

CITY OF HOLMES BEACH
ORDINANCE 24-06

8.b

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 CLARIFY 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

43 **WHEREAS**, the City of Holmes Beach’s Code of Ordinances and Land Development Code
44 presently does not adequately address vehicle access gates, cross visibility and fence maintenance; and

45 **WHEREAS**, the City Commission of Holmes Beach recognizes the desire of private property
46 owners to construct fencing for safety, security, and privacy;

47 **WHEREAS**, these land development regulations are not more restrictive or burdensome and are
48 in fully compliance with 2023 Fla. Sess. Law Serv. Ch. 2023-304 (C.S.C.S.S.B. 250); and

49 **WHEREAS**, on [DATE], the City of Holmes Beach Planning Commission, as the City’s Local
50 Planning Agency, held a public hearing to consider this ordinance and passed a motion to recommend
51 adoption of same to the City Commission; and

52 **WHEREAS**, the City Commission agrees with the recommendations of the Local Planning Agency
53 and finds that the proposed land development regulations are consistent with the City’s Comprehensive
54 Plan.

55 **NOW THEREFORE, BE IT ORDAINED** by the City Commission of the City of Holmes
56 Beach, Florida:

57 **Section 1. Findings of Fact.** The above referenced "whereas" clauses are adopted herein as
58 findings of fact.

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60 **Section 2.** The City’s Land Development Code, Article I, General, Section 1.4, Definitions, shall
61 be amended as follows:

62 1.4 – Definitions.

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64 Unless the context shall clearly require otherwise, the following terms shall have the following meaning
65 for the purposed of this ordinance:
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68 Site alteration: Means addition or removal of topsoil or material from land, or the alteration of the
69 grade of land by any means including placing fill, clearing and grubbing, the compaction of soil, the creation
70 of impervious surfaces, or any combination of these activities. Site alteration shall also include the
71 construction or installation of any structure.
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74 **Section 3.** Article VI (Zoning), Division 4, Supplemental Development Standards, Section 6.8(F),
75 Fences, of the Holmes Beach Land Development Code is hereby deleted in its entirety and replaced with
76 the following:

77 **ARTICLE VIII – GENERAL SITE DESIGN STANDARDS**
78 **DIVISION 8 – WALLS AND FENCES**

79 **8.27. Walls and Fences.**

80 A. Definitions. For purposes of this section the following definitions are to be used:

81 a. ~~Corner lot shall mean a lot that abuts on more than one street.~~

82 1. Existing ground grade: The grade ~~established by the building official~~ at the time the fence
83 is erected.

- 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 lR. 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.

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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.**

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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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Carol Soustek

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Dan Diggins

Greg Kerchner

Terry W. Schaefer

Pat Morton

APPROVED BY ME THIS _____ DAY OF _____, 2024

Judy Titsworth, Mayor

ATTEST: _____
Stacey Johnston, MMC, City Clerk