ORDINANCE NO. 2015 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100 "SINGLE-FAMILY AND TWO-FAMILY DISTRICTS" OF THE VILLAGE CODE OF ORDINANCES RELATING TO POOL FENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") has adopted Zoning and Land Development Regulations in order to promote the health, safety, order, convenience, comfort, and general welfare of the public, and to promote and preserve the character and ecological quality of the Village as articulated in the Village's Comprehensive Plan; and

WHEREAS, the Village Council desires to amend the Land Development Regulations relating to pool fences in the single-family and two-family districts; and

WHEREAS, the Village Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the residents of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

Section 1. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Section 30-100 of the Village Code Amended. That Section 30-100 of the Code of Key Biscayne, Florida, is hereby amended to read as follows:

[1] Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text. The underlined words are additions between 1st and 2nd reading, ~~struck through~~ words are deletions.

Sec. 30-100. Single Family and Two-Family districts.

* * *

(f) *Permitted encroachments in Required Yards.*

* * *

(3) Decks, pools, and screen enclosures.

* * *

(e) fences.

(i) Any yard that has a swimming pool shall be surrounded by a wall or fence installed in accordance with Section 30-100(f)(6) of the Village Code. ~~be surrounded by a perimeter cbs wall, metal picket fence, or wood fence that is a minimum of four feet in height.~~ With respect to the waterfront zone, this provision shall apply to the front and side yards, but not the rear property line adjacent to the waterfront. ~~This provision shall not apply to the rear property line of waterfront lots. This provision may also be satisfied if a metal or wood fence is located on a pool deck where the fence completely surrounds the pool.~~

(ii) Notwithstanding Section 515.27, Florida Statutes, a safety pool cover is not permitted. ~~the following residential swimming pool safety features shall be required: (1) All doors and windows providing direct access from the home to the pool must be equipped with an exit alarm that has a minimum sound pressure rating of 85 dBA at 10 feet; or (2) a permanent pool barrier that meets the requirements of Section 515.29, Florida Statutes. A perimeter cbs wall, metal picket fence, or wood fence is not required if a permanent pool barrier is installed.~~

~~(iii)~~ ~~Except for pools located in any yard that faces a street, the provisions of subsection (i) above shall not apply, if a permanent pool barrier is installed.~~

(iii~~v~~) Gates. All openings shall be equipped with gates that have a spring lock type, so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the swimming pool is not in use.

Section 3. **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 4. **Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this __14th__ day of __April__, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____ , 2015.

_____
MAYOR MAYRA PEÑA LINDSAY

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY