

ORDINANCE NO. 15-08

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE V “SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS”, DIVISION 9 “FENCES” OF THE VILLAGE CODE OF ORDINANCES TO INCREASE THE PERMITTED HEIGHT OF FENCES ON VACANT PARCELS AND TO INCREASE THE SIZE OF REQUIRED FENCE BUFFERS WITHIN THE VILLAGE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands (the “Village”) has adopted a comprehensive set of Land Development Regulations (the “LDRs”) to implement the Village Comprehensive Plan (the “Comprehensive Plan”); and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, the Village has conducted duly-noticed public hearings for the proposed adoption of this Ordinance amending the LDRs; and

WHEREAS, on May 11, 2015, the Village Local Planning Agency reviewed this Ordinance in accordance with the requirements of Chapter 163, *Florida Statutes*; and

WHEREAS, the Village Council finds the adoption of this Ordinance is in the best interest of the Village and complies with applicable State laws and rules; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Fencing Standards. Chapter 30, "Land Development Regulations", Article V "Schedule of District Use and Development Standards", Division 9 "Fencing Standards" of the Village Code is hereby amended to read as follows:

Additional text is shown as underlined; deleted text is shown as ~~strikethrough~~

* * * * *

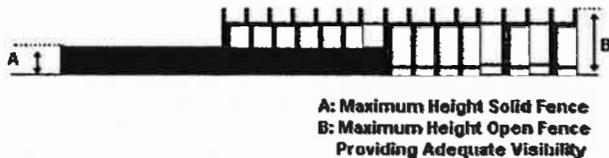
Sec. 30-912. - Requirements.

* * * * *

(f) *Height.* In general, fences shall not exceed eight feet in height except as follows:

(1) *Adjacent to roadways.* No fence shall be placed on a property adjacent to a roadway exceeding six feet in height.

(2) *Visibility triangle.* No solid fence shall be located within a visibility triangle exceeding three feet in height or in any other way obstructing clear sight of vehicles and pedestrians utilizing streets and sidewalks. Fences meeting the general height requirements may be placed within the visibility triangle provided that the fence design provides adequate open space to allow visibility, to be determined by the director of planning and development services.



(3) *Athletic activities.*

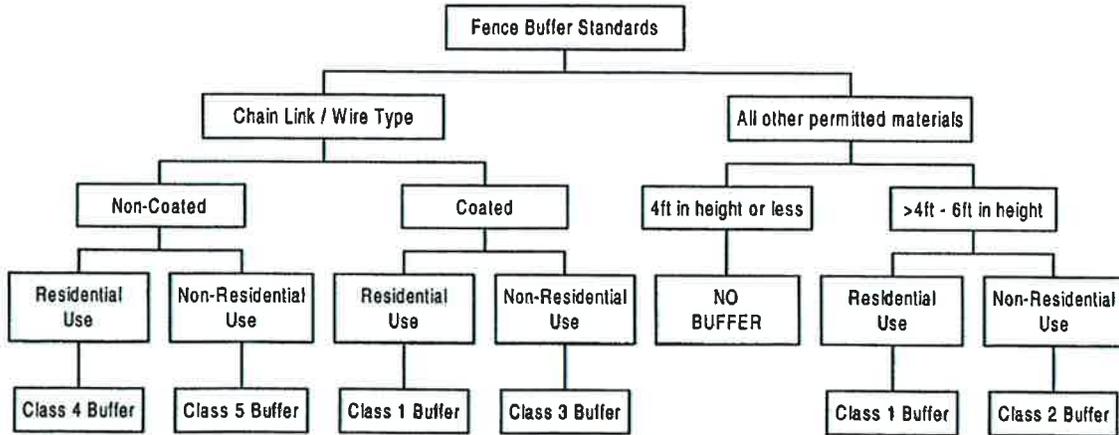
a. When it is necessary to use a fence to contain tennis courts or other similar athletic activities on residential properties, the fence may exceed eight feet to a maximum of 12 feet, and shall be designed not to impair visibility. Setback requirements shall apply.

b. Upon approval of the director of planning and development services, fences for athletic and recreational activities located on nonresidential properties may exceed eight feet to a height appropriate to safely contain the particular athletic activity. The fence shall be designed not to impair visibility and shall be subject to the setback requirements of the zoning district in which it is located. In general this height shall not exceed 12 feet. In no case shall the height exceed 25 feet.

