

CITY OF HOLMES BEACH  
ORDINANCE 24-06

# 8.a

AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA AMENDING PART III, LAND DEVELOPMENT CODE; ARTICLE I, GENERAL, SECTION 1.4, DEFINITIONS, BY ADDING THE DEFINITION FOR “SITE ALTERATION”; AMENDING ARTICLE VI, ZONING, DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS, SECTION 6.8.F, FENCES, BY DELETING EXISTING SECTION 6.8.F AND REPLACING WITH NEW ARTICLE VIII, DIVISION 8, SECTION 8.27, WALLS AND FENCES; DELETING SUBSECTION A, ADDING NEW SUBSECTION D, FENCE REPAIR; AMENDING SUBSECTION F, FENCE HEIGHT TO ALLOW FINIALS, MODIFYING SUBSECTION 2, GENERAL REGULATIONS; DELETING EXISTING REGULATIONS AND ADDING REQUIREMENTS FOR A FENCE PERMIT AND ADDITIONAL REGULATIONS; MODIFYING SUBSECTION D TO MODIFY FENCE HEIGHT STANDARDS TO MAXIMUM FENCE HEIGHT PRIOR TO SITE ALTERATION; ADDING FENCE STANDARDS FOR WATERFRONT LOTS; AMENDING SUBSECTION 3 TO CLAIRFY FENCE HEIGHT IN NON RESIDENTIAL ZONING DISTRICTS; ADDING SUBSECTION I, ADDING CROSS VISIBILITY STANDARDS; ADDING SUBSECTION M, SWIMMING POOL ENCLOSURES; MODIFYING SUBSECTION N, STANDARDS FOR TENNIS AND PICKLEBALL COURTS; MODIFYING SUBSECTION O, CLARIFYING FENCE ABUTTING RIGHT OF WAY; ADDING NEW SUBSECTION P, GATES AND GATEPOSTS, ADDING GATE AND GATEPOST REGULATIONS AND STANDARDS; ADDING NEW SUBSECTION Q, DRAINAGE; MODIFYING SECTION 4, MAINTENANCE OF FENCES TO CLARIFY MAINTENANCE STANDARDS; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3202 (1), Florida Statutes, requires that the City of Holmes Beach adopt or amend and enforce land development regulations that are consistent with and implement the City’s Comprehensive Plan; and

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry; and

WHEREAS, the City of Holmes Beach was accepted for participation in the National Flood Insurance Program on June 11, 1971, and the City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Section 163.3202 (3), Florida Statutes, encourages the use of innovative land development regulations and requires that all land development regulations be combined into a single land development code; and

WHEREAS, from time to time, amendments and revisions to the City’s adopted Comprehensive Plan, progress in the field of planning and zoning, or changes to state law make it necessary or desirable to amend the City’s land development regulations; and



84 2. Fence: A freestanding structure of metal, masonry, composition, wood, or any combination  
85 thereof resting on or partially buried in the ground and rising above ground level and used  
86 to enclose, partition, or screen areas of land. As used in this section, a fence shall further  
87 mean anything erected for the purposes of protection of property or separation of land uses  
88 including barriers that are intended to prevent escape or intrusion or to mark a boundary.  
89 This includes walls when used as a fence, screen, buffer, or retention area between separate  
90 or adjoining parcels or lots or along the side of any alley or street (public or private).  
91 Particular types of fences are described as follows:

92 (a) Barbed wire fence: A fence made with twisted wires armed with barbs or sharp points.

93 (b) Electric fence: A fence that is electrified.

94 (c) Retaining wall: A wall built of masonry, rock or wood to prevent erosion of the land  
95 or to retain a substance.

96 (d) Masonry fence: A fence constructed of rock or concrete or concrete block and so  
97 spaced to allow airflow.

98 (e) Wood fence: A fence constructed of wood and so spaced to allow airflow.

99 (f) Wood wall: A wall constructed of wood and solids.

100 (g) Concrete fence: A fence constructed of rock or concrete or concrete block and so  
101 spaced to allow airflow.

102 (h) Masonry or rock wall: A wall of solid rock, brick, stone, ~~or~~ concrete, or concrete  
103 block, **except for retaining walls.**

104 (i) Wire fence: A fence made of wire that is woven into a mesh.

105 (j) Vinyl / Synthetic fence: A fence made primarily of polyvinyl chloride (PVC) material.

106 **B. Fence, repair: A repair to a fence shall be defined as maintenance to an existing conforming**  
107 **fence where replacement of materials does not exceed twenty-five percent (25%) of total**  
108 **linear feet of the length of the existing fence and does not change the scope, height,**  
109 **location, or dimensions of the fence. Repairs shall be made using the same material, or**  
110 **material with comparable composition, color, size, shape, and quality of the original fence**  
111 **to which the repair is being made. Repair to non-conforming fences shall be in accordance**  
112 **with Sec. 6.8.F.3.**

113 ~~c~~C. Screen: A non-weight bearing partition or frame, composed or covered with loose or  
114 perforated material in the nature of net, mesh, fabric or curtain.

115 ~~d~~D. Height: Shall mean the height of a fence measured in inches or feet from existing ground  
116 grade to the uppermost part of the fence. **Fence post finials shall be allowed to extend above**  
117 **the allowable fence height a maximum of 4 inches.**

118 ~~e~~E. Maintain: Shall include general servicing and upkeep in a safe and attractive condition.

119 ~~f~~F. Nonconforming fence: Shall mean any fence that is in violation of this ordinance on its  
120 effective date.

121 ~~g~~G. Temporary fence: Shall mean any fence that is intended to be erected for a limited period  
122 of time.

123 H. General regulations.

124 **1. Permit required. No person shall erect, move, add to, or structurally alter any fence in**  
125 **the city without first obtaining a permit for such purposes issued by the city. No permit is**

126 required for a fence repair, as defined in this section. Fence permits will be issued only to  
127 the owner of the property, or to a licensed or bonded contractor acting as the property  
128 owner's agent. A permit fee shall be charged in accordance with city ordinance.

129 2. Plot plan. The applicant shall submit a sketch or plot plan which shows the location of  
130 all property lines, easements, rights-of-way and utility lines, all structures, and existing  
131 fences and walls. The plot plan shall also show the location of all proposed fences. When  
132 doubt exists as to the exact location of property lines, the Planning and Zoning  
133 Administrator shall require a survey by a licensed surveyor. In addition, the plan shall  
134 provide the existing ground grade elevations for the proposed fence location.

135 3. Additional regulations.

136 a. Location in right-of-way or easements. No fence shall be permitted to be erected  
137 or maintained on any right-of-way including public and private easements, except  
138 a governmentally installed fence intended for safety or traffic control.

139 b. Prohibited fences. It shall be unlawful for any person to erect or maintain any fence  
140 made of or consisting of the following materials in the city:

141 1. Barbed, razor or bare wire.

142 2. Above ground electric fences.

143 3. Fences containing spire tips or sharp objects.

144 (c) Location Seaward of the Coastal Construction Control Line. Fences and walls  
145 constructed seaward of the CCCL may require review and approval from Florida  
146 Department of Environmental Protection (FDEP).

147 ~~a. Prohibited on rights of way. No fence shall be permitted to be erected or maintained on~~  
148 ~~any street right of way or easement.~~

149 ~~b. Barbed wire fence. It shall be unlawful for any person to erect or maintain any barbed wire~~  
150 ~~fence within the city except that barbed wire may be used on fences where such barbed~~  
151 ~~wire is at least six feet above the ground. No barbed wire shall be permitted on a fence in~~  
152 ~~a residential zoning district.~~

153 ~~c. Electric fence. It shall be unlawful for any person to erect or maintain an electric fence or~~  
154 ~~electric screen fence within the city.~~

155 I. Maximum height generally—Residential zoning districts (R1-AA, R-1, R-2, R-3 and R-4).

156 1. Fences located within the minimum front ~~yard area~~ setback shall not exceed a height  
157 of four feet above existing ground grade, as measured prior to site alteration.

158 2. Fences located within the minimum rear ~~yard area~~ setback shall not exceed a height  
159 of six feet above existing ground grade, as measured prior to site alteration.

160 3. Fences located within the minimum side ~~yard areas~~ setback, and located outside the  
161 minimum front ~~yard area~~ setback, shall not exceed a height of six feet above the  
162 existing ground grade, as measured prior to site alteration.

163 4. In the R-1 and R1-AA zoning districts, fences located within twenty feet of the mean  
164 high-water line or sea wall shall be no more than four feet above existing ground  
165 grade, as measured prior to site alteration.

166 5. In the R-4 zoning district, fences located within ten feet of the mean high-water line  
167 or sea wall shall be no more than four feet above existing ground grade, as measured  
168 prior to site alteration.

- 169 J. Maximum height generally—Commercial, conservation, recreation/open space and  
 170 public/semi-public districts.
- 171 1. Fences located within a building area ~~should~~ shall not exceed a height of eight feet  
 172 above existing ground grade, except that such fence if located within a required yard  
 173 setback area ~~should~~ shall not exceed the height of four feet above the existing ground  
 174 grade, as measured prior to site alteration.
- 175 2. Notwithstanding the foregoing, properties located within the C-3, PSP and REC  
 176 zoning district may have a maximum fence height of six feet within any required yard  
 177 setback.
- 178 K. City owned, operated, or maintained property are exempt from fence height requirements.
- 179 Lg. Fence prohibited beyond property line. No fence or poles supporting a fence shall be  
 180 erected outside the property line.
- 181 GM. Attachment to neighboring fences. No fence shall be attached to a neighboring fence, but  
 182 may abut a neighboring fence if such fence is on the property line.
- 183 N. Cross visibility. No fencing shall be allowed in the sight triangle unless determined by the  
 184 Supervisor of Public Works that the fence will not cause a sight obstruction. The sight  
 185 triangle shall be the area of property located at a corner formed by the intersection of two  
 186 or more streets, with two sides of the triangular area being 25 feet in length along the  
 187 abutting the existing roadway pavement line, measured from their points of intersection,  
 188 the third being a line connecting the ends of the other two lines.
- 189 iO. Interference with off-street parking or utility service. No fence shall be erected or  
 190 maintained which blocks required off-street parking or interferes with city or public utilities  
 191 service.
- 192 iP. Temporary fences. Temporary fences are permitted after review and approval of all  
 193 required applications by the building official.
- 194 1. All provisions and regulations governing the erection, maintenance, height, location  
 195 and relocation of fences shall govern temporary fences.
- 196 2. Expiration date and extensions.
- 197 a. A temporary fence permit shall not exceed the expiration date as stated on  
 198 the permit application and the permit.
- 199 b. For cause, one or more extensions of time may be granted by the building  
 200 official. The building official is authorized to extend the use of a temporary  
 201 fence for three months after review of a resubmittal of an application for a  
 202 temporary fence.
- 203 c. A temporary fence shall not be permitted for a period of time longer than  
 204 two years.
- 205 kQ. Fence between residential and commercial property. Where residential property is adjacent  
 206 to commercial property, the building official shall grant to the owner of such residential  
 207 property permission to erect and maintain a fence not to exceed a height of six feet above  
 208 existing ground grade. This fence shall be located only within the required rear or side yard  
 209 setback area.
- 210 hR. Reserved. Swimming pool enclosures. All swimming pool enclosure installations shall  
 211 comply with all applicable provisions of the Florida Building Code and State Statute.

212 mS. Tennis, pickleball ball courts. Tennis and pickleball courts shall be enclosed on all open  
213 sides by an open chain link fence, with a maximum height of ten feet above existing ground  
214 grade; and shall be screened by a Type B landscape buffer between the fence and the  
215 property line in accordance with the screening requirements as outlined in Section 8.6.

216 nT. Finished side of fence shall face adjoining property. The finished side of all fences shall  
217 face the adjoining property and any abutting right-of-way.

218 U. Gates and gateposts. An entrance gate that will control ingress and egress to a property  
219 may be permitted provided that:

220 1. It is not located on a public right-of-way or designed in a manner that impedes traffic  
221 flow or interferes with the normal operation and use of individual driveway or access  
222 points.

223 2. Gates and gateposts shall not exceed a height of one (1) foot above the allowable fence  
224 height for the location.

225 3. Gateposts not exceeding three (3) feet in any horizontal dimension may be erected or  
226 constructed in connection with the erection or construction of a wall or fence.

227 4. Entrance gates designed to control vehicle access to single-family and two-family  
228 dwelling units must be placed on private property and shall be designed to allow a  
229 minimum of eighteen feet (18) of onsite stacking so at least one (1) vehicle can pull  
230 safely off the intersecting street while waiting to enter.

231 5. Entrance gates designed to control access to three or more dwelling units must be  
232 placed on private property shall be designed in such a manner that a minimum of three  
233 (3) vehicles can pull safely off the intersecting street while waiting to enter.

234 6. Any entrance gate or similar device must be equipped with an override mechanism  
235 acceptable to the West Manatee Fire Protection District.

236 V. Drainage: No fence or wall shall be constructed or installed in such a manner as to  
237 adversely affect the function of on-site or off-site water management facilities. The  
238 applicant shall work with the city engineers to provide adequate drainage or to prevent the  
239 obstruction of drainage on or adjacent to the site.

240 W. Nonconforming fences.

241 1.Intent. It is the intent of this ordinance to encourage the eventual elimination, as  
242 expeditiously as is reasonable, of existing fences which are not in conformity with the  
243 provisions of this ordinance.

244 2. Continuance. A nonconforming fence may be continued, provided that it has not been  
245 determined detrimental to the public health, safety and welfare. It shall then be maintained  
246 in good condition but it shall not be:

247 a. Enlarged or changed to any other nonconforming structure;

248 b. Structurally altered so as to prolong the life of the fence;

249 c. Re-erected if removed;

250 d. Re-erected after damage or destruction if the estimated expense of re-erection  
251 exceeds 50 percent of the appraised replacement cost.

252 3. Determination by the ~~Planning and Zoning Administrator building official.~~ It shall be  
253 the duty of the ~~Planning and Zoning Administrator building official~~ to determine whether  
254 or not a nonconforming fence is in the interest of public health, safety and welfare.

255 X. Maintenance of fences. All fences shall be maintained in a structurally sound and aesthetically  
256 attractive manner, specifically:

257 a. A fence or wall shall be maintained in a vertical position, and shall not be allowed to sag  
258 or lean;

259 b. Each support post or footer shall be solidly attached to the ground;

260 c. Each fence stringer shall be securely fastened to the support post and face of the fence;

261 d. All fence surfaces shall be painted, stained, treated or otherwise maintained so as to present  
262 a uniform appearance; however, this section is not intended to prohibit the maintenance of  
263 fences in which a new section of the fence will take some time to "age" or "weather" to  
264 replicate the appearance of the original fence.

265 1. Any person, group of persons, firm or corporation owning or having control of any fence  
266 within the city shall be responsible to maintain the fence in a safe and presentable condition  
267 and in compliance with the requirements of this article. This shall include, but not be  
268 limited to, replacement of broken or defective boards, posts or other fence parts that may  
269 cause the fence to be unsafe or unsightly, and the correction of any visible and/or unsafe  
270 lean in the fence. Failure to properly maintain such fence as required under this section  
271 shall be considered a violation of this article.

272 2. Fences must be resistant to decay, corrosion, and termite infestation. Wood fence posts  
273 shall be pressure treated, painted, or otherwise preserved.

274 3. All fences, including without limitation, fences existing on the effective date of this  
275 ordinance, are subject to inspection and may be tagged as safety hazards or public nuisance  
276 if not adequately maintained.

277  
278 **Section 4. Severability.** If any word, portion, clause, or other part of this ordinance is deemed  
279 unconstitutional or unenforceable for any reason, such portion shall be severed from this ordinance and the  
280 remaining portions thereof shall be unaffected thereby.

281 **Section 5. Effective Date.** This ordinance shall be effective upon adoption by the City Commission and  
282 approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

283 **PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida, in regular**  
284 **session assembled, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

285  
286 **First Reading:** \_\_\_\_\_

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288 **Publication Date:** \_\_\_\_\_

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290 **Second Reading and Public Hearing Date:** \_\_\_\_\_

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292 \_\_\_\_\_  
293 **Carol Soustek**

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**Greg Kerchner**

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**Terry W. Schaefer**

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**Pat Morton**

**APPROVED BY ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024**

\_\_\_\_\_  
**Judy Titsworth, Mayor**

**ATTEST:** \_\_\_\_\_  
**Stacey Johnston, MMC, City Clerk**