



ORDINANCE NO 09-784
An Ordinance Amending Article 10 and Article 18.

ARTICLE 10. FENCE REGULATIONS*

*Editor's note: Article 10, Fence Regulations of the Town of Carolina Beach (adopted as Ordinance No. 92-306 on December 12, 1992, and subsequently amended) is hereby incorporated into this zoning ordinance as Article 10.

Sec. 10.1. Purpose.

All fences shall be considered structures as defined in Article 23.3 of this ordinance. This ordinance provides standards for the erection, construction, location, and maintenance of fences and ensures that hazardous or nuisance situations do not result from said erection, construction, location or maintenance; and, furthermore, the provisions of this ordinance shall be applicable to all fences constructed on property located within the municipal limits of the town.
(Ord. No. 00-463, 10-10-00; Ord. No. 04-574, 11-9-04)

Sec. 10.2. Location of fences to allow maintenance.

No fence shall be erected in any location that prohibits the owner of the property on which said fence is erected from having access, for maintenance purposes, to all sides of such fence. Fences are permitted in the required setbacks according to Article 23 Sec 23.3 definition of yard. All fences shall be located at least 36" from fire hydrants. Fences may be erected on the property line at the property owner's risk. No "as built" surveys are required by the town for fences.
(Ord. No. 00-463, 10-10-00)

Sec. 10.3. Location of fences to prevent hazardous traffic situations.

No fence shall be erected in any location that interferes with the line of sight within a sight distance triangle of motorists utilizing public or private roadways. A sight distance triangle shall be the visually unobstructed area of a street/driveway corner as determined by measuring a distance of thirty (30) feet along the intersecting curb lines, or edges of pavement of the intersecting street/driveway if curbs are not present, and connecting the two (2) points by a straight line to form a triangular shaped area over the corner.
(Ord. No. 00-463, 10-10-00)

Sec. 10.4. Height restrictions.

For fences exceeding the following height restrictions, a conditional use permit shall be required; fences intended solely for enclosure of tennis courts, batting cages or other similar structures shall be exempt from the maximum height requirements of this section.

TABLE INSET:

Zoning District	Height of Fence
All Residential Districts	Six (6) feet
MB-1, NB, HB	Six (6) feet
CBD, MX	Six (6) feet

(a) Measurement

- (1) Height shall be measured at the highest point, not including columns or posts, of the fence section to the existing natural grade. The point of measurement shall be along the outside of the fence adjacent to the abutting property. If the fence is adjacent to a right-of-way the height shall be measured from the grade at the right-of-way line. Fill material shall not be used solely for the purpose of reducing the height of the fence.
- (2) Columns or post shall not extend more than eighteen (18) inches above the built height of the fence. Columns or posts shall be separated by a horizontal distance of at least four (4) feet, except at gates.
- (3) Any retaining wall or berm below the fence shall be considered as part of the overall height of the fence. Bulkheads that are adjacent to estuarine waters are exempt from this regulation

(b) Residential and Commercial Districts

- (1) No fence shall exceed six (6) feet in height.
- (2) No fence shall exceed four (4) feet in height when located in the front yard setback.

(c) Fences exceeding the height restrictions

For nonresidential uses only: a conditional use permit shall be required for fences exceeding the height restrictions. Town facilities and utilities are exempt from the height restrictions.

Editor's note: Ord. No. 04-574, adopted November 9, 2004, amended section 10.4 in its entirety to read as herein set out. Former section 10.4 pertained to buffers (required fences), and derived from Ord. No. 00-463, 10-10-00.

Sec. 10.5. Building Zoning permit required for all fences.

No fence shall be erected by any person until a permit for same has been issued by the building inspector Zoning Administrator. A building permit shall be required for all commercial fences exceeding 6 feet in height. Properties located in an Area of Environmental Concern (AEC) require a CAMA permit. Sand fences and silt fences are exempt from these permit requirements.

(Ord. No. 00-463, 10-10-00)

Sec. 10.6. Maintenance required.

All fences shall at all times be kept in good repair. If at any time a fence should become unsafe or poorly maintained, the building inspector or code enforcement officer shall notify the owner of such condition, and upon failure of the owner to correct such situation within a thirty-day period, the building inspector or code enforcement officer shall take appropriate legal action to have such fence(s) repaired or removed.

(Ord. No. 00-463, 10-10-00)

Sec. 10.7. Construction standards.

All fences permitted in all districts shall meet the structural requirements of the North Carolina State Building Code and other wind resistant construction requirements that may be specified or suggested by the building inspector. Fences shall be constructed so that the finished (sheathed) side is oriented toward adjoining lots or the public right-of-way.

(Ord. No. 00-463, 10-10-00)

Sec. 10.8. Fencing for outdoor swimming pools is required.

Private swimming pools: All outdoor private swimming pools shall be enclosed by a fence or other permanent barrier which discourages climbing and is designed so as to minimize the possibility of unauthorized or unwary persons entering the pool area. Entrances through the barrier shall be provided with self-closing gates having simple positive self-latching closure mechanisms with hardware provided for padlocking. The barrier shall not be less than forty-eight (48) inches in height above the adjacent ground surface outside the barrier. Fencing will be required around all sides of the swimming pool. All private swimming pool enclosures shall be completely installed within thirty (30) days of the pool completion. All private swimming pools shall have a walk or deck around the entire perimeter of the pool of a minimum of three (3) feet of unobstructed clear distance.

Public swimming pools: All outdoor swimming pools shall be enclosed by fencing and contain adequate walk or deck around the pool perimeter in compliance with New Hanover County Health Department standards (rules governing swimming pools 15A-NCAC 18A 2500).

(Ord. No. 00-463, 10-10-00)


Sec. 10.9. Non-conforming fences

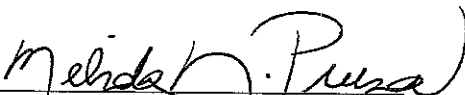
Fences erected before adoption date of this section, which violate the provisions of this article, shall be considered non-conforming. If more than 50% of a non-conforming fence is destroyed or removed for any reason, then only that portion of the fence, shall comply with the provisions of this article.

Sec. 18.4. Reconstruction, maintenance, full or partial demolition and renovation of non-conforming situations.

(a) Except for signs, which are regulated by Article 11 of the Carolina Beach Zoning Ordinance, and fences, which are regulated by Article 10 of the Carolina Beach Zoning Ordinance, nonconforming uses created by a change in regulations may continue to exist and shall be subject to all other provisions of Article 18 of this ordinance

Adopted this 12th day of May, 2009.


Joel A. Macon, Mayor

Attest: 
Melinda N. Prusa, Town Clerk

