

ORDINANCE NO. 2015-____
UNIFIED LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING THE CITY'S UNIFIED LAND DEVELOPMENT CODE; IN CHAPTER 3, ZONING, USES, AND DIMENSIONAL STANDARDS, SECTION 3.03.02 NONRESIDENTIAL AND MIXED USE DISTRICTS - ALLOWABLE USES INCLUDING TABLE 3-4 TO UPDATE THE APPROPRIATE ZONING CLASSIFICATIONS FOR DRINKING AND EATING ESTABLISHMENTS; AMENDING CHAPTER 4, CONDITIONS FOR LIMITED SPECIFIC USES AND ACTIVITIES, SECTION 4.01.02 FENCES AND WALLS TO MODIFY VARIOUS STANDARDS FOR FENCES AND WALLS; AMENDING CHAPTER 14, GLOSSARY, SECTION 14.02 GLOSSARY TO DELETE DEFINITIONS FOR CLUB AND PRIVATE CLUB, AND ADD DEFINITIONS FOR BOTTLE CLUB, CIVIC CLUB, DRINKING ESTABLISHMENT, FENCE, LANDSCAPE FEATURE, MICROBREWERY, FAST-FOOD RESTAURANT, SIT-DOWN RESTAURANT, AND WALL; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it has been determined that it is warranted to provide an amendment to the appropriate zoning classifications for drinking and eating establishments by amending Chapter 3 - Zoning, Uses, and Dimensional Standards, Section 3.03.02 Nonresidential and Mixed Use Districts – Allowable Uses; and

WHEREAS, it has been determined that it is warranted to provide an amendment to various standards for fences and walls by amending Chapter 4, Conditions for Limited Specific Uses and Activities, Section 4.01.02 Fences and walls; and

WHEREAS, it has been determined that it is warranted to provide an amendment to Chapter 14 - Glossary, Section 14.02 Glossary, by deleting definitions for club and private club and by adding definitions for bottle club, civic club, drinking establishment, microbrewery, fast-food restaurant, sit-down restaurant, fence, and wall; and

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1. The foregoing whereas clauses are incorporated here as legislative findings by this reference and made a part hereof for all intents and purposes.

SECTION 2. Chapter 3 - Zoning, Uses, and Dimensional Standards, Section 3.03.02

Nonresidential and Mixed Use Districts – Allowable Uses; is hereby amended to read as follows:

3.03.02. Nonresidential and Mixed Use Districts – Allowable Uses. The following table contains a list of uses allowed in each district, and specifies if they are permitted by right (P) or if they require special exception approval (S) in accordance with Chapter 2. Uses permitted only as accessory to a principal use are noted with an (A). All uses marked with an (L) have additional limitations specific to that use listed in Chapter 4.

Table 3 - 4. Nonresidential and Mixed Use Zoning Districts - Use Table

Specific Use Type	COM-1	COM-2	COM-3	OFC-1	OFC-2	IND-1	IND-2	PSP	P & G	PRS	MPD
Civic, Nonprofit & Institutional											
Civic Uses: town hall, libraries, museums	P	P	P	P	P	S	-	P	-	-	P
Civic Uses: police, fire, postal service	P	P	P	P	P	P	S	P	-	-	
Civic Clubs and Fraternal Organizations (L)	P	P	P	P	P	-	-	P	-	-	P
Hospice Services	S	P	P	S	P	-	-	P	-	-	P
Hospitals	-	P	P	-	P	-	-	P	-	-	P
Houses of Worship/Religious Institutions (L)	P	P	P	P	P	-	-	P	-	-	P
Nonprofit Organizations, (e.g., Humane Societies) (L)	P	P	P	P	P	-	-	P	-	-	P
Eating, Drinking and Entertainment											
Adult-Oriented Businesses (L)	-	-	-	-	-	-	P	-	-	-	-
<u>Bars, Taverns, and Nightclubs Drinking Establishments</u> (without discotheques and/or live <u>outdoor</u> entertainment) (L)	<u>P</u>	P	P	<u>S</u>	<u>S</u>	-	-	-	-	-	P
<u>Bars, Taverns, Nightclubs Drinking Establishments</u> (with discotheques and/or live <u>outdoor</u> entertainment) (L)	-	S	P	-	-	-	-	-	-	-	P
Beer, Wine, and Liquor Stores (L)	P	P	P	P	P	-	-	-	-	-	P
Cafeterias, <u>Coffee and Donut Shops</u> , Snack bars, Sandwich Shops, Delicatessens, Bakeries	P	P	P	P	P	S	-	P	-	-	P
<u>Microbreweries</u> (L)	<u>S</u>	<u>S</u>	<u>P</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>S</u>	<u>P</u>	<u>S</u>	<u>S</u>	<u>P</u>
Performing Arts Facilities (e.g. dinner theaters)	S	P	P	-	-	-	-	P	-	-	P
Pizza Delivery Establishments and Takeout Places (L)	P	P	P	P	P	S	-	-	-	-	P

Specific Use Type	COM-1	COM-2	COM-3	OFC-1	OFC-2	IND-1	IND-2	PSP	P & G	PRS	MPD
Restaurants, with Drive-through <u>Fast-Food (L)</u>	-	P	P	-	-	-	-	-	-	-	P
Restaurants, Sit-Down	P	P	P	P	P	-	-	-	-	-	P
* * *											

SECTION 3. Chapter 4 - Conditions for Limited Specific Uses and Activities, Section 4.01.02 Fences and walls; is hereby amended to read as follows:

4.01.02. Fences and walls

A. *General requirements.*

1. *Setbacks, orientation, and placement.*

- a. Fences shall be installed with the finished side facing the exterior of the property.
- b. No fence or wall shall interfere with drainage on a site.
- c. Fences and walls may be located within ~~a utility~~ an easement as long as they do not interfere with utilities; provided, however, ~~that~~ such structures be are subject to removal and replacement at the property owner's expense by the requesting utility agency.
- d. Fences and walls in front of the front building ~~line~~ facade of residential dwellings shall only be permitted in the AGR, EST-1, and EST-2 Districts and in neo-traditional developments.
- e. Refer to Chapter 11 for applicable buffer and screening requirements for fences and walls.
- f. Decorative walls and solid fences are permissible surrounding the perimeter of a development that is at least five acres in size.
- g. Gates are considered parts of fences and walls and are regulated accordingly. Gates shall not open or swing onto neighboring properties.

2. *Height.*

- a. The maximum height ~~permitted~~ shall be measured from finished grade to the top of the fence or wall. The finished grade shall not be altered to increase fence height and where a berm is constructed, the height of the berm over the finished grade shall be included in determining fence height. Decorative wall columns and occasional architectural embellishments to fences may extend up to 12 inches above the maximum height permitted.

- b. The maximum height of any fence or wall located in interior side or rear yards behind the nearest front building ~~line~~ facade shall be six feet, unless otherwise specified in this Code or as approved by the Land Use Administrator for health, safety, or environmental protection purposes.
- c. A fence or wall on a residential lot located to the rear of the principal structure and within 20 feet of a saltwater waterway is limited to a height of four feet, except in the following situations.
 - (1) An open fence is allowed to a height of six feet.
 - (2) A fence or wall enclosing a pool deck that is setback at least 7.5 feet from the side property lines and at least 15 feet from the saltwater waterway is allowed to a height of six feet.
- ~~ed.~~ Within the EST Districts and in ~~neotraditional~~ developments, the maximum height of any fence or wall in front of the front building ~~line~~ facade or located in a street side yard shall be a maximum of four feet.
- ~~d.~~ ~~The maximum height of retaining walls shall be five feet, unless otherwise approved by the Land Use Administrator based upon generally accepted land use planning practices. A minimum of five feet shall separate retaining walls designed to increase site elevation.~~
- e. Fences immediately surrounding civic or public recreational sports playing fields located on lots over one-acre in size may be constructed to a maximum height of 12 feet and hooded backstops for diamond sports may be increased to a maximum height of 28 feet, with approval of the Land Use Administrator.

3. *Design and Materials.*

- a. Fences shall be constructed utilizing rot resistant material for any part of the fence coming in contact with the ground. All fences shall be constructed of customary fencing materials and finishes. Wood and vinyl fences shall meet the color standards of Section 13.02.06.B.1. or be finished in a wood stain or simulated wood finish in a non-prohibited color as outlined in Section 13.02.06.B.3. Fences constructed of treated lumber may remain unfinished.
- b. Chain-link, aluminum (except for decorative aluminum fences), or similar fences shall be prohibited in yards fronting along arterial and collector roadways.
- c. Chain-link, aluminum, or similar metal fences shall be black or bronze in color, ~~and shall be installed with the pointed ends toward the ground.~~ However, except that aluminum fences may also be bronze white in color to match a screen room or enclosure. Chain link fences shall not have slats, fabric or similar types of screening materials attached to them.
- d. Walls shall be made of, ~~or equivalent to,~~ the following materials:
 - (1) Brick, Norwegian brick, ~~or~~ jumbo brick or stone.

(2) Split-faced block or finished masonry walls where block seams are not visible. Finished masonry walls shall also include a tile, brick, or decorative trim at or near the top of the wall.

(3) Wrought iron or aluminum fence in combination with brick, jumbo brick, stone, or finished masonry columns.

(4) Pre-cast concrete having a simulated wood, stone, or brick pattern.

(45) Other materials as approved by the Land Use Administrator.

e. Walls shall have columns spaced as follows:

(1) Twenty-foot maximum spacing on walls 100 linear feet, or less.

(2) Thirty-foot maximum spacing on walls 101- 200 linear feet.

(3) Forty-foot maximum spacing on walls over 200 linear feet

f. No barbed wire, razor wire, or electrically charged fence shall be erected, unless otherwise specified in this section. Broken glass, steel spikes, or other sharp objects intended to restrict access along the top edge of a fence or wall are prohibited.

g. Chicken wire, field fences, and other similar fence types are prohibited, except in the utilization of bona-fide agricultural purposes in the AGR and EST-2 Districts.

