



**MONROE COUNTY, FLORIDA  
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS  
ORDINANCE NO. 005 - 2012**

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF  
COUNTY COMMISSIONERS AMENDING THE REGULATIONS  
PERTAINING TO FENCES IN MONROE COUNTY CODE  
SECTION 114-20, FENCES; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS;  
PROVIDING FOR TRANSMITTAL TO THE STATE LAND  
PLANNING AGENCY AND THE SECRETARY OF STATE;  
PROVIDING FOR CODIFICATION; PROVIDING FOR AN  
EFFECTIVE DATE.**

**WHEREAS**, the purposes of the proposed amendments are to provide single family residential properties on Stock Island and Key Haven with the option to construct entry features that are greater in mass than currently allowed; to allow a taller fence for utility security when a national code requires or recommends a height greater than that allowed by the Land Development Code; to include the Mixed Use (MU) Land Use District in §114-20(1)d.2.; and to revise existing language to address areas of improper language and incorrect references.; and

**WHEREAS**, during a regularly scheduled meeting held on January 23, 2012, the Development Review Committee reviewed the subject request and recommended approval to the Board of County Commissioners; and

**WHEREAS**, during a regularly scheduled public hearing held on February 29, 2012, the Planning Commission reviewed the ordinance and recommended approval to the Board of County Commissioners;

**NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF  
COUNTY COMMISSIONERS:**

**Section 1.** Section § 114-20 shall be amended as follows:

**Sec. 114-20. Fences.**

It is the purpose of this section to regulate fences in order to protect the public health, safety and welfare.

- (1) *Height.* In general, all fences shall be measured from the finished elevation adjacent to the fence and shall not exceed six feet in height.
- a. For properties with access to U.S. 1 and to county designated arterial streets and for all nonresidential properties with access to any public street, no fence exceeding three feet shall be located within a clear sight triangle as defined in section 114-201 that interferes with the safe and adequate view of vehicles and pedestrians utilizing streets and sidewalks;
  - b. No fence exceeding three feet shall be located at the intersection of any two public streets within the clear sight triangle as defined in section 114-201;
  - c. For residential properties on local streets, fences located within the clear sight triangle as defined in section 114-201 may exceed three feet in height if located on private property and placed a minimum of ten feet from the edge of pavement of the street, the sidewalk or the bike path, whichever is closer to the property. On unpaved streets, the distance shall be measured from the approximate edge of the cleared right-of-way. If the setback of existing fences on the street is greater than ten feet the fence shall be setback the same distance or to a maximum of 20 feet, whichever is less;
  - d. No fence shall exceed four feet in height within any front yard setback or within any side yard setback that overlaps with a front yard setback, except as follows:
    1. Within all land use districts, fences of five feet in height may be permitted if constructed of chain-link or other material that does not impair visibility;
    2. Within the UC, SC, MU, I, MI, and AD Land Use (Zoning) Districts, and when permitted in a commercial fishing district around storage lots, fences may be constructed to a height of six feet, provided they are not located within clear sight triangles as defined in section 114-201;
    3. Within the IS, SR, SR-L, SS and NA Land Use (Zoning) Districts, fences may be constructed to a height of six feet, provided that no other residentially developed property is located within 200 feet of the subject property, provided they are not located within clear sight triangles as defined in section 114-201;
    4. On Stock Island and on Key Haven, fences may be constructed to a height of six feet, provided they are not located within clear sight triangles as defined in section 114-201. Developed single family residential lots may incorporate entry features of greater than six feet within the fences, provided all of the following design guidelines are met:
      - i. The entry feature is defined as a continuous fence or gate, or combination thereof, located contiguous to and on both sides of the main access and/or driveway to the property which is designed and intended to control and/or demarcate the access to the property. An "entry feature" includes all walls, buttresses, guy wires, integral signs and decorative features attached thereto up to a maximum width of 12 feet, or 15% of the lot width whichever is greater, a maximum height of 10 feet, and 4 feet in depth or 6% of the lot depth whichever is greater, as measured from the front property line; and
      - ii. The entry feature shall not be located in any side yard setback; and
      - iii. The entry feature shall be compatible with the existing development in the immediate vicinity, shall be in harmony with the general appearance and

character of the community, and shall not be otherwise detrimental to the public welfare; and

- iv. The entry feature shall be designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent structures while affording the applicant a reasonable use of the land; and
  - v. The entry feature shall require a building permit for its construction and in addition to the normal building permit application requirements, the application shall include a scaled site plan and elevations for the entry feature that shows the height, width and length of each element of the entry feature applied for, including any decorative or non-functional elements; and identification of the materials composing each element of the structure (e.g. wire, stone, chain-link, wood, etc.).
- e. When it is necessary to use a fence to contain athletic activity, the fence may be erected to a maximum of 12 feet in height, if it is designed to not impair visibility and in accordance with community character as determined by the planning director.
  - f. When it is necessary to use a fence to contain a public use for safety and/or security purposes (i.e. high voltage substations, pumping stations, public wastewater treatment facilities), the fence may be erected to a maximum height provided in national, state or otherwise recognized industry code, if it is designed in accordance with community character as determined by the planning director.

(2) *Setbacks.* In general, fencing may be located anywhere on the property, including the property line, except as follows:

- a. The use of a fence shall not negate bufferyard requirements and standards. The clearing of existing native vegetation to locate a fence in the bufferyard shall only be permitted to facilitate the construction of fences located along the inside or outside edge of the required bufferyard.
- b. No fence shall be placed so as to extend into or through any wetlands or water bodies, or extend beyond the mean high tide line on any property.
- c. Fences placed on any structure shall not violate height requirements for that structure.
- d. In no event shall fences be approved if they restrict fire and emergency access to individual or adjacent properties.
- e. Setback requirements for Big Pine and No Name Key are listed in subsection (c) of this section.

(3) *Big Pine and No Name Key.* The purpose of this section is to recognize and provide for the particular habitat needs of the Florida Key Deer (*Odocoileus virginianus clavium*) on Big Pine Key and No Name Key so that deer movement throughout Big Pine Key and No Name Key is not hindered while allowing for reasonable use of minimal fencing for the purposes of safety and protection of property. In addition to all other standards set forth in this section, all fences located on Big Pine Key and No Name Key shall meet the standards of this subsection as listed below:

- a. In the Improved Subdivision (IS) Land Use (Zoning) District, fences shall be set back as follows:
    1. On canal lots, fences shall be set back at least 15 feet from the edge of abutting street rights-of-way; and built to the edge of all other property lines or as approved through a U.S. Fish and Wildlife Service coordination letter; and
    2. On all other lots, fences shall be set back at least 15 feet from the edge of abutting street rights-of-way, at least five feet from side property lines and at least ten feet from the rear property line, or as approved through a U.S. Fish and Wildlife Service coordination letter.
  - b. In all other land use districts, fences may enclose up to a maximum of and not to exceed the net buildable area of the parcel only.
  - c. Enclosure of the freshwater wetlands by fences is prohibited.
  - d. All fences shall be designed and located such that Key Deer access to native habitat, including pinelands, hammocks, beach berms, salt marshes, buttonwoods and mangroves is maintained wherever possible.
  - e. All fences shall be designed and located such that Key Deer corridors, as identified by the U.S. Fish and Wildlife Service, shall be maintained.
  - f. Fences shall not be permitted without a principal use except where the enclosed area consists of disturbed lands or disturbed land with exotics.
- (4) *Use.* Fences may be allowed as accessory uses within any Land Use (Zoning) District and without a principal use existent where upland security is required as otherwise permitted.
- (5) *Construction material.* Fences shall be constructed of natural or manmade materials, including, but not limited to, brick, lumber, stone, metal, plaster, concrete and masonry:
- a. All materials shall be approved by the planning director as in conformance with the visual character of the surrounding neighborhood and community character.
  - b. No barbed or razor wire shall be permitted except in the Industrial (I) and Airport (AD) Land Use (Zoning) Districts with the approval of the planning director.
- (6) *Attachments to fences.* No attachments to fences shall be allowed, including, but not limited to, banded and ribbon wire, signs projecting above six feet from the ground level, broken glass or metal strips except as a minor conditional use permit approval. The only exception shall be a maximum of two electrical lights attached to the fence not exceeding two feet in height above the maximum height limit. These lights shall comply with all outdoor lighting requirements of article VI of this chapter and be permitted as of right.
- (7) *Required permit.* All fences shall be constructed pursuant to a building permit issued by the county building department.
- (8) *Limited clearing.* To allow construction of protective fences and gates, limited clearing may be permitted if the following design standards have been met:
- a. Such limited clearing does not occur in scenic highway corridors as defined and required in this Land Development Code;

- b. Limited clearing shall not remove native vegetation that would provide for the minimum buffer required in section 114-124; and
- c. Existing tree canopies within hardwood and pineland hammocks are not removed.

(9) *Maintenance.* All fences shall be maintained in good repair at all times.

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## **Section 2. Severability.**

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

## **Section 3. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

## **Section 4. Transmittal.**

This ordinance shall be transmitted to the Florida State Land Planning Agency as required by F.S. 380.05 (11) and F.S. 380.0552(9).

## **Section 5. Filing.**

This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Florida State Land Planning Agency or Administration Commission approving the ordinance.

## **Section 6. Inclusion in the Monroe County Code.**

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform marking system of the Code.

## **Section 7. Effective Date.**

This ordinance shall become effective as provided by law and stated above. This ordinance applies to any permit, and or other development approval application submitted after the effective date.

**PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida  
at a regular meeting held on the 21st day of March, 2012.

Mayor David Rice  
Mayor *Pro Tem* Kim Wigington  
Commissioner Heather Carruthers  
Commissioner Sylvia Murphy  
Commissioner George Neugent

Yes
Yes
Yes
Yes
Yes



Attest: DANNY L. KOLHAGE, CLERK

By

*Danny L. Kolhage*  
Deputy Clerk

By

*David Rice*  
Mayor David Rice

FILED FOR RECORD  
2012 APR -4 AM 9:42  
DANNY L. KOLHAGE  
CLERK  
MONROE COUNTY, FL.

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM  
*Sam Grimsley*  
Date: 3-23-12