

ORDINANCE NO. 2020-09

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ZONING, ARTICLE V, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 2 – HEIGHT, YARD AND AREA REQUIREMENTS, SECTION 98-1005. VISION CLEARANCE AT CORNERS, CURB CUTS AND RAILROAD CROSSINGS; DIVISION 5 – FENCES, WALLS, HEDGES AND BUFFERS, SECTION 98-1117. PERMITTED IN RESIDENTIAL DISTRICTS, SECTION 98-1118. HEIGHT RESTRICTIONS IN RESIDENTIAL ZONES, AND SECTION 98-1119. HEIGHT RESTRICTIONS IN COMMERCIAL, INSTITUTIONAL AND INDUSTRIAL ZONES, REGARDING FENCE, WALL, AND HEDGE HEIGHT REQUIREMENTS AND VISION CLEARANCE REQUIREMENTS; PROVIDING ILLUSTRATIONS; PROVIDING FOR INCLUSION IN THE CODE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, issues with residential corner lot fence placement and fence height have been addressed by the City of West Melbourne’s Planning, Building, Public Works and Legal Departments over time; and

WHEREAS, the City Attorney has recently provided written legal interpretation to corner lot fence codes in residential zoning districts; and

WHEREAS, as a result of corner lot fence height and fence placement issues in residential zoning districts, the City of West Melbourne is proposing updated requirements for corner lot residential fence height and placement in the City Codes; and

WHEREAS, the City of West Melbourne has determined that graphics accompany the proposed code changes to illustrate the fence code revisions; and

WHEREAS, the City of West Melbourne has enforced the buffer fence height between commercial, industrial, institutional and residential zoning districts to be measured not at grade level but at the elevation of the closest paved surface; and

WHEREAS, a specific code describing and showing the measurement of non-residential fences for all commercial, industrial and institutional zoned properties will add clarity to all who use the code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, that:

Section 1. Findings. The foregoing recitals are hereby ratified and confirmed as findings of the City Council and the legislative intent of this ordinance.

Section 2. Amended Chapters of the City Code. Sections to be revised in Chapter 98, Zoning, Section 98-1005. Vision clearance at corners, curb cuts and railroad crossings; Section 98-1117. Permitted in residential districts; Section 98-1118. Height restrictions in residential zones; Section 98-1119. Height restrictions in commercial,

institutional and industrial zones, of the Code of Ordinances of the City of West Melbourne, are hereby enacted to read as set forth in **Exhibit A**, attached hereto and incorporated by reference herein.

Section 3. Inclusion in the Code. It is the intention of the City Council of the City of West Melbourne that Section 3 of this ordinance shall be made a part of the City of West Melbourne Code of Ordinances. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected.

Section 4. Severability. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflict with Other Ordinances. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

Section 6. Effective Date. This ordinance shall become effective immediately upon its adoption by the City Council on second reading.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 20th day of October, 2020.

1st READING: September 24, 2020

2nd READING: October 20, 2020

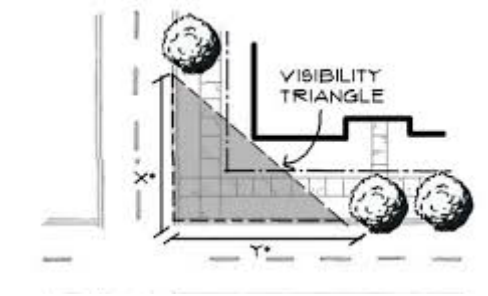
Exhibit A
EXHIBIT A
Chapter 98 – Zoning

ARTICLE V. – SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 98-1005. - Vision clearance at corners, curb cuts and railroad crossings.

Notwithstanding any other part of this chapter or any permit granted or any variance granted by the board of adjustment, no type of structure, vehicle, tree, planting, vegetation, sign or fence or any type of obstacle or any portion thereof shall be placed or retained in such manner that would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts or railroad crossings in any zoning district. In order to achieve the required vision clearance at corners, certain sections of the code may provide for a “sight visibility triangle,” which consists of the triangular area adjacent to the intersection of any street, established by measuring a prescribed distance from the point of intersection of two streets along the right-of-way of each of the intersecting streets and connecting the ends of each measured distance as depicted in Figure 1 at the end of this section.

Figure 1: Sight Visibility Triangle



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Sec. 98-1117. - Permitted in residential districts.

Notwithstanding other sections of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard except where such fence, wall or hedge constitutes a hazard to vehicular traffic, obstructs vision clearance, or obstructs access to public utility boxes, meters, manholes, or other such ground-level or above-ground infrastructure, provided that no fence, wall or hedge along the sides or front edge of any front yard shall exceed four feet in height ~~except where such fence, wall or hedge constitutes impairment to vehicular traffic~~. There shall be six-foot height restrictions to the rear of the front yard. Section 98-1005 is also applicable to this section. The property owner shall be required to obtain a building permit before such fence or wall is erected.

Sec. 98-1118. - Height restrictions in residential zones.

Fences, walls and hedges located, erected, constructed, reconstructed or altered on any property located in a residential zoning district shall comply with the following height requirements:

- (1) Except as provided in subsection (5) of this section, any portion of any such fence, wall or hedge located between the front building lineface on such property and the

front lot line shall be not more than four feet in height. [See Figure 1 at the end of this section.](#)

- (2) Any portion of such fence, wall or hedge located ~~behind to the rear of~~ the front building lineface shall be not more than six feet in height, except as restricted by subsections (3), ~~and (4), and (5)~~ of this section. [See Figure 1 at the end of this section.](#)
- (3) For any corner lot of which the rear lot line abuts the side lot line of another lot, that portion of such fence, wall or hedge located ~~between~~ within ten feet of the side right-of-way ~~and the side building line adjacent to the side right-of-way~~ shall be not more than four feet in height. [That portion of such fence, wall or hedge set back ten feet or more from the side right-of-way shall be not more than six feet in height. See Figure 2 at the end of this section.](#)
- (4) [For any corner lot of which the rear lot line abuts a right-of-way, no fence, wall or hedge may be located within the sight visibility triangle established by measuring ten feet from the point of intersection of the rear right-of-way and the side right-of way along the right of way of each of the intersecting streets and connecting the ends of each measured distance. See Figure 3 at the end of this section.](#)
- (45) For any unimproved lot or any lot not containing a structure, the requirements of subsections (1), (2), (3), and ~~(34)~~ of this section shall be applied to required front and corner building lines in the same manner as if a structure had been constructed in accordance with such required yard area or setbacks as specified within the zoning district requirements.
- (56) Any lot or parcel of 2½ acres or more and containing at least one dwelling unit shall be permitted a perimeter fence, wall or hedge of not more than six feet in height. Such fence, wall or hedge shall be constructed in a manner that provides adequate visibility at the intersection of any public or private driveway and the street providing access to such lot or parcel and at any abutting street intersection.

