

ORDINANCE NO. 2006 - 18

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHWEST RANCHES, CHAPTER 39 ENTITLED, "TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE," (ULDC) SECTION 045-030 ENTITLED, "GENERAL PROVISIONS", SUBSECTION (A), "FENCES, WALLS AND HEDGES" TO ADDRESS THE USE OF BARBED WIRE; AMENDING SUBSECTION (E), "SWIMMING POOLS AND SPAS" TO AMEND THE REQUIREMENTS FOR POOL ENCLOSURES; PROVIDING FOR INCLUSION IN THE ULDC; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 45 of the Town's ULDC regulates fences and walls within the Rural and Agricultural zoning districts; and

WHEREAS, Chapter 45 does not specifically address the use of barbed, razor or electrified wire as fence or wall material; and

WHEREAS, the Town Council wishes to address the use of such material on fences and walls; and

WHEREAS, Chapter 45 as it pertains to swimming pool and spa enclosures is more stringent than the specifications contained in Section 515.29 Florida Statutes, which have been codified in the Florida Building Code; and

WHEREAS, Chapter 45 requires swimming pool and spa enclosures to be a minimum of five feet in height while the Florida Statutes only require the enclosures to be four feet in height; and

WHEREAS, this discrepancy sometimes requires residents to remove fences that comply with the Florida Building Code but do not comply with Chapter 45; and

WHEREAS, the Town Council wishes to reduce the hardship imposed upon property owners by making the required barrier height consistent with the Florida Statutes and Florida Building Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That ULDC Section 045-030, "General Provisions" is hereby amended as follows:

- (A) *Fences, walls and hedges.* Fences and walls, not including entrance features, shall be permitted to a maximum height of eight (8) feet above the established grade. Hedges and all natural vegetation shall not be subject to height limits except as provided in Sec. 075-060(E)(3), "Plant material; shrubs and hedges." Decorative lighting mounted on posts as an integral part of any fence or wall shall not be counted in determining fence height, and shall comply with the requirements of Article 95, "Outdoor Lighting Standards." Barbed wire and razor wire are prohibited for use as fencing material and as any part of any fence or wall, unless authorized ~~Fences on farms shall be governed by Chapter 588, "Legal Fences and Livestock at Large,"~~ Florida Statutes, as may be amended from time to time, which chapter shall govern the use of fences on farms with livestock, as defined therein. Low voltage electrical wire, a.k.a. hot wire, shall be permitted for use as fencing material on all plots without being limited to livestock operations or other farms.

Section 3: That ULDC Section 045-030, "General Provisions" is hereby amended as follows:

- (E) Swimming pools and spas.

~~In addition to the swimming pool barrier requirements of the Florida Building Code and Florida law, swimming pools and spas must be enclosed either by a screen enclosure fence at least five (5) feet high constructed of materials that will preclude unauthorized access to the pool or spa area. All screen doors and fence gates shall be equipped with self-closing, self-latching mechanisms operable from the interior of the fenced pool enclosure area only, except for child fences designed to enclose the perimeter of the pool but not the pool decking.~~

This provision supplements Section 515.29 of the Florida Statutes and the Florida Building Code, as may be amended from time to time, in order to further restrict unauthorized outdoor access to a pool or spa.

- (1) Every yard, or portion thereof, containing an outdoor swimming pool or spa, shall be fully enclosed by a permanent, non-removable fence or wall of at least four (4) feet in height, and of a material and design consistent with Florida Building Code Chapter 41, "Swimming Pools," as may be amended

from time to time. A screen enclosure meeting the requirements of Chapter 41 shall constitute compliance with this provision, and one or more building walls of the residence or other permanent building may be utilized to complete the enclosure. Child fences and other removal barriers shall not be used in lieu of this barrier requirement.

(2) This provision does not address access to a pool or spa area from within a residence or other building used as part of the pool enclosure. Such access is regulated by Chapter 41 and is not supplemented herein.

AMENDING SUBSECTION (I), "EASEMENTS" TO ADDRESS THE PLACEMENT OF FENCES AND/OR WALLS WITHIN CERTAIN EASEMENTS

Section 4: That ULDC Section 045-030, "General Provisions" is hereby amended as follows:

Section 5: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 6: Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 7: Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED ON FIRST READING this 1st day of June, 2006 on a motion made by Council Member Aster Knight and seconded by Vice Mayor Don Maines.

PASSED AND ADOPTED ON SECOND READING this 6th day of July, 2006, on a motion made by Council Member Jeff Nelson and seconded by Vice Mayor Don Maines.

Fink	<u>Y</u>	Ayes	<u>5</u>
Maines	<u>Y</u>	Nays	<u>0</u>
Blanton	<u>Y</u>	Absent	<u>0</u>
Knight	<u>Y</u>	Abstaining	<u>0</u>
Nelson	<u>Y</u>		

[Signatures on Following Page]

Mecca Fink, Mayor

Attest:

Susan A. Owens, Town Clerk

Approved as to Form and Correctness:

Gary A. Poliakoff, J.D., Town Attorney
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