(4) *Property without principal use.* Where a fence is constructed on a property without a lawfully established principal use, the fence shall not exceed ~~four feet in~~ the height established within this division.

(g) *Fence buffer standards.*

(1) *Fences adjacent to roadways.* Fences located adjacent to roadways shall install and maintain a fence buffer pursuant to this section. The following flow chart illustrates fence bufferyard requirements for fences located adjacent to roadways.



(2) *Required vegetation.* The following table illustrates vegetation requirements for each class fence buffer.

Fence Buffer	Within Setback	Within Right-of-way
Class 1	1 canopy, 2 understory, 20 shrubs	3 breakaway understory, 20 shrubs
Class 2	3 canopy, 2 understory, 30 shrubs	5 breakaway understory, 20 shrubs
Class 3	4 canopy, 2 understory, 30 shrubs	6 breakaway understory, 30 shrubs

Class 4	2 canopy, 5 understory, 30 shrubs	7 breakaway understory, 40 shrubs
Class 5	5 canopy, 2 understory, 40 shrubs	7 breakaway understory, 40 shrubs

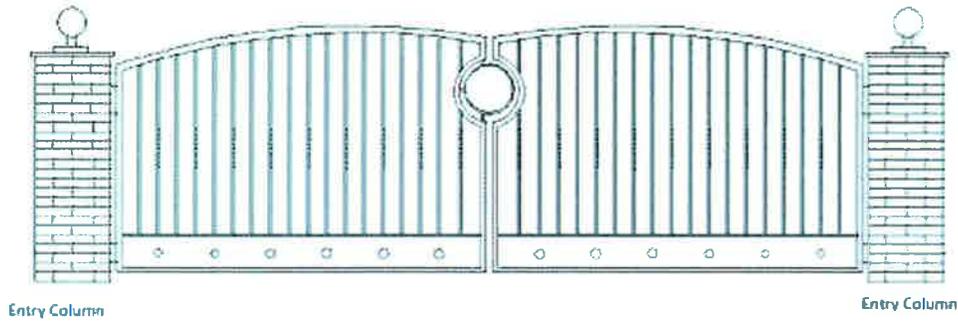
The number of plants required is per 100 linear feet. Canopy and understory trees shall be a minimum of six feet in height and shrubs shall be a minimum of three feet in height.

(3) *Location of fence buffer vegetation.* For chainlink and wire type fencing all required vegetation shall be placed to the exterior of the fence. For fences constructed of all other permitted materials a minimum of 70 percent of the required vegetation shall be placed to the exterior of the fence. The arrangement of plants ~~must~~ shall be evenly distributed along the entire length of the fence except a maximum of one 20-foot access point for each 75 feet of property frontage, unless otherwise approved by the director of planning and development services. Vegetation shall not be placed as to obstruct the visibility triangle requirements. In no instance shall vegetation be placed within the right-of-way without the express written consent of the state department of transportation or the village department of public works. An indemnification agreement shall be required.

(4) *Vegetation within right-of-way.* Where any portion of the fence buffer is placed within the right-of-way the fence buffer standards for "within right-of-way" contained in subsection (g)(2) of this section shall apply. All vegetation placed within the right-of-way shall be breakaway, with mature trunk diameters of four inches or less measured six inches above the ground. In general, vegetation within the right-of-way shall be placed within five feet of the property line, unless expressly permitted by the ~~village operations~~ director of public works. Additional conditions may apply for vegetation placed within the right-of-way as determined by state department of transportation or ~~village operations~~ director of public works.

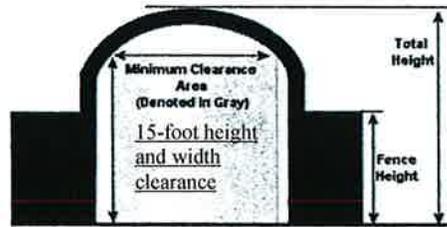
(5) *In conjunction with other required bufferyards.* Required fence buffers may be applied toward any additional required bufferyard requirements. Any fence buffer vegetation that overlaps a required major street or zoning district bufferyard shall be subtracted from the total to avoid double counting.

(h) Columns without arches. Entry columns that exist without an arch shall be considered a part of the fence and shall not be considered an attachment to the fence. The entry columns shall comply with the maximum height as established within this division. The entry columns shall be spaced a minimum of 20 feet apart unless otherwise approved by the village fire chief.



(hi) *Attachments.*

- (1) *Lighting.* Light fixtures may be permitted to be attached to a fence, provided that:
 - a. Light fixtures are spaced a minimum of 16 feet apart or are located directly adjacent to a gated entry;
 - b. The fixtures shall not extend greater than two feet above the maximum permitted fence height;
 - c. The fixtures are designed such that no lamp component is visible from the horizontal plane. Frosted globe fixtures may be used, however in no case shall fully exposed lamps or fixtures with clear glass globes or side panels be permitted;
 - d. A maximum of one low intensity lamp is installed per fixture; and
 - e. Light trespass does not fall upon adjacent properties or roadways.
- (2) *Columns and arches.* Entry columns and arches may be added to fences adjacent to an entrance provided that:
 - a. They are spaced a minimum of 20 feet apart;
 - b. They provide a minimum 15-foot height and width clearance for the passage of emergency and delivery vehicles unless another conforming accessway is available or the village fire chief approves an alternative design and accessway.
 - c. They do not exceed 18 feet in height; and
 - d. Approval of the village fire chief shall be required.



(ij) *Other attachments.* Other decorative attachments may be permitted upon the approval of the director of planning and development services provided they are spaced a minimum of eight feet apart, are permanently and securely fastened, and do not extend greater than two feet above the maximum permitted height for the fence.

* * * * *

Section 3. Repeal of Conflicting Provisions. The provisions of the Village Code and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Islamorada, Village of Islands, Florida, that the sections of the Ordinance may be renumbered or relettered to accomplish to such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Approval by the Florida Department of Economic Opportunity. The provisions of this Ordinance constitute a “land development regulation” as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the Florida Department of Economic Opportunity (DEO) for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Ordinance herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this Ordinance shall not be effective until either sixty (60) days after its transmittal to DEO

or until twenty-one (21) days following the publishing in the Florida Administrative Weekly of a final order approving the Ordinance by DEO, pursuant to Chapter 380.05, Florida Statutes; or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Vice Mayor Deb Gillis, who moved for its adoption on first reading. This motion was seconded by Mayor Mike Forster, and upon being put to a vote, the vote was as follows:

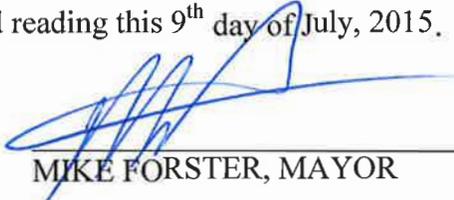
Mayor Mike Forster	YES
Vice Mayor Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES
Councilman Dennis Ward	YES

PASSED on the first reading this 18th day of June, 2015.

The foregoing Ordinance was offered by Vice Mayor Deb Gillis, who moved for its adoption on second reading. This motion was seconded by Councilman Jim Mooney, and upon being put to a vote, the vote was as follows:

Mayor Mike Forster	YES
Vice Mayor Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES
Councilman Dennis Ward	YES

PASSED AND ADOPTED on the second reading this 9th day of July, 2015.



MIKE FORSTER, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY