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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# MEMORANDUM

Agenda Item No. 7(D)

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

**DATE:** November 3, 2015

**FROM:** Abigail Price-Williams County Attorney

**SUBJECT:** Ordinance relating to Zoning; modifying regulations regarding chain link fences; amending Sections 33-11 and 33-311 of the Code

Ordinance No. 15-128

**A substitute was presented at the 10-13-15 Unincorporated Municipal Service Area Committee. This substitute differs from the original in that it permits chain link fences behind the front building line in all districts; permits chain link fences in the front building line only in AU, EU-1 and EU-2, IU, and certain GU districts and prohibits them in other districts; amends the Alternative Site Development Option provisions in Section 33-311 accordingly; and clarifies internal cross-references in Section 33-11 based on these changes.**

**This item was further amended to delete the proposed subsidy program for replacing non-conforming chain link fences.**

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

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# Memorandum

MIAMI-DADE COUNTY

**Date:** November 3, 2015

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

**From:** Carlos A. Gimenez
Mayor

**Subject:** Ordinance Relating To Zoning; Modifying Regulations Regarding Chain Link Fences

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The proposed ordinance amends Sections 33-11 and 33-311 of the Code relating to zoning. More specifically, this ordinance modifies regulations regarding fences, walls, bus shelters and hedges by allowing all walls, fences, and hedges, with the exclusion of prohibited chain link fences, to be placed on the property lines, but shall not be constructed to extend beyond the official right-of-way lines or property lines. Chain link fences shall be permitted behind the front building line in all districts. Front building line fences shall only be permitted in AU, EU-1, EU-2, IU and GU districts trended agricultural.

This item was amended at the Unincorporated Municipal Service Area Committee meeting of October 13, 2015 to remove language providing for the creation of a need-based subsidy program that would have assisted residential property owners in replacing legally existing non-conforming chain link fences. The fine revenue that was intended to fund the subsidy program was the same source of funds that currently supports neighborhood enforcement staff; therefore, a subsidy program that draws upon fine revenue would have created a fiscal impact to the County to the extent that enforcement revenue would be unavailable to support operations.

With the removal of the subsidy program, the ordinance will not create a fiscal impact.

Jack Osterholt
Deputy Mayor

Fis00916 - 04615amended

# Memorandum

MIAMI-DADE COUNTY

**Date:** November 3, 2015

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

**From:** Carlos A. Gimenez
Mayor

**Subject:** Social Equity Statement for Zoning Ordinance Modifying Regulations Regarding Chain Link Fences – Legistar 152031

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The proposed ordinance is not anticipated to have a specific social equity benefit or burden as described in Ordinance No. 15-83. This proposed ordinance amends the Code to modify regulations regarding chain link fences.

Jack Osterholt
Deputy Mayor

# MEMORANDUM

(Revised)

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

**DATE:** November 3, 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)

11-3-15

ORDINANCE NO. 15-128

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 ("CODE"); 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 restricted*<<. 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 permitted only behind the front building line in all districts, except that chain link fences are permitted in the front building line in AU districts, EU-1 and EU-2 districts, IU districts, and GU districts trended

[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.

agricultural, EU-1, or EU-2, and for construction fences governed by the Florida Building Code and fences used to temporarily secure unsafe structures in accordance with the provisions of this code.<<

[[~~(i)~~]][2] >>Chain link fences lawfully existing prior to [insert the effective date of this ordinance] may remain, subject to the nonconforming use provisions of Section 33-35 of this chapter.<<

[[~~(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.~~]]

* * *

(g) *Wire fences, chain link fences, barbed wire and electricity charged fences*. Wire fences and chain link fences shall be allowed in all districts >>in accordance with the provisions of this section and<< 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 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. 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.

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2 Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

(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).

* * *

(k) IU Districts, fence in lieu of wall. In IU Districts, a wire fence or combination wire fence and electrically charged secondary wire fence that is pulsating shall be permitted in lieu of a masonry wall as required in the IU Districts under the following conditions:

(1) That the property concerned is zoned industrial and the adjacent property, either abutting on or across the street from where the fence is to be erected is zoned industrial.

(2) The storage within such fences be limited to vehicles, equipment and new materials.

(3) That all required parking be excluded from the fenced-in area, unless otherwise approved by the Director.

(4) Where abutting property is other than industrial, or where the property on the street opposite the industrial site concerned is zoned other than industrial, a concrete wall will be erected as otherwise provided for in this chapter.

(5) Electrically charged secondary wire fences shall be completely surrounded by a non-electrical fence or wall located between the electrically charged wire fence and the perimeter of the property; and

(6) The height of the electrically charged secondary wire fence shall not exceed ten (10) feet or two (2) feet above the height of a non-electrical perimeter fence, whichever is lower; and

(7) Electrically charged wire fences shall be clearly identified with warning signs that read: "Warning - Electric Fence". Such warning signs in three languages, English, Spanish and Creole, shall be posted on the electrically charged fence at least five (5) feet above finished grade and spaced no greater than sixty (60) feet apart; and

(8) A Building permit shall be required prior to installing an electrically pulsating charged wire fence. Said fence must meet all applicable life-safety codes.

It is provided, however, that the limitations set forth in this section for electrically charged fences shall not apply to United States Military Bases.

**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 in the front building line are not comprised of chain link or other wire mesh, unless located in an EU-1, EU-2, AU or GU with AU, EU-1, or EU-2 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 in the front building line 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 in the front building line 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 in the front building line 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: November 3, 2015

Approved by County Attorney as to form and legal sufficiency: APW

Prepared by: DAK

Dennis A. Kerbel

Prime Sponsor: Senator Javier D. Souto

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