

ORDINANCE NO. 11-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH; AMENDING SECTION 4.6.5, WALLS, FENCES, AND HEDGES, SUBSECTION (B), DANGEROUS FEATURES; AND ADDING SUBSECTION (H), ELECTRIFIED FENCES, TO PERMIT AND PROVIDE REGULATIONS FOR THE INSTALLATION OF ELECTRIFIED FENCES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, electrified fences are not permitted under the City's Land Development Regulations; and

WHEREAS, currently, there is an increased need for law enforcement officers to patrol property in districts zoned for industrial uses after business hours, particularly those properties with outdoor storage, where the risk of crime and property destruction is increased; and

WHEREAS, an electrified fence, with proper safeguards, can be an effective deterrent against crime and can help alleviate the need for additional law enforcement resources when used in conjunction with a security system; and

WHEREAS, this ordinance establishes minimum requirements designed to ensure that electric fences are erected, operated and maintained in such a manner as to prevent or minimize the risk of injury to unsuspecting passersby; and

WHEREAS, the Planning and Zoning Board reviewed these amendments at a public hearing held on March 21, 2016 and recommended on a vote of 5 to 0 that the City Commission approve these amendments. Pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined these amendments to be consistent with the Delray Beach Comprehensive Plan; and

WHEREAS, the City Commission, at a duly noticed public hearing on _____ 2016, received and considered comments from the Planning and Zoning Board and from the public, and gave careful consideration to all aspects of this ordinance; and

WHEREAS, the City Commission has determined that it is in the interest of the health, safety, and welfare of the residents of Delray Beach that minimum regulatory standards be enacted to permit electrified fences on property zoned for industrial uses within the City of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELRAY BEACH, AS FOLLOWS:

Section 1. That Section 4.6.5(B), of the Land Development Regulations, "Walls, Fences, and Hedges," be amended to read as follows [text formatted with underline is to be added, strike-through to be deleted]:

(A) **Relationship to Travelways:** Walls, fences, hedges, or similar structures shall not be erected in the public right-of-way nor close to the public right-of-way in a manner which will obstruct visibility or otherwise interfere with the proper flow of vehicular traffic, pedestrian safety, or the provision of services. Where deemed to create a sight obstruction, fences, hedges and walls shall be maintained at a height not exceeding three feet. On corner lots and at points of access, additional restrictions requiring provision of adequate sight triangles are provided in Section 4.6.14(A).

(B) **Dangerous Features:** No walls, fences, or hedges shall contain any substance such as, but not limited to, barbs, broken glass, nails, or spikes. ~~nor shall any~~ No fence shall be electrically charged, unless designed and approved pursuant to Subsection (H). ~~However, two feet of barbed wire may be placed upon a~~ six foot or higher fence in nonresidential zone districts.

(C) **Height Restrictions:** Walls, fences, or hedges located in a required front yard or street side yard shall not exceed six feet (6') in height. Walls, fences, or hedges located in a required interior side or rear yard shall not exceed eight feet (8') in height. Such height is further regulated by subsection (A), above. For the purpose of this section, height is to be measured from the undisturbed (natural) grade of the ground adjacent to the exterior of the fence, wall or hedge.

(D) **Fence Types:** Chain link fencing located in the front and street side yards shall be black or green vinyl coated, unless screened by hedging which is to be maintained at the full height of the fence. Fencing that is greater than 75% opaque and located in front and street side yards shall also be screened by hedging which is to be maintained at the full height of the fence.

(E) **Masonry Walls:** Masonry walls located in the front and street side yards shall be screened by landscape material that is to be maintained at a minimum height equal to half of the height of the wall. Landscape materials must be of the type that will reach the required height within two years of planting.

(F) **Setbacks:** Fences and walls which are required to be landscaped shall be set back a minimum of two feet ^(2') from the property line to provide adequate area for vegetation to mature. Additional restrictions with respect to setbacks are provided in Section 4.6.16(3)(a).

(G) **Landscaping:** All required landscape materials shall be as approved by the ~~City Horticulturist~~ City's Senior Landscape Planner and shall comply with applicable provisions of Section 4.4.16.

(H) **Electrified Fences:** Electrified fences are permitted in accordance with the regulations listed in this Subsection.

(1) **Location:** Electrified fences are permitted where outdoor storage is approved as an accessory use within the Industrial (I) zoning district, and Special Activities District (SAD), when outdoor storage is associated with an industrial use or activity and is specified in the approved ordinance creating the SAD.

(2) **Electrification:**

(a) The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC.

(b) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of International Electro Technical Commission (IEC) Standard No. 60335-2-76.

(3) **Installation Requirements:**

(a) No electrified fence shall be installed within the front or side-street setback areas as designated for the zoning district where the fence will be located.

(b) Electrified fences shall be completely surrounded by a non-electrified perimeter fence or wall which measures at least six feet in height and complies with the maximum height setbacks in Subsection 4.6.5(C).

(c) The electrified fence shall be set back from the rear or side interior property lines as follows:

(i) At least one foot when surrounded by a perimeter wall or fence; or,

(ii) At least two feet when surrounded by a perimeter wall or fence that is less than 100% opaque and adjacent to residentially zoned property or property containing a residential use.

(d) Electrified fences shall measure at least two feet higher than the surrounding nonelectrical fence or wall and in no case measure more than 10 feet in height from grade.

(e) Electrified entry gates may be attached to the inside of the main perimeter entry gate with a minimum separation of three inches between the two gates.

(4) **Signage requirements:**

(a) Electrified fences shall be clearly identified with warning signs measuring a minimum of one and one half square feet that read: "Warning-Electric Fence" in English, Spanish, and Creole.

(b) Signs shall be placed on both the exterior and interior of the fence.

(c) Signs shall be spaced no greater than 30 feet apart and mounted at least five feet above grade directly onto the fence.

(d) Sign symbols and lettering must contrast with the sign background color. Sign letters shall be a maximum of four inches in height.

(5) **Permitting Procedure:**

(a) Approval of a site plan illustrating the fence location and issuance of a building permit for the fence and electrical components shall be obtained prior to the installation of an electric fence.

(b) Site plan and building permit review shall include approval by the Police Chief and the Fire Marshal or their designee.

(c) Electrified fences shall also be governed and regulated under the City's Alarm System regulations of Chapter 112 of the Code of Ordinances. Subsequent to approval of a site plan and issuance of a building permit, electrified fences shall be subject to the same registration process and fees as Alarm Systems.

(6) **Emergency Shut-off:** An emergency shut-off switch, for the purpose of de-energizing the electrified fence, shall be accessible to all emergency personnel outside the perimeter of the fence to allow for emergency access. Control and access shall be of a type, location, and marking specified and approved by both the Police Chief and Fire Marshal, or their designees, and included in any site plans submitted to the Planning and Zoning Department.

Section 2. That should any section or provision of this ordinance, or any paragraph, sentence, or word thereof, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance as a whole or part thereof other than the part declared to be invalid.

Section 3. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. That this ordinance shall become effective upon its adoption on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this ____ day of _____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____