

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

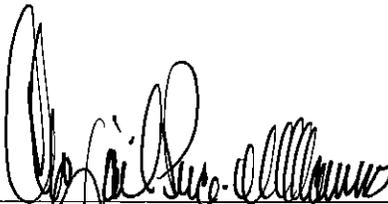
DATE: (Second Reading 12-01-15)
September 1, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to zoning
and Code Enforcement;
prohibiting cloth or other
material from being affixed to
wire fences and chain link fences
in residential areas; amending
sections 33-11 and 8cc-10 of
the Code

Ordinance No. 15-143

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: December 1, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

Subject: Ordinance Pertaining To Zoning and Code Enforcement

The proposed ordinance regarding zoning and code enforcement amends sections 33-11 and 8CC-10 of the code of Miami-Dade County prohibiting cloth or other material from being affixed to wire and chain link fences in RU and EU districts unless otherwise required by local, state, or federal law. In addition, it amends schedule of civil penalties to include a penalty for affixing material to a chain link fence or wire fence without a permit and/or improperly maintained fence, wall, or hedge.

Currently, the application of fabric to wire and chain link fences in residential properties is regulated to the extent that this material cannot be attached to existing fences unless a building permit is obtained for that purpose. Property owners that violate this requirements are issued warnings or civil violation notices for non-compliance. The violation may be corrected by removing the fabric or by obtaining a building permit for the installation of the fabric.

The proposed modification prohibits the use of this material in RU and EU residential districts (unless preempted by other laws). Therefore, the proposal will impact current enforcement action to the extent that correction of the violation will be limited to removal of the fabric, except in instances where the installation is specifically pre-empted by other laws. The implementation of this ordinance, if adopted, is not expected to generate more enforcement action than the current existing regulation. Consequently, it will not result in additional staffing needs or future operational costs. Therefore, it is anticipated that the implementation of this ordinance will have no fiscal impact on Miami-Dade County.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

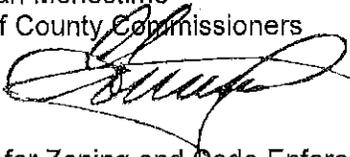
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Memorandum



Date: December 1, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Zoning and Code Enforcement Ordinance Pertaining to the Prohibition of Materials Affixed to Fences in Residential Areas

This proposed ordinance amends the Code to modify regulations regarding wire fences and chain link fences. More specifically, the Code currently requires that cloth, fabric, canvas, silt screens, mesh, plastic cross mats, or other such materials be properly maintained, but specifies that these materials may be allowed in residential areas by obtaining a building permit.

The proposed ordinance amends the Code in the following manner:

- States that the application of these materials on the referenced fences are prohibited in specific residential zoning districts (RU and EU).
- Specifies that these materials can only be applied in RU and EU districts if required by law.
- Specifies that the existing \$200 civil penalty for improperly maintaining a fence, wall or hedge extends to affixing material to a chain link fence or wire fence without a building permit.

The proposed amendment reduces the ability for property owners in RU and EU zoning districts to affix such materials on their chain link or wire fences. Prospectively, any property owner that violates this section of the code will be subject to the \$200 civil penalty.



Jack Osterholt
Deputy Mayor

151951



MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: December 1, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
12-01-15

ORDINANCE NO. 15-143

ORDINANCE PERTAINING TO ZONING AND CODE ENFORCEMENT; PROHIBITING CLOTH OR OTHER MATERIAL FROM BEING AFFIXED TO WIRE FENCES AND CHAIN LINK FENCES IN RESIDENTIAL AREAS; AMENDING SECTIONS 33-11 AND 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, wire fences and chain link fences are allowed on residential properties under the Code of Miami-Dade County (the "Code"); and

WHEREAS, pursuant to § 33-11 of the Code, a permit is required to affix cloth, fabric, canvass, silt screens, mesh, plastic cross mats, or other such material to a wire fence and chain link fence; and

WHEREAS, many property owners who affix cloth, fabric, canvass, silt screens, mesh, plastic cross mats, or other such material to wire fences and chain link fences in residential districts allow the material to deteriorate and remain in a deplorable and unsightly state; and

WHEREAS, this Board believes that deteriorated material affixed to a chain link fence or wire fence is not aesthetically pleasing and could be a safety concern; and

WHEREAS, Miami-Dade County has an interest in ensuring the safety of its citizens and in maintaining the aesthetics of the County,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-11 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-11. **Fences, walls, bus shelters and hedges.**

* * *

(g) *Wire fences, chain link fences, barbed wire and electricity charged fences.* Wire fences and chain link fences shall be allowed in all districts except where otherwise prohibited by this chapter. Cloth, fabric, canvass, silt screens, mesh, plastic cross mats, or other such material affixed to wire fences or chain link fences must be properly maintained. Failure to properly maintain the material shall be a violation of this section. Unless otherwise required >>by local, state, or federal<< law, wire fences and chain link fences on ~~[[residential]]~~ properties >>in RU and EU districts<< shall not have the application of cloth, fabric, canvass, silt screens, mesh, plastic cross mats or other such material >>; and if required by law, such material shall not be affixed<< without first obtaining a building permit. Barbed wire fences and fences charged with electricity shall be permitted only in the AU Zoning District, except as may be approved after public hearing and except:

- (i) Barbed wire fences shall be permitted in the BU and IU Zones where such barbed wire is placed on an angle extension of not more than sixteen (16) inches on top of walls or fences at least six (6) feet in height. This extension shall contain no more than three (3) strands of barbed wire and shall not extend over official rights-of-way or over property under different ownership.
- (ii) Electrically charged secondary wire fences that are pulsating shall be permitted in IU Districts where such fences conform with the requirements of Section 33-11(k).

* * *

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. **Schedule of civil penalties.**

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

* * *

33-11	Over-height fence, barbed wire fence, wall or hedge	200.00
33-11	Improperly located fence, wall, or hedge	200.00
33-11	>>Affixing material to a chain link fence or wire fence without a permit and/or improperly<< [[Improperly]] maintained fence, wall, or hedge	200.00

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: December 1, 2015

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Senator Javier D. Souto