

**ORDINANCE NO. 19-2023**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING ORDINANCE OF THE CITY OF COCOA RELATING TO HEIGHT OF VISUAL SCREENS, INCLUDING FENCES AND WALLS, FOR CERTAIN RESIDENTIAL USES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Cocoa is granted the authority, under Section 2(b), Art. VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Appendix A, *Zoning*, Article XIII, *Supplementary District Regulations*, Section 5, *Visual Screens (Fences, Walls, Hedges)*, of the Code of Ordinances of the City of Cocoa, Florida, sets forth standards for the erection, construction, installation, maintenance or replacement of any fence or wall; and

**WHEREAS**, the City Council desires to amend Appendix A, Article XIII, Section 5, to provide that fences or walls on side corner lot yards may be 6 feet in height, maximum, and do not have to be located behind the side corner yard setback line, provided that the fence or wall is located behind the front building line, is at least 5 feet from the nearest sidewalk, and the visibility triangle is maintained; and

**WHEREAS**, the Planning and Zoning Board and City Staff of the City of Cocoa have recommended approval of this Ordinance; and

**WHEREAS**, the City Council of the City of Cocoa held two duly noticed public hearings on the proposed zoning change set forth hereunder and considered findings and advice of staff, the Planning and Zoning Board, citizens, and all interested parties submitting comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Cocoa Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder; and

**WHEREAS**, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of Council.

**Section 2. Zoning Text Amendment.** The City of Cocoa Code of Ordinances Appendix A, Article XIII, Section 5, is hereby amended as follows: (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (\* \* \*) indicate a deletion from the Ordinance of text existing in Appendix A, Article XIII. It is intended that the text in Appendix A, Article XIII denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance):

\* \* \*

## APPENDIX A – ZONING

\* \* \*

### Article XIII. – SUPPLEMENTARY DISTRICT REGULATIONS

\* \* \*

#### Sec. 5. Visual screens (fences, walls, hedges).

- (a) *Applicability.* This section shall apply to the erection, construction, installation, maintenance or replacement of any fence or wall.
- (b) *Definitions.* For the purpose of this section, the following words or phrases shall have the meaning provided below, unless the context clearly indicates otherwise:
  - Fence* shall mean a vertical or horizontal barrier of nonliving materials erected to enclose or screen from view areas of land.
  - Wall* shall mean a vertical or horizontal opaque barrier of stone, brick, or concrete block.
- (c) *Permit required.* No fence or wall shall be erected, constructed, installed or replaced, unless specifically excepted herein, without first obtaining a building permit. Any application for a fence or wall permit shall include a certified boundary survey or other accurate and drawn to scale plan, which at a minimum includes the following:
  - (1) Location of all property lines;
  - (2) Exact location and dimension of the proposed fence or wall;
  - (3) The location, dimension, and set-backs for all structures and easements located upon the property; and
  - (4) The type of construction to be used for the fence or wall.

(d) *General Requirements.* The general standards to be applied to fences and walls are provided in the table below.

Fence and Wall Bulk Regulations							
Category	Specific Requirement	Residential zoning districts				Commercial zoning districts	Industrial zoning districts
		Single-family and duplex dwellings	3 to 9 dwelling unit development	10 or more dwelling unit development	Perimeter of subdivisions with 6 or more lots		
Height (shall be measured from the highest finished grade of the properties within 5' of the common boundary line to the highest point of the fence or wall.)	Front yard (and in front of a principal structure)	4' max.	4' max	6' max.	8' max.	8' max.	8' max.
	<b>Side corner lot yard (and in front of a principal structure)</b>	<b><del>4' max.;</del> may be 6' max. behind the side corner lot setback or front building line and may be located within the side corner setback, including on the side property line, so long as the fence is at least 5' from the nearest edge of a sidewalk if</b>	<b><del>4' max.;</del> may be 6' max. behind the side corner lot setback or front building line and may be located within the side corner setback, including on the side property line, so long as the fence is at least 5' from the nearest edge of a sidewalk if</b>	6' max.	8' max.	8' max.	8' max.

		<u>a sidewalk exists and the site visibility triangle is maintained, whichever is less.</u>	<u>a sidewalk exists and the site visibility triangle is maintained, whichever is less.</u>				
	Side interior (and behind the front of a principal structure)	6' max.	6' max.	6' max.	8' max.	10' max.	10' max.
	Rear yard	6' max.	6' max.	6' max.	8' max.	10' max.	10' max.
* * *							

**Section 3. Incorporation Into Code.** This Ordinance shall be incorporated into the City Code of the City of Cocoa and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

**Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent Ordinances and Resolutions adopted by the City Council, or parts of prior Ordinances and Resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

**ADOPTED** by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 12 day of September, 2023.

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**MICHAEL C. BLAKE, Mayor**

**ATTEST:**

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**MONICA ARSENAULT, Interim City Clerk**

Legal Ad Published:	<u>08/10/2023</u>
First Reading:	<u>08/22/2023</u>
Legal Ad Published:	<u>09/01/2023</u>
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