Figure 1: Interior Lot Fence Height



Figure 2: Corner Lot Fence Height

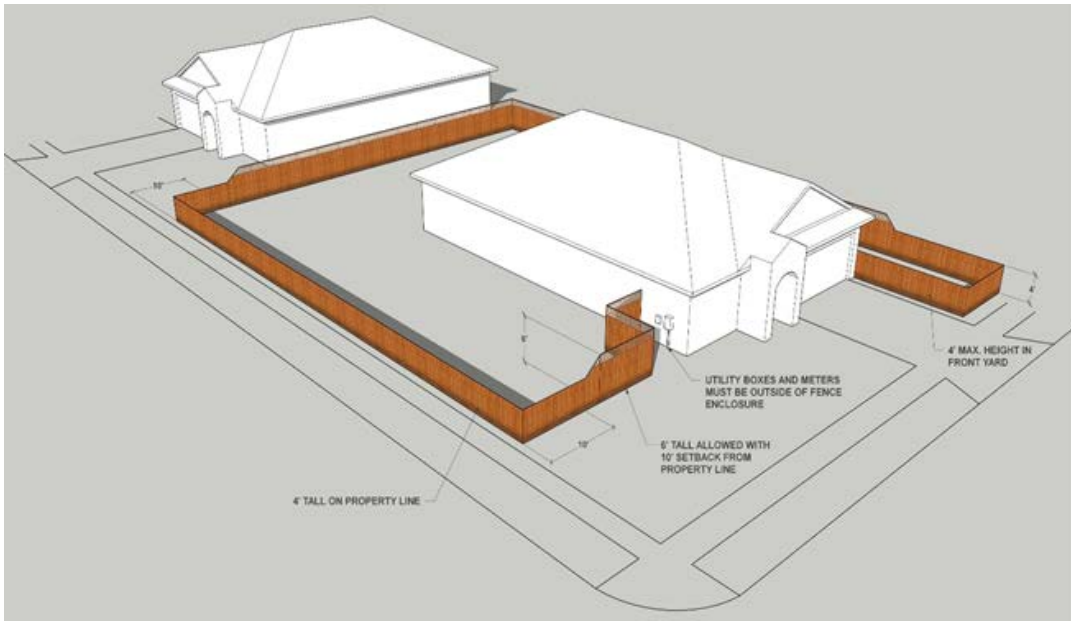
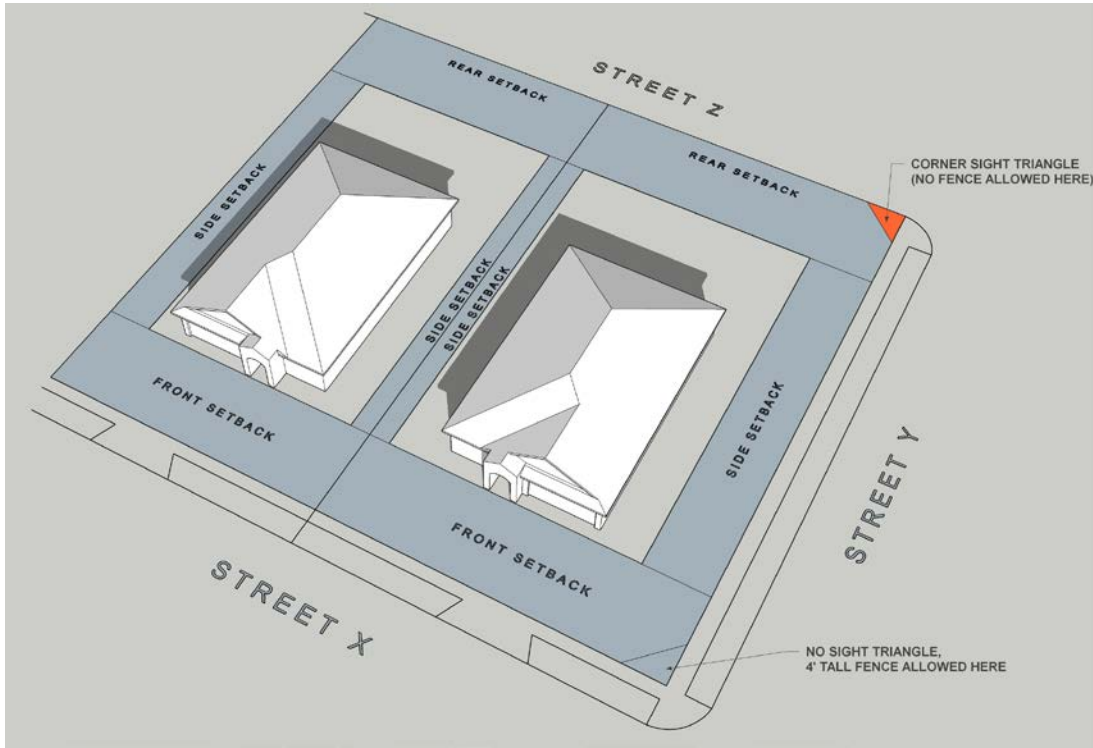


Figure 3: Corner Lot Abutting Right-of-Way on Rear Property Line



Sec. 98-1119. - Height restrictions in commercial, institutional, ~~and industrial~~ and mixed use zones.

All walls, fences and hedges located, erected, constructed, reconstructed or altered on any commercial property ~~in a commercial zone~~ shall be no more than six feet in height. All walls, fences and hedges located, erected, constructed, reconstructed or altered on any industrial or institutional property ~~located in institutional or industrial zones~~ shall be no more than eight feet in height. The height of walls, fences and hedges located on properties in commercial, industrial, institutional or mixed use zones is measured from the nearest paved elevation on the property rather than the ground elevation at the property line, except as authorized in writing by the city official, staff member, board or council with approval authority for the subject land development permit. See Figure 1 at the end of this section. Barbed wire barriers for security purposes not exceeding two feet in a vertical dimension may be installed above any fence erected in compliance with the requirements of this section. When any fence, wall or hedge is located in a commercial, institutional, ~~or~~ industrial or mixed use zone and abuts property in another commercial, institutional, ~~or~~ industrial or mixed use zone, the required height of such wall, fence or hedge needed to meet the height specifications of this ~~section~~ chapter shall be determined in the sole discretion of the city based upon the nature of the development, construction and use of the property on each side of the common property line in question.

Figure 1: Fence Height Measurement in Commercial, Industrial, Institutional and Mixed Use Zones

