

ORDINANCE NO. 438

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 58, ZONING, OF THE TOWN'S CODE OF ORDINANCES, BY AMENDING ARTICLE IX, SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 1, GENERALLY, SECTION 58-319, WALLS FENCES AND SHRUBBERY, BY ALLOWING FOR FENCES TO BE PLACED ON THE PROPERTY LINE AND CLARIFYING THAT THE SETBACK REQUIREMENTS ARE APPLICABLE TO DRIVEWAYS EXCEPT WHERE SUCH DRIVE ACCESSES A STREET; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Haverhill, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Council desires to amend the Zoning Code to allow fences to be placed on the property line, notwithstanding the setback requirements, and to clarify that driveways are subject to the setback requirements except where they access the abutting street; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the Town Council finds that this Ordinance is consistent with the requirements of the Comprehensive Plan and Zoning Code; and

WHEREAS, the notice and hearing requirements of the Zoning Code and Florida law have been met for adoption of this Ordinance; and

WHEREAS, the Town Council has determined that the adoption of these regulations would further the public's health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

Section 1. The "WHEREAS" clauses are incorporated herein as true and correct and as the legislative findings of the Town Council.

Section 2. Code Amendments.

See Exhibit A attached hereto and made a part hereof.

Section 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The

provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 of this Ordinance shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 4. Severability. If any section, 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 remaining portions thereof.

Section 5. Repeal of laws in conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Modification. Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

Section 7. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND APPROVED ON FIRST READING this 14th day of April, 2016.

THE SECOND AND FINAL READING was held this ^{26th}~~12th~~ day of May, 2016. Council member Remar Harvin offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member Lawrence Gordon, and upon being put to a vote, the vote was as follows:

JAY G. FOY, Mayor
LAWRENCE GORDON, Vice Mayor
MARK C. UPTOGRAPH, Council Member
JO H. PLYLER, Council Member
REMAR HARVIN, Council Member

Agc
Agc
Agc
Agc
Agc

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

Attest:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

Jay G. Foy, Mayor

EXHIBIT "A"
ORDINANCE 438
TOWN OF HAVERHILL

Sec. 58-319. -~~Walls~~Driveways, fences and shrubbery; ~~height limitations~~.

(a) No wall, fence, or other structure shall be erected or maintained, and no hedge, shrubbery, wall or other growth shall be maintained upon any property in the town in such manner as to cause danger to traffic by obscuring the view, or in such manner as to impair visibility at street intersections.

(b) In residential areas, all hedges, shrubbery, walls, fences, and other such structures in the side and rear yards shall be limited to a height of six feet above the finished lot level, and all hedges, shrubbery, walls and fences located between the primary structure and the front lot line shall be not exceed four (4) feet in height above the finished lot level, unless permitted pursuant to subsection (g) below, or prohibited pursuant to [section 58-315](#) or subsection (a) above.

(c) In all districts other than residential, all hedges, shrubbery, walls, fences or other such structures shall be limited to a height of six (6) feet above the finished lot level.

(d) In all instances where a residential zoning district abuts a commercial zoning district, it shall be mandatory for the owner of the property zoned commercial to construct and maintain a wall six feet in height to ensure proper buffering for the adjacent residential property. Such wall may be constructed of the following materials: Masonry walls may be used, provided that the top of the wall and all sides thereof must be properly finished as determined by the building official.

(e) Eaves on any structure or building shall not overhang any easement or right-of-way or exceed the setback lines by more than two feet.

(f) Fences and walls enclosing any permitted use shall comply with permit procedures of the town.

(g) Fences may be placed on the property line notwithstanding the applicable setback requirements. Except for the portion of a driveway providing access to the street from private property, driveways shall be setback at least five (5) feet from the property line. No lot within the town shall have more than two driveway access points to any street. Any single driveway providing two access points to a street, such as a semi-circular driveway, shall not have to meet the setback requirements for any point along the single driveway for the area of the property in which the two access points are located.

(h) Any variation from the requirements of this section may be considered by the town council upon presentation of a petition for same and a finding that such variation is not contrary to the intent and purpose of this chapter. The town council may approve, disapprove, or approve the variation with conditions. However, any variation approving

a hedge, shrub, wall or fence greater than four feet in height in the area between the primary structure and the front lot line shall require that at least 15 consecutive feet of said structure located on or parallel to any front lot line not be opaque above four feet. The town may impose a fee for such petition by resolution.