MEMORANDUM

Agenda Item No. 4(F)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	March 3, 2015
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance relating to zoning; modifying regulations regarding chain link fences; amending Sections 33-11 and 33-311 of the Code

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

R. A. Cuevas, Jr.
County Attorney

RAC/smm

MEMORANDUM

(Revised)

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

DATE: March 3, 2015

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

SUBJECT: Agenda Item No. 4(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. 4(F)

3-3-15

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; MODIFYING REGULATIONS REGARDING CHAIN LINK FENCES; AMENDING SECTIONS 33-11 AND 33-311 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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.

(a) *Permits; conformance to requirements; erection on property lines* >>*; chain link fences prohibited*<<. Permits shall be required for all walls and fences, and except as may be approved as a result of public hearings, walls, fences, which obscure or obstruct vision, and hedges shall be restricted to the height, location and type as indicated hereinafter, and except when a higher wall, fence or hedge is required as a visual screening buffer at the rear of double frontage lots under Chapter 28 of this Code.

>>(1)<< Except as hereinafter restricted, all walls, fences and hedges may be placed on the property lines. This section, however, shall not be construed to permit such walls, fences and hedges to extend beyond the official right-of-way lines or property lines.

>>(2) Notwithstanding anything in this Code to the contrary, chain link fences shall be prohibited in all districts, except that chain link fences in IU districts, AU districts, and GU districts trended agricultural are permitted if approved after public hearing.

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(i) Chain link fences lawfully existing prior to [the effective date of this ordinance] may remain, subject to the nonconforming use provisions of Section 33-35 of this chapter, except that nonconforming chain link fences in IU districts, AU districts, and GU districts trended agricultural shall be exempt from Section 33-35(B)(3)(b)(ii).

(ii) The Board may, by resolution, direct the Mayor to establish a program allocating the fines collected for violations of the chain link fence regulations in this section to fund a need-based subsidy program for residential properties: to replace legally existing, nonconforming chain link fences with permitted walls, fences, or hedges; or to install appropriate landscaping to screen such fences from view.<<

* * *

Section 2. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. - Community Zoning Appeals Board—Authority and duties.

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310.2. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging

the most appropriate use of land and water throughout the County. The Community Zoning Appeals Board and Board of County Commissioners or any of their members may inspect the premises and area under consideration. The Community Zoning Appeals Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

(14) Alternative Site Development Option for Single-family and Duplex Dwellings. This subsection provides for the establishment of an alternative site development option, after public hearing, for single-family and duplex dwellings, when such uses are permitted by the underlying district regulations, in the GU, RU-1, RU-1Z, RU-1M(a), RU-1M(b), RU-2, RU-TH, RU-3, RU-3M, RU-3B, RU-4L, RU-4M, RU-4, RU-4A, RU-5, EU-M, EU-S, EU-1, EU-1C, EU-2, and AU zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

(f) An alternative maximum height of walls, hedges or fences for a single-family or duplex dwelling shall be approved upon demonstration of the following:

* * *

(7) >>proposed fences are not comprised of chain link or other wire mesh, unless located in an AU or GU with AU trend zoning district; and

(8)<< Safe sight distance triangles are maintained pursuant to this code.

* * *

(15) Alternative Site Development Option for Single-family Zero Lot line Dwellings. This subsection provides for the establishment of an alternative site development option,

after public hearing, for zero lot line dwellings, when such uses are permitted by the underlying district regulations, or when such uses were approved for development by a prior public hearing action, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

(d) An alternative maximum height of walls, hedges or fences for a zero lot line dwelling shall be approved upon demonstration of the following:

* * *

(7) >>proposed fences are not comprised of chain link or other wire mesh; and

(8)<< Safe sight distance triangles are maintained pursuant to this code.

* * *

(15.1) Alternative Site Development Option for Three-unit or Four-unit Apartment House, Multiple-Family Apartment House Use and Multiple-Family Housing Developments. This subsection provides for the establishment of an alternative site development option, after public hearing, for three-unit or four-unit apartment house use, multiple-family apartment house use and multiple-family housing developments, when such uses are permitted by the applicable district regulations, in the RU-3, RU-3M, RU-4L, RU-4M, RU-4, RU-4A, and RU-5 zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

(h) An alternative maximum height of walls, hedges or fences for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development shall be approved upon demonstration of the following:

* * *

(7) >>proposed fences are not comprised of chain link or other wire mesh; and

(8)<< Safe sight distance triangles are maintained pursuant to this code.

* * *

(20) Alternative Site Development Option for Semi-Professional Office Buildings and Structures. This subsection provides for the establishment of an alternative site development option, after public hearing, for semi-professional office buildings and structures, when such uses are permitted by the underlying district regulations, in the RU-5 and RU-5A zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

(g) An alternative maximum height of walls, hedges or fences for a commercial development shall be approved upon demonstration of the following:

* * *

(7) >>proposed fences are not comprised of chain link or other wire mesh; and

(8)<< Safe sight distance triangles are maintained pursuant to this code.

* * *

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:

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Senator Javier D. Souto