

ORDINANCE NO. \_\_\_\_\_

**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.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 122-1183 of the Code of Ordinances is hereby amended as follows\*:

**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

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\*(Coding: Added language is underlined; deleted language is struck through.)

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.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Filed with the Clerk \_\_\_\_\_, 2019.

Mayor Teri Johnston	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Sam Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

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TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK