

MEMORANDUM

Agenda Item No. 7(F)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: January 22, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance pertaining to zoning;
and code enforcement;
prohibiting cloth fences and
regulating the appearance and
maintenance of both wire fences
and chain link fences with cloth
affixed to them in all districts;
amending Sections 33-11 and
8CC-10 of the Code

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 12-12-13 Land Use & Development Committee. This substitute differs from the original item in that the language has been expanded to include plastic cross mats as a material covered by the Ordinance; the prohibition against cloth, fabric, canvass, silt screens, mesh, or other such material not being utilized as a fence has the added exception of "unless being utilized pursuant to Section 33-11(f)" of the Code; and this new version makes it clear that a permit is required for any wind resistant fence on a residential property and that the wind resistant fence and material affixed thereto must be properly maintained.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: January 22, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Ordinance Pertaining to Zoning; and Code Enforcement; Prohibiting Cloth Fences and Regulating the Appearance and Maintenance of Both Wire Fences and Chain Link Fences with Cloth Affixed to Them in all Districts; Amending Sections 33-11 and 8CC-10 of the Code

The proposed ordinance prohibits cloth fences and regulates the appearance and maintenance of both wire fences and chain link fences with cloth affixed to them in all districts; amends Sections 33-11 and 8CC-10 of the Code. Implementation of this ordinance will not have a fiscal impact to the County. Any additional enforcement required under the proposed ordinance will be absorbed using existing staff.

A handwritten signature in black ink, appearing to read "Jack Osterholt".

Jack Osterholt
Deputy Mayor

Fis0614



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: January 22, 2014

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(F)

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
- 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(F)

1-22-14

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING AND CODE ENFORCEMENT; PROHIBITING CLOTH FENCES AND REGULATING THE APPEARANCE AND MAINTENANCE OF BOTH WIRE FENCES AND CHAIN LINK FENCES WITH CLOTH AFFIXED TO THEM IN ALL DISTRICTS; 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, some >>residential<<¹ property owners [~~in RU Zones~~] have been utilizing cloth, fabric, canvass, silt screens, mesh, or other such material as a makeshift fence; and

WHEREAS, makeshift fences composed of cloth, fabric, canvass, silt screens, mesh, or other such material are structurally unsound and unsafe; and

WHEREAS, wire fences and chain link fences are allowed >>on residential properties<< [~~in RU Zones~~] under the Code of Miami-Dade County; and

WHEREAS, some >>residential<< property owners [~~in RU Zones~~] have been affixing cloth, fabric, canvass, silt screens, mesh, >>plastic cross mats,<< or other such material to wire fences and chain link fences thereby making the fences wind resistant structures that requires a building permit; and

WHEREAS, some >>residential<< property owners [~~in RU Zones~~] have been affixing cloth, fabric, canvass, silt screens, mesh, >>plastic cross mats,<< or other such material to wire

¹ The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [~~double bracketed~~] are deleted, words double underlined and/or >>double arrowed<< are added.

fences and chain link fences thereby making the fences wind resistant without first obtaining a building permit; and

WHEREAS an unpermitted wind resistant fence is a safety concern; and

WHEREAS, some 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<< [~~RU Zones~~] have allowed 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 follows²:

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

* * * *

(b) *Exterior finish of walls and fences.* All walls and fences shall be maintained in good, clean and finished condition. A fence with a finished and unfinished side shall be erected so that the unfinished side and supporting members face inward toward the interior of the property. Furthermore, all fences shall have the finished side facing the neighboring property or street (outward). A continuous wall or fence that is owned by multiple property owners or held in common ownership shall be of uniform construction and materials and its exterior shall also be maintained in good, clean and finished condition for the entire length of said wall or fence. Each side of a CBS wall shall be

² 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.

completely finished with stucco and paint. Each side of a decorative masonry wall shall be completely painted; however, walls comprised of decorative brick and natural stone may be left unpainted provided the cement and grout are finished on both sides. If a wall is to be placed on a shared property line, consent for access must be obtained from the adjoining property owner(s) prior to finishing the opposite side of the wall. If such consent cannot be obtained, the property owner erecting the wall must present proof that a request for access approval was mailed to every adjacent property owner, by certified mail, return receipt requested, to the mailing address(es) as listed in the most current Miami-Dade County tax roll, and the mailing was returned undeliverable or the adjacent property owner(s) failed to respond to the request within thirty (30) days after receipt. Upon such a showing, the property owner erecting the wall shall not be required to finish the opposite side of the wall. ~~[[The use of e]]~~ >>C<<>>loth, fabric, canvass, silt screens, mesh, or other such material shall not be utilized as a fence<< [[in a RU Zone]] >>unless otherwise required by law<< >>or unless being utilized pursuant to Section 33-11(f) above.<<

* * * *

(g) *Wire fences, >>chain link fences,<< barbed wire and electricity charged fences.* Wire fences >>and chain link fences<< shall be ~~[[permitted]]~~ >>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 law, wire fences and chain link fences<< ~~[[permitted in RU Zones]]~~ >>on residential properties<< >> shall not have the application of cloth, fabric, canvass, silt screens, mesh,<< >>plastic cross mats<< >> or other such material without first obtaining a building permit.<< ~~[[If cloth, fabric, canvass, silt screens, mesh, or other such material is affixed to a wire fence or chain link fence the cloth, fabric, canvass, silt screens, mesh, or other such material must be properly maintained. Failure to properly maintain the material shall be a violation of this section.]]~~ 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.**

* * * *

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	<u>Improperly maintained fence, wall, or hedge</u>	<u>200.00</u> <<

* * * *

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:

Approved by County Attorney as
to form and legal sufficiency:

FAE

Prepared by:

CA

Christopher A. Angell

Prime Sponsor: Commissioner Dennis C. Moss