~~*B. Residential districts.*~~

~~All walls and fences shall be setback a minimum of three feet from the rear property line abutting rights-of-way, golf courses, canals, or other similar highly visible areas in accordance with the requirements of Chapter 11.~~

~~*CB. Nonresidential districts.*~~

1. Setbacks may be required between fences or walls to property lines in order to provide landscape buffers in accordance with the requirements of Chapter 11.

2. Within the IND, COM, and PSP Districts, the following shall apply:

a. Fences and walls may exceed maximum permitted height by up to two feet if they are part of an approved or required landscape buffer meeting the requirements of Chapter 11.

b. Fences or walls needed to provide extra security or safety ~~provisions~~ may exceed maximum permitted height by up to two feet, with an additional 18 inches of barbed wire or ~~similar extension~~ other material upon approval by the Land Use Administrator.

~~*DC. Special provisions for subdivision entrance features.*~~

1. Fences and walls used as decorative features at subdivision entrances may exceed maximum permitted heights by up to four feet upon approval by the Land Use Administrator. This measurement shall exclude decorative wall columns, which may extend a maximum of 12 inches beyond the top of the wall or 18 inches above the height of a wall framing an identification sign. Light fixtures may extend up to 42 inches above the height of the wall.

2. Entrance walls and landscaping shall be located within a designated easement, tract, or common area.
3. Wall jogs and spanned footer intervals shall be used, where possible, to avoid existing trees. Buffer width requirements may be waived to the extent necessary to protect the specimen trees.
4. The main entrance wall shall be landscaped in accordance with Chapter 11.

~~ED.~~ *Special provisions for fences and walls in the AGR Districts.* Fences used to contain farm animals or to separate crops relative to bona fide agricultural uses are exempt from ~~permitting this section.~~ The property owner must demonstrate eligibility for this exemption. The height of the fence shall not exceed six feet. However, an 18-inch barbed wire or similar extension is permissible. Where barbed wire is used as a fence, it shall be limited to a maximum of three strands at two-foot intervals. Barbed wire shall not project outward over any public right-of-way or adjacent property.

SECTION 4. Chapter 14 – Glossary, Section 14.02 Glossary; is hereby amended to read as follows:

* * *

~~*Club:* A building or portion thereof, or premises owned or operated, for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.~~

Club, bottle: A commercial establishment licensed by the State where no alcoholic beverages are sold, but where patrons may keep or bring their alcoholic beverages for consumption on the premises. Non-alcoholic mixers or so-called "set-ups" may be provided by the club.

Club, civic: An establishment operated by a corporation or association of persons for community, social, fraternal, or recreational purposes and not operated or maintained for profit.

~~*Club, private:* An association or organization of a fraternal or include casinos, nightclubs or other institutions operated for a profit.~~

* * *

Drinking establishment: An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. A bottle club is also a drinking establishment.

* * *

Fence: An artificially constructed vertical barrier constructed of wood, vinyl, or metal erected to enclose, restrict access to, screen, or separate areas. An open fence is one having at least 50% visibility.

* * *

Landscape feature: An embellishment to the natural environment by blending man-made or natural materials with plantings in order to improve the outdoor aesthetics of a property. E.g. Landscape features, which include decorative planters, stone work, brick work, shall not exceed 3 feet in height. A Landscape feature, as defined herein is not a fence or wall.

* * *

Microbrewery: A facility licensed by the State for the production and packaging of malt beverages with low alcoholic content for distribution or for consumption on the premises, with a capacity of not more than 15,000 barrels per calendar year. Accessory uses may include tasting rooms with food sales or tours of the microbrewery.

* * *

Restaurant, fast-food: An eating establishment where customers order and receive their food and/or beverages at a counter, a drive-in window, or via drive-up service. Customers may or may not consume the food or beverages on-site.

Restaurant, sit-down: An eating establishment where food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables or are served cafeteria or buffet style. A sit-down restaurant may also provide accessory drive-through and walk-up services. If the business also sells alcoholic beverages, the sale of food products must represent at least 51 percent of the facility's total sales, or the business shall be considered a drinking establishment.

* * *

Wall (when referred to as a fence): An artificially constructed vertical barrier that is typically solid and constructed of stone, brick or masonry erected to enclose, restrict access to, screen, or separate areas.

* * *

SECTION 5. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 6. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to Section," "Article," or other appropriate word.

SECTION 7. CONFLICTS. All ordinances or part of ordinances in conflict with this

Ordinance are hereby repealed.

SECTION 8. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

APPROVED on first reading the ____ day of _____, 2015, at a public hearing.

ADOPTED on the second reading the ____ day of _____, 2015, at a public hearing.

ATTEST:

CITY OF PALM COAST, FLORIDA

Virginia Smith, City Clerk

Jon Netts, Mayor

APPROVED AS TO FORM AND LEGALITY:

William E. Reischmann Jr., Esq.
City Attorney

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