENCES AND HEDGES STANDARDS (Z3), PROVIDING FOR UPDATED SPECIFIC REGULATIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Village of El Portal has established regulations for walls, fences and hedges for Zone 3 in Chapter 24, Appendix B, of the Code of Ordinances; and

WHEREAS, there have been a number of concerns raised regarding walls, fences, and hedges regulations in Zone 3, in particular about their location, materials permitted, and allowed heights; and

WHEREAS, the provisions for the regulations for walls, fences, and hedges may need revisions to address recurrent concerns; and

WHEREAS, the Village conducted a Town Hall on Saturday, February 23rd and an online survey where residents could express their concerns about the existing regulations for walls, fences, and hedges in Zone 3; and

WHEREAS, the Village of El Portal desires to amend Chapter 24: Zoning and Land Development Code, Sec. 24-B.15(g) – Walls, Fences and Hedges Standards (Z3), of the Village of El Portal Code of Ordinances in order to address the concerns raised regarding height, material and location of walls, fences and hedges.

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NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA:

SECTION 1. The foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The provisions and language currently contained in Chapter 24: Zoning and Land Development Code, Sec. 24-B.15(g) – Walls, Fences and Hedges Standards (Z3), of the Village of El Portal Code of Ordinance is hereby amended to read as set forth in "Exhibit A" to this Ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the Village Council that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2018-XX as amended and known as the "Code of Ordinances" of the Village of El Portal, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 6. If the Official Code of Ordinances of the Village of El Portal Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2019.

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PASSED AND ADOPTED by the Village Council of the Village of El Portal Florida, this ____ day of _____, 2019.

Claudia Cubillos, Mayor

ATTEST: _____
Yenise Jacobi, Village Clerk

Approved as to form and legal sufficiency:
Interim Village Attorney

By: _____
Norman C. Powell, Esq.

Vote:

Councilperson Urbom ____ (Yes) ____ (No)
Councilperson Roman: ____ (Yes) ____ (No)
Councilperson Mathis: ____ (Yes) ____ (No)
Vice Mayor Nickerson.: ____ (Yes) ____ (No)
Mayor Cubillos: ____ (Yes) ____ (No)

I, Yenise Jacobi, Village Clerk of the Village of El Portal, Miami-Dade County, Florida, do hereby certify that this is a true and correct copy of Ordinance: 2019-__ adopted on October __, 2019, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this ____ day of _____, 2019.

Yenise Jacobi
Village Clerk

“Exhibit A”

Sec. 24-B.15. - ZONE 3 (Z3) SUB-URBAN RESIDENCE

(g) WALLS, FENCES AND HEDGES STANDARDS (Z3).

(1) Location:

A. Front Yard ~~and Side Yard~~. No wall, fence, hedge, or other obstruction shall be permitted within the Principal Front Setback ~~or the Secondary Front Setback~~, with the exception of masonry or coral rock walls with a maximum height of four (4) feet, subject to approval by process of Variance.

B. Corner Side Yard. Walls, fences, and hedges shall be permitted with a maximum height of four (4) feet within Layers 2 and 3 of the Secondary Front Setback.

B C. Wire Fences. Wire fences may be erected at the following locations on any premises:

- i. On lots that are not corner lots, wire fences may be erected anywhere along boundaries of a rear yard as defined in this chapter, or within such rear yard; or alongside lot lines from the rear lot line to the front line of building extended to the nearest point in the side lot line, provided that a masonry or coral rock wall connects such wire fence with the building if such wire fence extends forward beyond the rear corner of the building closest to the side lot line.
- ii. On lots that are corner lots, wire fences shall not be erected in any yard or in any yard areas where such areas abut upon a street intersection. Where the rear line of a corner lot abuts upon the side line of the adjoining lot no wire fence in the rear yard or along the rear line may extend closer to the street line than the front setback distance applicable to the lot abutting upon rear of such corner lot, and such front setback distance shall be construed as the required setback if the adjoining lot is unimproved, and the actual front setback of the adjoining lot is improved.

(2) Height: The maximum height for walls, fences and hedges shall be six (6) feet from the established grade, or six (6) feet from actual ground level of such wall or fence, whichever is higher, with the following exceptions:

A. Front Yard ~~and Side Yard~~. No wall, fence, hedge, or other obstruction shall be permitted within the Principal Front Setback ~~or the Secondary Front Setback~~, with the exception of masonry or coral rock walls with a maximum height of four (4) feet, subject to approval by process of Variance.

B. Corner Side Yard. Walls, fences, and hedges shall be permitted with a maximum height of four (4) feet within Layers 2 and 3 of the Secondary Front Setback.

B C. No wire fence shall be permitted over five (5) feet high from the established grade, or over five (5) feet high from actual ground level of such fence, whichever is higher.

C D. Wing walls, hereby defined as a wall or walls which extend from a building to or toward the property line, parallel to and in line with the front of said building, may

exceed six (6) feet in height but not more than roof line height, provided the design and height thereof shall first be approved by process of Variance.

~~D~~ E. Concrete block, stuccoed or natural stone walls, or vinyl-coated chain link type wire fences may be erected to a maximum height of seven (7) feet upon property lines abutting professional or business property or abutting an alley and all lots facing or adjoining business or professional property by process of Variance, in cases where the Village finds that such walls or fences do not create a hazard to pedestrian or vehicular traffic.

F. The maximum height for hedges and landscape along the side and interior side property lines shall be eight (8) feet.

G. Fences for tennis courts, swimming pools and other active recreational uses may have regulation-height fences.

(3) Material: Except as may be otherwise provided herein, walls and/or fences may be constructed of coral rock, concrete block stuccoed on both sides with concrete cap, slump or adobe brick, precast concrete, polyvinyl chloride (PVC), composite material, ornamental wrought iron, ornamental aluminum cast iron, cast aluminum, wire, or wood.

A. Wire Fences. All wire fences shall be of vinyl-coated chain link of a dark color, or single or double looped ornamental type, and shall be aluminum, galvanized steel, of not less than 11 gauge or equal; terminal posts shall be aluminum or galvanized steel pipe of not less than two (2) inches outside diameter or reinforced masonry columns not less than four (4) inches square; aluminum or galvanized steel angles may be used as intermediate supports; all terminal posts and intermediate supports shall be set in concrete, and all terminal posts shall be properly braced when installing any ornamental type fence; top rail, if used, shall be aluminum or galvanized steel pipe not less than one and three-eighths (1 3/8) inches outside diameter; and where top rail is not used, terminal posts shall be properly braced with aluminum or galvanized steel pipe.

B. Wood fences. Wood fences shall be permitted on residential lots subject to the following conditions:

i. Such fence shall be of cedar, cypress, redwood or pressure-treated pine, with four-inch by four-inch terminal posts, two-inch by four-inch intermediate posts, wood rails and pickets one (1) inch thick. Pickets shall be placed so as to provide a space between of not less than one-half (0.50) the width of the picket.

ii. All such fences shall be painted on each side with an appropriate and harmonious color, and shall be maintained and kept in repair by replacing all rotting wood. Construction and painting shall be completed within a reasonable time after issuance of permit therefore, to be determined by the building inspector.

iii. The structural side of a fence shall be facing the owner's lot.

~~iii-~~iv. Manager's administrative variance: An administrative variance may be granted at the manager's discretion when access to the adjacent property is denied, or existing

landscaping or fence structure, or other facts make compliance with Section 24-B.15. (G)(3) i., ~~ii., and iii., and ii.,~~ above, not possible. The following requirements apply: The permit applicant shall provide documentation to building, planning and zoning director that good faith effort was made to obtain adjacent owner's approval to access adjacent property. In regards to existing fence structures, landscaping and other obstacles a code enforcement officer shall provide photo documentation of location in question and serve as a witness.

C. Aluminum and polyvinyl chloride (PVC) fences shall be permitted, provided that the standards set by Miami-Dade County Code of Ordinances, most specifically referencing Section 8.1; Section 8.22 and Section 8A-398 and that said fencing is more decorative than not, including faux finishes such as wooden appearance, stonework and/or textured finish.

D. Hedges and landscape shall be healthy and properly maintained so as to not interfere with adjacent properties.

E. Fences for tennis courts, swimming pools and other active recreational uses shall have a maximum opaqueness of 30 percent.

- (4) Height of seawalls: No seawall, headwall, bulkhead, retaining wall or like structure along the shores of the waters adjacent to the village shall be erected or constructed at an elevation higher than plus eight (8) eight feet elevation above mean low water, City of Miami datum.
- (5) Utility easement areas: Every permit for the erection of a wall or fence in the rear five (5) feet of any lot where a utility easement exists over such rear five (5) feet shall provide that it is subject to revocation. Each such wall or fence shall be constructed subject to the conditions that the wall or fence shall be removed by the owner at any time on request of a utility company requiring the use of the space for utility purposes, and that if the owner of such property fails to so remove such wall or fence after request and notice, the utility company or the city may remove such wall or fence at the property owner's expense.