

**PLANNING BOARD  
RESOLUTION NO. 2019-23**

**A RESOLUTION OF THE CITY OF KEY WEST  
PLANNING BOARD RECOMMENDING AN ORDINANCE  
OF THE CITY OF KEY WEST, FLORIDA, AMENDING  
CHAPTER 122 OF THE CODE OF ORDINANCES,  
ENTITLED "ZONING" BY AMENDING SECTION 122-  
1183, TO AMEND FENCE REGULATIONS IN THE SF  
(SINGLE FAMILY RESIDENTIAL) AND MDR (MEDIUM  
DENSITY RESIDENTIAL) DISTRICTS; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR REPEAL OF  
INCONSISTENT PROVISIONS; PROVIDING FOR AN  
EFFECTIVE DATE**

**WHEREAS**, many residents in single family zoning districts lost their front and side yard fences during Hurricane Irma in 2017; and

**WHEREAS**, many of these residents replaced their fences with solid six feet high fences along the front yard side of their property unaware of the City's current code of ordinances prohibiting said fences; and

**WHEREAS**, the City of Key West recognizes the financial hardship that would be imposed upon its residents were the City to require these residents to re-build or replace the now existing fences and the City of Key West finds that it is in the best interests of its residents to allow six-foot solid front fences in the SF (single family residential) zoning district, and the MDR (medium density residential) zoning district, for practical purposes; and

**WHEREAS**, an amendment to section 122-1183 of the Code of Ordinances will promote the welfare of the citizens and visitors of the City of Key West; and

**WHEREAS**, this proposed amendment to the Land Development Regulations was

presented to the Planning Board with a recommendation of approval at its regularly scheduled meeting on March 21, 2019; and

**WHEREAS**, the Planning Board finds that it is in the public's interest to amend the City's Land Development Regulations, by amending section 122-1183.

**NOW, THEREFORE BE IT RESOLVED by the Planning Board of the City of Key West, Florida:**

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** That the proposed amendment to section 122-1183 of the Land Development Regulations is recommended for approval; the changes are as follows:\*

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**Sec. 122-1183. - Walls and fences.**

(a) *Definition.* For the purpose of the land development regulations, the term "fence" shall be used to describe a manmade structure erected for separation, security or privacy purposes through the means of intermittent posts supporting vertical or horizontal members made of wood, metal, chain link, or barbed wire. While the opacity may vary, the height and location are dictated by the regulations within this subpart B. A wall may be erected for the same purposes but shall include only those structures with continuous footers. The main structure of the wall may be constructed with brick, stone or concrete block. The latter may be used in combination with other material meeting accepted aesthetic decorative veneers of brick, rock, stone, stucco or any performance criteria. Any wall or fence erected within the city shall meet professionally accepted building standards and the regulations cited in this section.

(b) *Building permit; review.* Notwithstanding other sections of the land development regulations, fences, walls, hedges, landscaped berms, and minor structures such as lampposts (standards) or flagpoles (permanent type) may be permitted in any district subject to issuance of a building permit. Fences in the historic district shall also be subject to review by the historic architectural review commission as part of the permitting process.

(c) *Application procedure.* Application for approval of any fence should be made in the same manner as for authorization of a building permit with a full description of materials to be used and dimensions and placements clearly stated on the plans. The building official will inspect the area and judge the application on the basis of the guidelines for fences and other minor structures set forth in subsection (d) of this section.

(d) *Standards for fences and hedges.* Fences shall be erected on the lot of the applicant and shall not extend into a public right-of-way. The fence may abut but shall not be located on any property line. It shall be unlawful for any person to erect a fence within the city except in accordance with the following:

(1) In the city's residential areas the following restrictions as to fence height and construction shall apply:

- a. Solid or open fences not exceeding four feet in height constructed of wood, rock, concrete block, chain link or wrought iron may be permitted on the front, rear and side yard property lines of any parcel of land.
- b. If there are located utility electrical transformer banks, water towers or other facilities owned or leased by a public utility in residential zones which require the

fencing of such for safety precautions, the fence around such facilities shall be at least six feet in height, and barbed wire may be used on the top of such six-foot fence.

c. Fences up to six feet in height may be constructed on the front, rear and side yard property lines of any parcel of land, provided that the upper two feet of such six-foot fence has openings of at least 50 percent or more in the construction of the fence. Solid fences up to six feet in height may be constructed on rear and side yard property lines of any parcel of land provided such solid six-foot fence is not constructed on property lines intersecting at street corners and that the adjoining property owners file their written consent with the building department consenting to the construction of such six-foot solid fence.

d. Solid fences up to six feet in height may be constructed on the front property line of a residential property in the single family residential (SF) and medium density residential (MDR) zoning districts, provided:

(1) All adjoining property owners file their written consent; and

(2) First Floor Property owners whose properties face the proposed fence file their written consent; and

(3) The Chief Building Official determines that the proposed solid six-foot fence is in harmony with the surrounding properties and otherwise satisfies Florida's building code.



(4) Any interested party may appeal the Chief Building Official's decision in favor of or against a proposed six-foot solid front fence directly to the Board of Adjustment, as provided in Section 90-430 and 90-431.

~~de. The fence~~ All fences in residential areas shall be located so as to avoid interference with traffic visibility pursuant to section 122-1406.

(2) In nonresidential areas of the city, wire-mesh or chainlink fences may be constructed at any height on any property lines, and barbed wire may be used on such fences, provided the barbed wire portion of the fence does not extend outside and beyond the property line of such property, and such fence is at least six feet high.

(3) Hedges and landscaped berms located within a front yard shall be maintained so as not to obstruct the view of vehicular traffic at intersections.

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.)

**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the city clerk.

**Section 4.** This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty-five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty-five (45) day review period the DEO can appeal the permit or development order to the

Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regular meeting held this 21st day of March 2019.

Authenticated by the Chair of the Planning Board and the Planning Director.

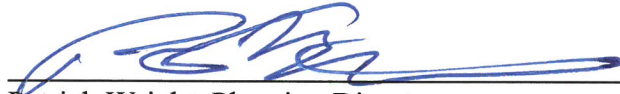


Sam Holland, Planning Board Chair

4-23-19

Date

**Attest:**

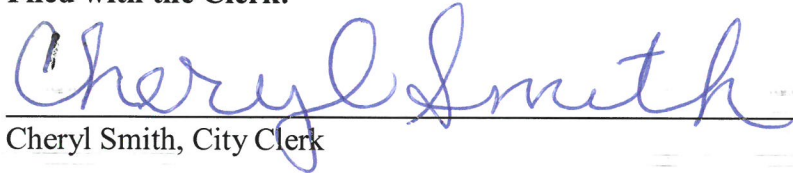


Patrick Wright, Planning Director

4-30-19

Date

**Filed with the Clerk:**



Cheryl Smith, City Clerk

4-30-19

Date