

ORDINANCE 20-__

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO LAND DEVELOPMENT; MAKING FINDINGS; AMENDING SECTION 30-1009(d)(5). FENCES AND WALLS, (D) ADDING AN EXEMPTION IN CERTAIN COMMERCIAL ZONING DISTRICTS TO THE PROHIBITION OF THE USE BARBED WIRE, RAZOR WIRE, SPIRE TIPS, SHARP OBJECTS OR ELECTRICALLY CHARGED FENCES, EXEMPTING UTILITY SUBSTATIONS, SEWAGE TREATMENT PLANTS, CRITICAL UTILITY FACILITIES OR SIMILAR USES; PROVIDING FOR SEVERABILITY/INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 38-40(1), City Code of Ordinances, the Planning Board serves as the City's Local Planning Agency and Land Development Regulation Commission; and

WHEREAS, Section 30-62(c)(3)d., Code of Ordinances of the City of Marco Island, Florida, requires that the Planning Board determine the need and justification for a Land Development Code ("LDC") amendment, as well as the proposals consistency with the City Comprehensive Plan; and

WHEREAS, the need and justification for this Ordinance is to generally forbid certain types of fencing such as barbed or razor wire, spire tips, fencing with sharp objects or electrically charged fencing except at utility substations, sewage treatment plants, critical utility facilities, or similar uses, all in an effort to provide for the safety and security of utility facilities; and

WHEREAS, Objective 1.5 and Policy 1.5.1 of the Future Land Use Element of the City's Comprehensive Plan provide:

Objective 1.5: The City shall continue to allow essential public facilities and services in all zoning districts to ensure such facilities and/or services can be accommodated and that adopted level-of-service standards are maintained.

Policy 1.5.1: Essential public facilities and services are allowed in all zoning districts as authorized by the adopted Land Development Code, section 30-1008 [sic].

Measurement: Provisions for essential public services and/or facilities in all zoning districts; and

WHEREAS, upon consideration of testimony by the City's growth management staff and consideration of this Ordinance, the Planning Board finds that this Ordinance is consistent with the City's Comprehensive Plan, and in particular Objective 1.5 and Policy 1.5.1 of the Comprehensive Plan's Future Land Use Element; and

WHEREAS, Section 30-62(c)(3)d., Code of Ordinances of the City of Marco Island, Florida, requires that the Planning Board determine the need and justification for a Land Development Code ("LDC") amendment; and

WHEREAS, the Planning Board has found that the need and justification of this Ordinance is to promote the safety and security of certain utility facilities; and

WHEREAS, the Planning Board has found that, as a result of the foregoing, this Ordinance will promote the public health, safety, aesthetics, and welfare of the community; and

WHEREAS, the City Council adopts the findings of the Planning Board, also sitting as the City's Local Planning Agency.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals. Each and all of the foregoing recitals be and the same are hereby incorporated into this Ordinance as if specifically set forth herein.

SECTION 2. Amendment and Adoption. That section 30-1009(d)(5) of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

Sec. 30-1009. - Fences and walls.

* * *

(d) *Commercial districts.* For the purpose of this section, commercial districts shall include: C-1/T, C-2, C-3, C-4, C-5, P public use district; and commercial parcels of PUD planned unit developments. Except as otherwise permitted herein, fences or walls shall be allowed subject to the following. Fences or walls in commercial districts shall be limited to eight feet in height and shall be permitted subject to the following conditions:

* * *

(5) Barbed wire, razor wire, spire tips, sharp objects or electrically charged fences shall be prohibited except for utility substations, sewage treatment plants, critical utility facility or similar use.

SECTION 3. Severability/Interpretation.

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * *) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 4. Effective Date. This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this _____ day of _____, 2020.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Laura M. Litzan, City Clerk

By: _____
_____, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney