

## AGENDA ITEM

# E18 DATE 11/10/20



### City of South Daytona Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386.322-3022 • Fax 386/322-3018

#### MEMORANDUM

**To:** James L. Gillis Jr., City Manager

**From:** S. Laureen Kornel, AICP, Community Development Director

**Date:** November 10, 2020

**Re:** Ordinance No. 2020-21 Allowing Six-Foot Tall Fences in Side Corner Yards

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#### Introduction

This is an administrative request to amend *Article V, Section 5.6, Supplementary regulations, subsections (E)(2)(c)* of the Land Development Code (LDC) to modify the fence requirements in residential districts (R1A, R1B, R1C, and R2) to allow six foot (6') tall fences within side corner yards (lots located at the intersection of two or more streets).

#### Background

The Land Development Code currently allows only a four-foot (4') tall fence along side corner yards which is essentially the side yard of a property that abuts a residential street. Since a property owner is allowed to store an RV in the side corner yard, a six-foot (6') tall fence would be more appropriate for screening purposes and will improve the overall look of a property's side yard. As described in the attached Planning and Appeals Board staff report (Exhibit A), this action proposes to amend the fence regulations to allow 6' tall fences in side corner yards.

#### Analysis

The Land Development Code criteria has been analyzed and provided in the attached Planning and Appeals Board staff report attached to this Memorandum as Exhibit A. The proposed amendment is consistent with the Comprehensive Plan and meets the criteria of the Land Development Code. The PAB met to discuss this item on October 21, 2020, and unanimously (6-0) recommended approval to the City Council.

#### Staff Recommendation

Staff recommends amending the City's Land Development Code to allow 6' tall fences in side corner yards. Attached as Exhibit B is Ordinance 2020-21 which achieves this purpose.

Attachments: Planning and Appeals Board Staff Report  
Ordinance 2020-21

**EXHIBIT A**

**PAB STAFF REPORT**

# STAFF REPORT

## City of South Daytona Community Development Department

**DATE:** October 14, 2020

**SUBJECT:** Side Corner Fence Land Development Code Amendment -  
*Article V, Section 5.6, Supplementary Regulations (Fences)*

**APPLICANT:** Administrative (City initiated)

**NUMBER:** LDC 2020-13

**PROJECT PLANNER:** S. Laureen Kornel, AICP, Community Development  
Department

**INTRODUCTION:** This is an administrative request to amend *Article V, Section 5.6, Supplementary regulations*, subsections (E)(2)(c) of the Land Development Code (LDC) to modify the fence requirements in residential districts (R1A, R1B, R1C, and R2) to allow six foot (6') fences within side corner yards (lots located at the intersection of two or more streets).

**BACKGROUND:** In 2019 *Section 7.5(B)(10)(c)(3)* of the Land Development Code was amended with Ordinance 19-15 to state that major recreational vehicles may be parked in the side yard behind the front plane of the house in residential districts of a corner lot abutting a street only if it is obscured by a six-foot-tall solid fence installed with the required setback as dictated by the Code. However, *Section 5.6 (E)(2)(c)* of the Land Development Code requires fences in side corner yards located at or behind the plane of the street facing wall of a principal building not to exceed 4' high, which is inconsistent with the amendment mentioned above.

Since the Code does not specify front or rear plane of the principal structure, the interpretation of the Land Development Code has been that fences on side corner lots within a side corner yard are only allowed at a maximum height of four feet (4') as shown in Attachment 1. This includes the rear section of the side corner lot causing homeowners to have to step their fence down from the allowed 6' in the rear yard to four feet (4'). Aside from the negative visual aesthetic of stepping down the fence in the rear yard and along the side corner yard, this inconsistency prevents the screening of major recreational vehicles in side corner yards.

**LDC Amendment:** *Article V, Section 5.6, Supplementary regulations*, subsections (E)*Fences and Walls*, (2) *R1a, R1b, R1C and R2 Residential Districts (c) Side yards* is proposed to be amended as denoted in ~~strikethrough~~ and underline as follows:

- c. **Side yards:** For side yards which abut a street, fences or walls of open or solid face construction shall be permitted in compliance with the following criteria:

No fence or wall may be installed closer than ten feet from the right-of-way of the abutting street. Any such fence or wall shall not exceed a height of six feet if it is located at or behind the front plane of the principal building; however, if it is located streetward of the front plane of the principle building outside of the required 25' front yard setback where fences are prohibited, the fence shall step down to the required maximum height of 4'. ~~street-facing wall of the principal building; however, if it is located streetward of such plane, it shall not exceed four feet in height.~~

**ANALYSIS:** The existing maximum fence height requirement of the Land Development Code in side corner yards is inconsistent as previously stated. Attachment 1 of this staff report illustrates the four foot (4') fence requirement in side corner and rear yards within Section 5.6 of the Land Development Code. To correct the inconsistency, staff proposes to amend the Land Development Code to clarify that a maximum fence height of 6' from the rear of the property to front plane of the principle building on side corner lots is allowed as illustrated in Attachment 2. Without this amendment the inconsistency will remain and homeowners will continue to be denied the opportunity for screening on side corner lots.

**CONCLUSION:** In accordance with Section 3.2(J)(1) of the Land Development Code, there are certain criteria that must be evaluated before adoption of a Land Development Code amendment. The Planning & Appeals Board must consider the following criteria when making their recommendation to amend the Land Development Code:

1. **Identifies any provision of the Code, Comprehensive Plan or other law relating to the proposed change and describes how the proposal relates to them.**

The proposed amendments are consistent with the Comprehensive Plan and the Land Development Code.

2. **States factual and policy considerations pertaining to the recommendation.**

The purpose of the amendment is to correct an inconsistency within the Land Development Code as previously stated in the staff report to allow fences in side corner yards a maximum of 6' high. There are no other policy considerations pertaining to the recommendations other than what has been stated in the background and analysis of this report.

3. **Includes the written comments, if any, received from the Development Review Committee.**

Comments from the Development Review Committee have been incorporated into the proposed amendments.

**RECOMMENDATION:** It is expected that the proposed amendment will be reviewed by the City Council on November 10, 2020 (1<sup>st</sup> Reading) and December 8, 2020 (2<sup>nd</sup>

reading). It is recommended that the Planning & Appeals Board recommend **APPROVAL** of Case #LDC 2020-12, *Article V, Section 5.6 Supplementary regulations (E)(2)(c)* of the LDC to amend the fence requirements to allow fences in side corner yards of residential districts a maximum height of 6' as specified in ~~striketrough~~ and underline in the background of this report.

Attachment 1 – Current Fence Regulation Rendering

Attachment 2 – Proposed Fence Regulation Rendering

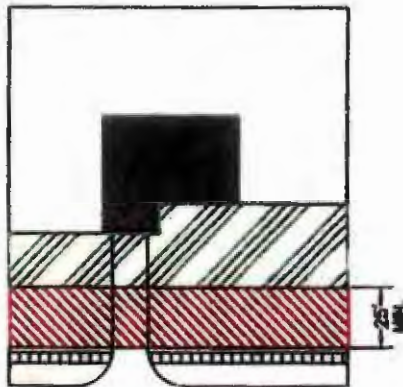
# **ATTACHMENT 1**

Current Fence Regulation  
Rendering (Ordinance 98-09)

# FENCE REGULATIONS

## ORDINANCE 98-09

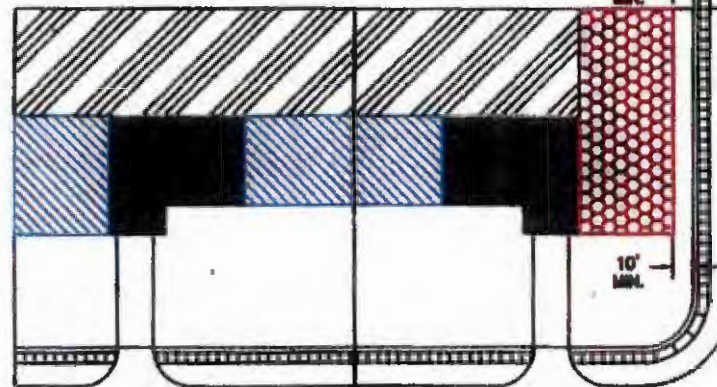
(B)  
FRONT YARDS



- FRONT YARD - NO FENCE PERMITTED \*
- FRONT YARD - 4 FOOT FENCE PERMITTED

\*-See Article V-5.6(D) Decorative Walls & Fences

(C)(E)  
SIDE YARD &  
REAR YARDS



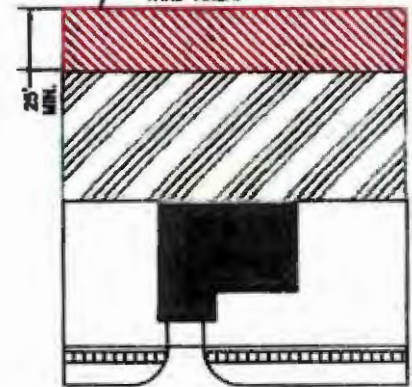
- SIDE YARD - 6 FOOT FENCE PERMITTED
- REAR YARD - 6 FOOT FENCE PERMITTED
- SIDE YARD - 4 FOOT FENCE PERMITTED
- REAR YARD - 4 FOOT FENCE PERMITTED

NOT A CORNER LOT

CORNER LOT

(F)  
WATERFRONT YARDS

LAND DEV. REG. CODE ART. V SECTION 5.6, "B" & "F". MEASUREMENT SHALL BE FROM MEAN HIGH WATER LINE OR SEAWALL WHICHEVER IS CLOSER TO THE PRINCIPAL STRUCTURE OR BUILDABLE YARD AREA.



- WATERFRONT YARD - 4 FOOT FENCE PERMITTED
- WATERFRONT YARD - 6 FOOT FENCE PERMITTED

PROPERTY LINE & RIGHT OF WAY

SIDEWALK LOCATION VARIES

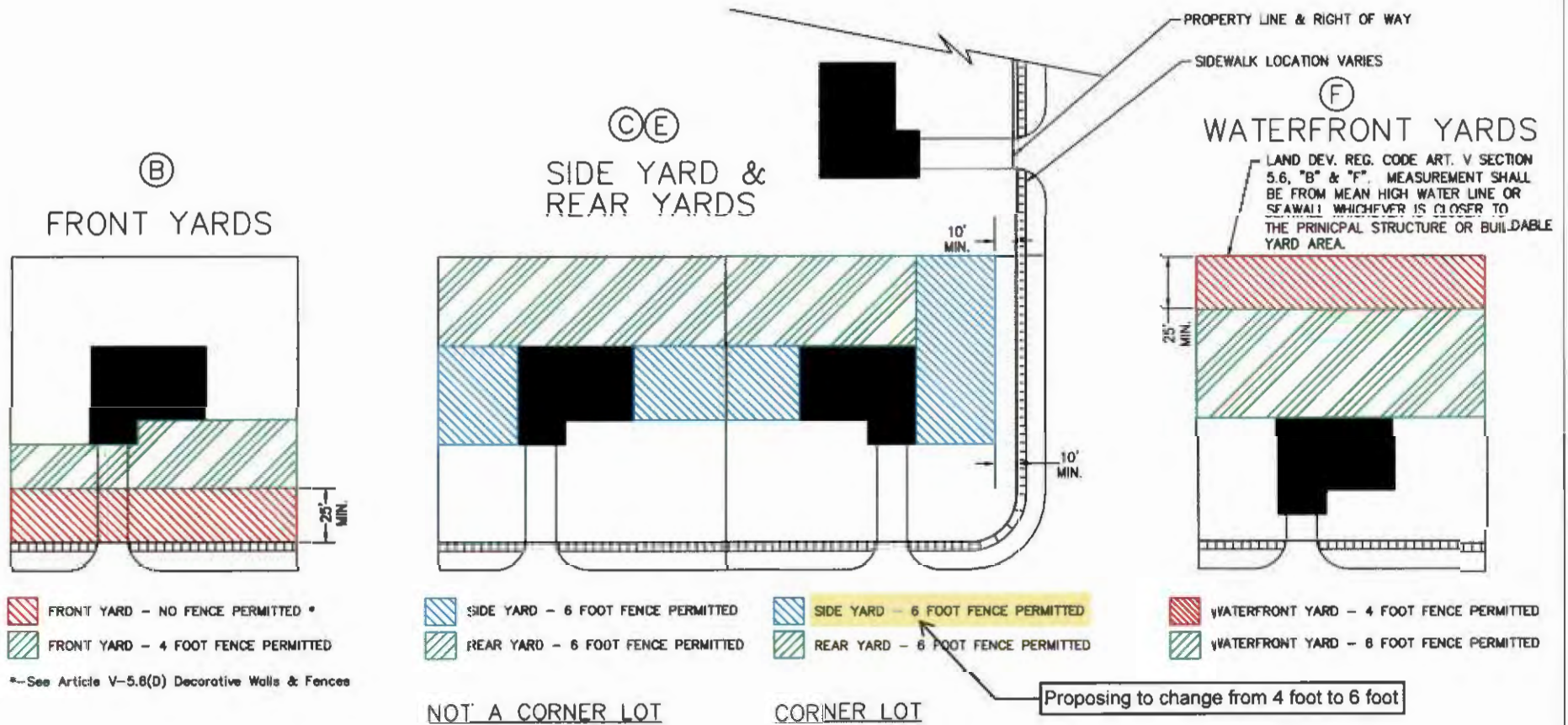
# **ATTACHMENT 2**

Proposed Fence Regulation  
Rendering (Ordinance 2020-XX)



# FENCE REGULATIONS

## ORDINANCE 2020-XX



**EXHIBIT B**

**ORDIANCE NO. 2020-21**

**ORDINANCE NO. 2020-21**

**AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA AMENDING ARTICLE V, ZONING REGULATIONS, SECTION 5.6, SUBSECTIONS (E)(2)(C) OF THE CITY'S LAND DEVELOPMENT CODE TO ALLOW SIX-FOOT TALL FENCES IN SIDE CORNER YARDS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.**

**WHEREAS**, this is an administrative amendment to the City of South Daytona *Land Development Code* ("the *LDC*"), of the City of South Daytona, by amending the fence requirements before the City Council, and

**WHEREAS**, the local planning agency, being the Planning and Appeals Board of the City of South Daytona, has conducted a public hearing on October 21, 2020, on the requested amendment and has made recommendations thereon to the City Council, and

**WHEREAS**, all applicable notice requirements of Section 166.041(3)(a), *Florida Statutes*, have been complied with, and

**WHEREAS**, the City Council finds the amendment to be consistent with the provisions of the *Comprehensive Plan* of the City of South Daytona, and in the overall best interest of the public health, safety and welfare, now therefore,

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA:**

**SECTION ONE.** Subsection (E)(2)(c), Fences and walls of Section 5.6, Supplementary Regulations of Article VI, Zoning Regulations, of the *LDC* is hereby amended to read as follows:

c. *Side yards*: For side yards which abut a street, fences or walls of open or solid face construction shall be permitted in compliance with the following criteria:

No fence or wall may be installed closer than ten feet from the right-of-way of the abutting street. Any such fence or wall shall not exceed a height of six feet if it is located at or behind the front plane of the principal building; however, if it is located streetward of the front plane of the principle building outside of the required 25' front yard setback where fences are

~~prohibited, the fence shall step down to the required maximum height of 4'. street-facing wall of the principal building; however, if it is located streetward of such plane, it shall not exceed four feet in height.~~

**SECTION TWO.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION THREE.** In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

**SECTION FOUR.** This Ordinance shall take effect immediately upon its adoption.

Passed upon first reading at a regular meeting of the City Council of the City of South Daytona, Florida on the 10<sup>th</sup> day of November, 2020.

Passed and adopted upon second and final reading at a regular meeting of the City Council of the City of South Daytona, held in South Daytona, Florida on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNED:

\_\_\_\_\_  
William C. Hall  
Mayor

ATTEST:

\_\_\_\_\_  
James L. Gillis, Jr.  
City Manager

CERTIFIED AS TO FORM:

\_\_\_\_\_  
Scott E. Simpson  
City Attorney