

ORDINANCE No. 2015-45

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING ARTICLE V, "FENCES, WALLS, DOCKS, BUS SHELTERS, AND HEDGES," OF CHAPTER 74, "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS," BY CREATING DIVISION 3, "LOW VOLTAGE SECURITY ELECTRIC FENCES"; PROVIDING FOR REGULATIONS FOR THE CONSTRUCTION, USE AND MAINTENANCE OF LOW VOLTAGE SECURITY ELECTRIC FENCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral ("the City") finds it periodically necessary to amend its Code of Ordinances ("Code") in order to update regulations and procedures associated with changing technologies; and

WHEREAS, the purpose of this Ordinance is to regulate the construction, use, and maintenance of low voltage security electric fences within the City, which have previously been unregulated; and

WHEREAS, the City Council, sitting as the City's Local Planning Agency, has reviewed this proposed Ordinance and recommended its approval; and

WHEREAS, pursuant to law, notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of the public hearings; and

NOW, THEREFORE, BE IT ORDAINED BY MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals are confirmed, adopted, and incorporated herein and made a part of hereof by this reference.

Section 2. Code Amended. The Code of Ordinances of the City of Doral is hereby amended as follows:

CHAPTER 74 – MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS

* * *

ARTICLE V. – FENCES, WALLS, DOCKS, BUS SHELTERS AND HEDGES

DIVISION 1. – GENERALLY

* * *

Sec. 74-221. – ~~Wire fences, and~~ barbed wire and electricity charged fences.

* * *

DIVISION 3. – LOW VOLTAGE, SECURITY ELECTRIC FENCES

Sec. 74-270 – Fences or walls.

- (a) It shall be unlawful for any person to erect, construct, use or maintain in the City any fence which shall be electrically charged by electricity from any battery, power company, or from any source whatsoever, and commonly known as an electric fence, unless approved by Special Exception in accordance with the City Code, and all of the following criteria:
- (1) Electrification.
 - (i) The energizer for electric fences must be low voltage, driven by a commercial storage battery not to exceed 12 volts DC. The storage battery shall be charged primarily by a solar panel. The solar panel may be augmented by a commercial trickle charger.
 - (ii) The electric charge produced by the fence upon contact shall not exceed the energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of IEC Standard No. International Electrotechnical Commission (IEC) Standard No. 60335-2-76.
 - (2) Perimeter fence or wall. No electric fence shall be installed or used unless it is completely surrounded by a non-electric fence or wall. The standards for such non-electric fence or wall shall be as otherwise specified in this section as applicable to the

corresponding zoning district. Additionally, the distance between such perimeter fence or wall and the permitted electric fence shall be no less than three (3) and no greater twelve (12) inches as measured from the interior face of the non-electric fence to the exterior face of the electric fence.

(3) Height. Electric fences shall not exceed the lower of either (i) ten (10) feet in height; or (ii) two (2) feet above the height of the perimeter fence or wall.

(4) Location, Uses:

(i) Low voltage electric fences shall be permitted only in Industrial Commercial (IC), Industrial (I), and Industrial Restrictive (I-R), provided however, that electric fences shall be prohibited on properties abutting any residential, park, school, or other similar uses or properties along Doral Boulevard, NW 58th Street, NW 87th Avenue, and NW 107th Avenue, unless the City Council determines either that the proposed placement of the electric fence will not present an undue hazard, or that conditions of the approval mitigate the hazards potentially created by placing an electric fence in proximity of such uses.

(ii) Uses within low voltage security electric fences shall be limited to:

- (A) The storage of equipment;
- (B) The storage of raw or new materials;
- (C) The storage of vehicles; and
- (D) Such other uses deemed by the City Council to be compatible with the proposed electric fence.

(5) Warning Signs. Electric fences shall be clearly identified with warning signs posted at a height of at least five (5) feet above grade and at intervals of no less than twenty (20) feet for properties with a width of 100 feet and at intervals of no less than forty (40) feet for properties with a width of 100 feet or greater. Each such sign shall read:

Danger - Electric Fence
Peligro - Cerca Eléctrica
Danje - Kloti elektrik

- (6) Emergency Access.
- (i) Electric fences shall be designed to allow emergency responders to power off the electric fence and obtain access to the fenced area without prior coordination or consent of the property owner, property occupant or fence operator.
 - (ii) As a condition of approval, the operator of the electric fence shall submit proof satisfactory to the Building Official or his designee that provisions have been made by the electric fence operator for access by emergency responders to power off the electric fence and obtain access to the fenced area in the case of an emergency.
- (7) Insurance. Proof, reasonably satisfactory to the Building Official or his designee, that the operator of the proposed electric fence and occupant of the property (whether property owner or tenant) where the electric fence will be located have (and can maintain at all times) public liability insurance in the minimum amount of \$1,000,000.00.
- (8) Indemnification. As a condition of approval of the Special Exception and prior to the issuance of a building permit for the proposed electric fence, the operator of the electric fence must execute and deliver to the City an indemnity and hold harmless agreement in a form acceptable to the City Attorney. Said agreement shall require that the indemnitor assume all civil liability for the electric fence operator's acts, omissions or commissions, and from all claims, suits or actions of any kind whatsoever arising out of or resulting from the issuance of the special exception or building permit for the electric fence, compliance with applicable laws or regulations, or the operations or activities of the electric fence operator and/or the property owner. Said agreement shall further hold the City, its officials and/or its employees (the "Indemnitees") harmless for and defend the Indemnitees against any civil actions, statutory or similar

claims, injuries or damages arising or resulting from the approval of the special exception or a building permit for the construction of the electric fence, even if it is alleged that the Indemnitees were negligent unless such injuries or damages are ultimately proven to be the result of grossly negligent or willful acts or omissions on the part of the Indemnitees. Said agreement shall survive the revocation or expiration of the special exception.

- (9) Change of Ownership or Operator. As a condition of approval, any change in ownership of the electric fence, the property where the electric fence is located or the electric fence's operator shall require review and approval by the Building Official or his designee. The Official or his designee shall confirm continued compliance with all of the above requirements. Where an electric fence or the property where the fence is located is owned or operated by a corporate entity, a change of ownership or operator shall include any transfer of 50% or more of ownership interest in the entity.
- (10) Previously Installed or Permitted Electric Fences. Within 180 days of the effective date of this Ordinance, all operators of previously installed or permitted electric fences or the tenants or owners of properties where such electric fences are located shall submit proof satisfactory to the Building Official or his designee that said operator and said property owner are and can remain in compliance with this section. If the Official or his designee determines such proof of compliance satisfactory, the electric fence operator and property owner may continue to operate the electric fence as a legal nonconforming use. Failure to provide satisfactory proof of compliance with this section within 180 days of the effective date of this Ordinance shall constitute a violation of this Chapter and the electric fence operator and property owner shall be required to immediately cease use of the electric fence.

* * *

Sec. 53-128. – Use compatibility Table.

The uses for each district as stating in the following table:

- (1) P means permitted use;
- (2) S means permitted with special regulations

- (3) E means special exception use; and
- (4) (-) means not permitted.

* * *

Category	Description	O-1	O-2	O-3	NC	CC	IC	I	I-R
<u>Other uses</u>									
	<u>Low voltage security electric fence</u>	(-)	(-)	(-)	(-)	(-)	<u>E</u>	<u>E</u>	<u>E</u>

* * *

Section 3. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity

of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Councilmember Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Absent/Excused
Councilman Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Sandra Ruiz	Yes


PASSED AND ADOPTED on FIRST READING this 21 day of October 2015.

PASSED AND ADOPTED on SECOND READING this 18 day of November 2015.



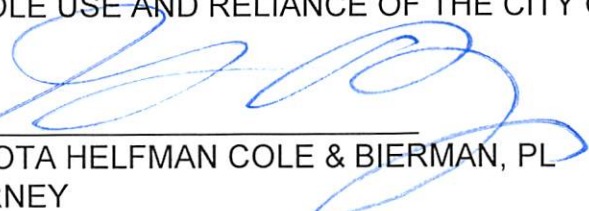
LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
FOR THE SOLE USE AND RELIANCE OF THE CITY OF DORAL



WEISS SEROTA HELFMAN COLE & BIERMANN, PL
CITY ATTORNEY