

TOWN OF EDISTO BEACH

**AN ORDINANCE TO ENACT ARTICLE IX OF THE TOWN'S ZONING ORDINANCE
RELATED TO FENCES ON PRIVATE LOTS**

WHEREAS, the Town Council desires to enact fence regulations in the zoning ordinance to maintain visual harmony within zoning districts throughout the Town, to provide for flow of stormwater, and to protect adjacent properties from the indiscriminate placement and unsightliness of fences; and

WHEREAS, prior to adoption of this ordinance it was presented to the planning commission and a public hearing was duly held.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Edisto Beach, South Carolina, in council duly assembled, that Article IX of Chapter 86 of the Town's Zoning Ordinance is enacted to read as follows:

ARTICLE IX. FENCES

Sec. 86-300. Purpose.

This article establishes standards for fences on private lots.

Sec. 86-301. Applicability.

The provisions of this article shall apply to all new construction, redevelopment, or replacement of fences or walls not required for support of a primary or accessory structure, or any other linear barrier intended to delineate different portions of a lot. For purposes of this article "Fence" shall be defined as structure and/or materials, other than plant material, erected to provide a barrier or enclosure within or around a lot or any portion thereof and its component parts, including, but not limited to, gates, posts, columns, and associated components of entry gates.

Sec. 86-302. General Requirements for Fences.

(A) *Location.* Fences are permitted on the property line between two or more parcels of land held in private ownership. No fence shall extend seaward beyond a dune.

(B) *Temporary fences.* Temporary fences for construction sites or a similar purpose shall comply with the requirements of the Building Code adopted by the town.

(C) *No fences in easements.* Fences shall be prohibited within utility easements and right of way easements and the town shall not be responsible for damage to, or the repair or replacement of fences that must be removed to access such easements. In no instance shall

this provision be construed to prevent fencing around stormwater retention or detention facilities.

(D) *Blocking natural drainage flow.* No fence shall be installed so as to block or divert a natural drainage flow of water onto or off of any other land. Fences shall not be constructed which impede the free flow of water.

(E) *Fences on retaining walls or berms.* If a fence is constructed on top of a wall or berm, the combined height of the fence and wall or berm shall not exceed the maximum height that would apply to a fence or wall alone.

(F) *Fences within buffers.* Fences shall be installed so as not to disturb or damage existing vegetation or installed plant material. The perimeter fencing for a single subdivision or development shall be of a uniform, approved style that meets the standards of this section in order to provide visual interest in an orderly manner.

(G) *Permits.* For fences seven (7) feet tall or taller, a building permit is required to construct a fence, replace a fence, or repair a fence that has been damaged more than 48% of its value. A zoning permit is required for all fences, regardless of height, to construct a fence, replace a fence, or repair a fence that has been damaged more than 50% of its value. All proposed fences are subject to review by the Building Official and require a sketch or drawing plan for approval.

(H) *Within Flood V-Zone.* Within flood V-Zone as determined by the most recent FIRM, no part of a fence shall be constructed with masonry material or heavy lumber. For purposes of this section, the term "heavy lumber" means any piece of wood with a nominal cross section dimension greater than 4 inches by 4 inches.

(I) *Within Flood A-Zone.* Fences constructed with masonry and/or heavy lumber shall incorporate hydrostatic openings below the flood elevation to allow for the unimpeded flow of floodwaters. Flood elevations shall be determined by the most recent FIRM. Hydrostatic openings shall be a minimum of 1 square foot in area each with the bottom edge of the opening no more than 1 foot above grade and shall not be spaced more than 20 feet apart. The total required area of hydrostatic openings shall equal 1 square foot for every 50 square feet of fence area.

Sec. 86-303. Height Requirements for Fences.

All fences and walls shall conform to the following standards. In all cases, heights are measured from existing grade.

(A) *Residential districts.* In the residential districts, fences shall not exceed a height of six (6) feet along common side property lines. Fences along front property lines, streets, beaches, and regulated wetland areas shall not exceed a height of four (4) feet. If a fence is constructed on top of a retaining wall or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone.

(B) *Nonresidential districts.* In the nonresidential districts, fences and walls shall not be permitted in front setback areas. Fences and walls shall not exceed eight (8) feet in height in all other areas. If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone.

(C) *Exemption for required screening.* Fencing provided to meet the standards of screening is exempted from the height standards of this subsection, subject to approval by the Building Official, but in no case shall the fencing exceed the maximum height limits of the screening requirement.

(D) *Exemption for recreational fencing.* Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility shall be exempt from the height restrictions of this subsection, subject to approval by the Building Official.

(E) *Exemption for safety.* Major utilities, government facilities, and other public safety uses shall be exempted from these standards as needed for public safety, subject to approval by the Building Official.

Sec. 86-304. Perimeter Fences Abutting Public Rights-of-Way.

Perimeter fences abutting a public right-of-way shall:

- (A) Be of a uniform style;
- (B) Be located outside the right-of-way associated with a public street; and
- (C) Include breaks in the fence plane at least every 200 feet.

Sec. 86-305. Visibility Clearance.

Fences, walls, and plantings shall be placed in accordance with the sight line visibility standards in the Zoning Ordinance and applicable state and federal law.

Sec. 86-306. Prohibited Fences.

(A) *Chain link and metal-slat fencing.* Fences and walls constructed of chain link or metal slats are prohibited along front property lines, streets, and beaches in all residential zoning districts.

(B) *Certain barbed wire and electrified fences prohibited; warning signs.* Except as needed for major utilities, government facilities, and other public safety uses, (1) barbed, razor, concertina, or similar wire fences located anywhere on property and (2) electrified fences located within ten (10) feet of a public sidewalk, public right of way, or adjoining property line, are prohibited in all zoning districts. In addition, above ground electrified fences not meeting any or more of the following criteria are prohibited: (1) be powered by 12 volts or less; (2) be operated by a system listed by a national testing agency such as UL or ETL; and (3) meet the height limitations set forth in this Article, subject to the exception for major utilities, government facilities, and other public safety uses. Above ground electrified fences shall be clearly identified with warning signs that read: "**Warning-Electric Fence**" at intervals of not less than 20 feet. Underground electrified fences designed for control of domestic animals are exempt from this division.

Sec. 86-307. Appearance of Fences and Walls.

(A) *Customary materials.* Fences and walls shall be constructed of customary materials, including solid wood, brick, masonry, stone, brick, wrought iron, decorative metal materials, or products designed to resemble these materials.

(B) *Finished side to outside.* Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (i.e., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter or outside of the lot, rather than facing the interior of the lot.

(C) *Chain link fencing.* Where allowed, chain link fencing shall be vinyl coated and colored dark green or black.

(D) *Landscape screening.* Fences and walls that exceed two-and-one-half feet in height and are located within 20 feet of a public right-of-way shall meet the following landscaping standards:

(1) *Shrubs required.* One evergreen shrub shall be installed for each five feet of frontage along the public right-of-way. Shrubs may be installed in a staggered, clustered, grouped, or linear fashion, and all plantings shall be installed on the side of the fence that faces the public right-of-way.

(2) *Substitution of understory trees.* One understory or ornamental tree may be substituted for every three evergreen shrubs provided that the tree meets the minimum size standards at the time of planting.

(3) *Integration with other required landscaping.* Required landscape screening for fences or walls may be integrated into the landscaping required for streetscape landscaping, vehicular use area screening, or perimeter buffers provided the standards set forth in the Zoning Ordinance are maintained. In no case shall fencing or required walls be placed between the edge of the right-of-way and any required streetscape landscaping.

(E) *Maintenance required.* All fences and walls shall be maintained by the owner in good repair and in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements. All fences and walls shall receive regular structural maintenance to prevent and address sagging and weathering of surfaces visible from the public right-of-way. Any deteriorated, damaged or decayed fence materials shall be promptly repaired, and any fence or wall post or section that leans more than 20 degrees from vertical shall be promptly repaired to correct that condition.

Sec. 86-308. Exception for nonconforming fences.

Any fence lawfully erected as of the adoption of this ordinance from which this article is derived shall be considered a legal, nonconforming structure. Upon any nonconforming fence being physically damaged or destroyed by 48% or more of its value, replacement or repair shall fully comply with all of the terms and requirements of this article.

This ordinance shall take effect upon adoption.

Jane Darby, Mayor

First reading: _____

Public Hearing: _____

Adopted: _____

ATTEST:

Iris Hill, Administrator

Approved as to form: _____