ORDINANCE
NUMBER 2015 –

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING CHAPTER 3-9 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA, BY REVISING SECTION 3-9-72, FENCES; WALLS; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the County's Land Development Regulations (LDRs) were originally adopted in 1981 and took effect on December 8, 1981; and

WHEREAS, over time, Staff was directed to revise the existing LDRs and has been working over the last several years to accomplish the desired revisions; and

WHEREAS, the purpose of these revisions is to update development regulations by removing some outdated regulations and requirements and adding new standards, to make the LDRs more user-friendly, and to be consistent with the County's Comprehensive Plan; and

WHEREAS, in order to thoroughly review and update the existing LDRs, Staff has divided the project into three phases; and

WHEREAS, Phase I focuses on revisions to the conventional zoning districts and some sections of Article I. In General and Article III. Special Regulations of Chapter 3-9. Zoning; and

WHEREAS Phase II will focus on all overlay codes and the remaining sections of Article I. In General and Article III. Special Regulations of Chapter 3-9. Zoning; and

WHEREAS, Phase III will focus on regulations found primarily in Chapter 3-5. Planning and Development, which may include topics such as wetlands, landscaping and buffers, and site and commercial design standards; and

WHEREAS, Phase I was approved by Charlotte County Board of County Commissioners ("Board") on November 25, 2014; and

WHEREAS in order to thoroughly review and revise the County's LDRs, Staff divided Phase II into small groups; and

WHEREAS, Staff is presenting Phase II.1 to the Planning and Zoning Board ("P&Z Board") and the Board of for consideration; and

WHEREAS, Staff is recommending that Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, be amended by revising Section 3-9-72, Fences; Walls; and

WHEREAS, revisions have previously been heard by the P&Z Board and, based on the memorandum dated December 19, 2014, and the evidence presented to the P&Z Board, has been recommended for approval on January 12, 2015; and

WHEREAS, the Board considered the revisions in public hearing held on February 24, 2015; and

WHEREAS, the Board has determined that the changes are consistent with the County's Comprehensive Plan and are in the best interests of the County and its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

Section 1. Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, is hereby amended by revising Section 3-9-72, Fences; Walls, by adding the

underlined language and by ~~deleting the stricken language~~ to provide as shown in Exhibit "A" which is attached hereto and provided herein.

Section 2. Conflict with Other Ordinances. The provisions of this Ordinance shall supersede any provision of exiting ordinances in conflict herewith to the extent of said conflict.

Section 3. Severability. If any subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remainder of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect upon its filing with the Office of the Secretary of State, State of Florida.

[SIGNATURE PAGE FOLLOWS]

PASSED AND DULLY ADOPTED this _____ day of _____, 2015.

BOARD OF COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA
By: _____
William G. Truex, Chairman

ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners
By:_____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:
By:_____
Janette S. Knowlton, County Attorney
LR2014-2992

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LR2014-2992

Sec. 3-9-72. Fences; W~~w~~alls~~.~~

(a) In all residential districts except R~~r~~esidential E~~e~~state (RE), side and rear setback requirements shall not apply to fences and walls six ~~(6)~~ feet high or less behind the minimum front setback line, except for a corner lot where a side property line abuts a road, the setback shall be a minimum of 7.5 feet of the property line and meet the requirements set forth ~~.~~ in Sec. 3-9-89, Visibility at Road Intersections. Front setback requirements shall not apply to opaque fences or walls three ~~(3)~~ feet high or less or nonopaque fences or walls four ~~(4)~~ feet high or less. Fences and walls exceeding six feet in height shall maintain the minimum setback requirements set forth in each zoning district.

(b) In all nonresidential districts and the ~~residential estate (~~RE~~)~~ district, fences and walls located on lot lines shall not exceed eight ~~(8)~~ feet in height, except for a corner lot where a side property line abuts a road, the setback shall be a minimum of 7.5 feet of the property line ~~except as otherwise provided~~ and meet requirements set forth in ~~section 3-9-97 section 3-9-97~~ Sec. 3-9-89, Visibility at R~~r~~oad I~~i~~ntersections. Front setback requirements shall apply to opaque fences or walls for four feet or higher. Fences and walls exceeding eight feet in height shall maintain the minimum setback requirements set forth in each zoning district.

(c) Fences charged with electricity are permitted only in ~~agricultural districts~~Agriculture (AG), and Excavation and Mining (EM) districts as well as in RE district with an approved Special Exception for agricultural uses.~~., (AE, AG, AC and AE-10)~~

(d) Barbed wire fencing shall be permitted only:

(1) In ~~agricultural districts~~ AG and EM districts;

(2) In commercial and industrial districts on top of fences or walls; and

(3) Around institutional uses and utility installations in any district.

(4) In RE district with an approved Special Exception for agricultural uses.

(e) Fences and walls exceeding six feet in height shall be permitted and must maintain the minimum setback requirements set forth in each zoning district where the fence or wall is located.~~Any deviations from the above requirements may only be allowed upon approval of a variance from the board of zoning appeals.~~

(f) For the purpose of this section, the height of the fence or wall shall be measured from the finished grade of the site, excluding berms.

(g) All fences and walls shall be installed with the finished side facing the adjacent property or the public right-of-way. All fence posts must be located on the inside of the fence facing the property on which the fence is located unless the fence is designed and constructed to look the same on both sides. No element of fences and walls shall encroach on an adjacent lot or right-of-way.

(h) Gates, columns, posts, and finials may exceed the maximum height of the fence by no more than one foot. Pergolas or arches associated with a gate or entrance may be permitted up to ten feet in height.

(i) If the property abuts a waterbody, no fence or wall greater than four feet in height shall be permitted closer than 10 feet to the Mean High Water line, seawall, or the property line, whichever is more restrictive.

(j) Subdivision perimeter walls may be approved through a Site Plan Review process without maintaining the minimum setback requirements set forth in each zoning district.

EXHIBIT A