

ORDINANCE NO. 10-13

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING CHAPTER 5, ARTICLE III FENCES AND WALLS OF THE LAND DEVELOPMENT CODE FOR THE CITY OF DEBARY, FLORIDA, AMENDING SECTION 5-62 HEIGHT AND LOCATION CREATING SUBSECTION H PROVIDING A PROVISION TO ALLOW A MAXIMUM OF 7 FT. TALL ESTATE GATES IN AGRICULTURAL AND RURAL RESIDENTIAL ZONING DISTRICTS PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, F.S. 163.3194 mandates that all land development regulations enacted or amended shall be consistent with the adopted City of DeBary Comprehensive Plan; and

WHEREAS, the intent of F.S. 163.3201 is that the adopted Comprehensive Plan shall be implemented in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within the City of DeBary.

WHEREAS, on September 5, 2007, the City of DeBary enacted the Land Development Code for the City of DeBary pursuant to Ordinance No. 21-07 to codify all adopted amendments, as well as revise the original reference documents to refer to the City and its organization, and since adoption such Land Development Code has been amended from time to time; and

WHEREAS, the City Council desires to amend the Land Development Code for the City of DeBary as set forth in this Ordinance; and

WHEREAS, the Council finds it in the best interest of the City to amend the Land Development to allow a maximum of 7 ft. tall estate gates for residential development in rural residential and agricultural zoning districts; and

WHEREAS, the City Council and City staff have reviewed the changes set forth in this Ordinance and believe that such changes will improve upon the existing Land Development Code provisions; and

WHEREAS, this Ordinance has been advertised as required by Chapters 163 & 166, Florida Statutes, the required public hearings have been held by the Planning & Zoning Commission and the City Council as the local governing body for the City of DeBary; and

WHEREAS, the City Planning and Zoning Commission/Local Planning Agency and the City Council each hereby determine that the amendments to the Land Development Code set forth in this Ordinance are consistent with the City of DeBary Comprehensive Plan and are in the best interest of the health, safety and welfare of the citizens of DeBary.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Authority/Findings. The City of DeBary has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, the City of DeBary Charter, and Chapters 163 and 166, Florida Statutes. The “Whereas” clauses set forth above shall constitute the legislative findings of the City Council of the City of DeBary.

SECTION 2. Adoption of Land Development Code Amendments. Chapter 5, Article III, Section 5-62 of the Land Development Code for the City of DeBary, Florida are hereby amended in accordance with the amendments set forth below and incorporated herein by this reference (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified).

Sec. 5-62. - Height and location.

- (c) Solid face fences, wire fences, and walls in residential districts, shall not exceed four feet in height along and between the front lot line and the front building line and shall not exceed six feet in height elsewhere on the lot. Fences more than four feet in height shall be located at the building line (in-line with the building frontage) within the front yard. For corner lots, a six-foot-high fence or wall may be constructed on one of the two front lot lines behind the building frontage of a dwelling unit. ~~Estate gates shall be permitted to be a maximum of seven feet in height for residential lots zoned R-1 (Urban Single Family Residential) located on Ft. Florida Road.~~
- (h) Estate gates shall be permitted to be a maximum of seven feet in height for residential lots zoned R-1 (Urban Single Family Residential) located on Ft. Florida Road and for residential lots in agricultural zoning districts and rural residential zoning classifications: RR (Rural Residential) RA (Rural Estate). Swing gates shall open inward towards private property and shall not encroach into the right-of-way.

SECTION 3. Conflicts. This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

SECTION 4. Severability. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 5. Codification. It is the intention of the City Council of the City of DeBary, Florida, and it is hereby ordained that Section 2 of this Ordinance shall become and be made a part of the Land Development Code of the City of DeBary, Florida, and the City staff is directed to cause the codification of the amendments set forth in this Ordinance. That the provisions of

this Ordinance may be renumbered or relettered to accomplish such intention; the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

SECTION 6. Effective Date. This Ordinance shall take effect ten (10) days after the second reading and adoption of this Ordinance.

First reading and public hearing was held on the **2nd day of October, 2013**

Second reading, public hearing and adoption was held on the **6th day of November, 2013**

**CITY OF DEBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk