

ORDINANCE No. 04-62

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 21 OF THE TOWN CODE REGARDING MAINTENANCE OF PERIMETER WALLS AND FENCES; PROVIDING FOR CORRECTIVE ACTION BY THE TOWN; PROVIDING FOR THE ASSESSMENT OF LIENS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AN AMENDMENT TO SECTION 8CC-10 OF THE TOWN CODE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council wishes to preserve the aesthetic character of the Town by avoiding the visual clutter that may be caused by the appearance of walls in deteriorating conditions and non-uniform colors; and

**WHEREAS**, the Town Council has reviewed the proposed regulations provided by this ordinance and finds that such regulations accomplish the purposes intended in the least restrictive method possible; and

**WHEREAS**, the Town Council finds that it is in the best interests of the residents of the Town to adopt the following amendments to the Town Code.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** The following section shall be added to Chapter 21 to read as follows:

Section 21-\_\_

Section 21-\_\_. Maintenance of Perimeter Walls and Fences.

(1) The exterior of all perimeter walls and fences, where exposed to the public view, shall be maintained in good condition and shall not show evidence of deterioration,

ripping, tearing, chipping, or other holes or breaks. Painted or stained surfaces shall be free of peeling paint, mold or mildew and maintained with uniform colors, void of any evidence of deterioration, in accordance with Section 5.9(A)(4) of the Code.

- (2) If the property owner or homeowner's association fails to comply with this Section, as determined by Town Manager or his designee, the property owner or homeowner's association shall be cited pursuant to Chapter 8CC of this Code and shall be given thirty (30) calendar days from receipt or posting of the citation to correct the violation, or the property owner or homeowner's association has seven (7) calendar days from receipt or posting of the citation to file for an appeal before the Town Code Enforcement Hearing Officer. Payment of the civil penalty is required within the timeframe listed on the citation where an appeal has not been filed.
- (3) A repeat violater shall be given twenty (20) calendar days from the posting of the citation to correct the violation, or twenty (20) calendar days from the posting of the citation to file an appeal before the Town Code Enforcement Hearing Officer. Payment of the civil penalty is required within the timeframe listed on the citation where an appeal has not been filed.
- (4) If the property owner or homeowner's association is found guilty by the Hearing Officer, they shall pay the fine in the amount pursuant to Chapter 8CC-10 and will be required to correct the violation within fourteen (14) days of the hearing.
- (5) If the property owner or homeowner's association does not appeal the decision of the Code Enforcement Hearing Officer or, if after being found guilty at the hearing, does not correct the violative condition in the timeframe specified in this Section, the Town Manager shall promptly cause the violative conditions to be remedied pursuant to subsection (6) below.
- (6) The Town Manager may correct any violative condition pursuant to this Section at the expense of the property owner or homeowner's association when the property owner or homeowner's association fails to perform the corrective action or remedy the violative condition in accordance with this Section. The Town Manager may authorize the following steps to correct the violation:
  - a. The Town shall have the right to enter upon private property to the extent necessary to take corrective action. Entry into any dwelling or structure is expressly prohibited.
  - b. After taking corrective action, the Town Manager shall certify the expense incurred in taking the corrective action under this Section, including advertising, labor, supplies, disposal and other expenses, together with continuing penalties, fines and an administrative fee as authorized by the Town Manager. The homeowner's association or property owner shall pay the cost within calendar 30 days of such certification by the Town Manager. If the homeowner's association fails to pay the costs, the Town Manager shall

place and record in the public records of Miami-Dade County a lien against the property for the total amount due. Such a lien shall accrue interest at the legal rate from the date of certification until it is paid.

- c. Such liens shall be enforceable in the same manner as a tax lien in favor of the Town and may be satisfied at any time by payment thereof, including accrued interest. Upon receipt of full payment, the Town Clerk shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of a lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Miami-Dade County, Florida.

(7) Enforcement. A violation of this Ordinance or any resolution adopted pursuant to this Ordinance may be enforced pursuant to Section 8CC-10 of the Town Code and by issuance of a uniform civil violation notice, citation, summons, notice to appear in county court, or by filing an action in civil court for injunctive relief. This Ordinance is supplemental and nothing contained herein shall prohibit the Town from enforcing this Ordinance by any other lawful means.”

**Section 3. Amendment to Chapter 8CC-10.** Chapter 8CC-10 is hereby amended to include penalties for violations of this Ordinance as follows:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
21 - ____	Failure to maintain perimeter walls or fences	\$ 200.00

**Section 4. Repeal Of Conflicting Provisions.** Any provision of the Code that conflicts with this Ordinance is hereby repealed.

**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. Inclusion In The Code.** It is the intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Miami Lakes, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such

intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 7. Effective Date.** This Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember Thomson, who moved its adoption on first reading. The motion was seconded by Collins and upon being put to a vote, the vote was as follows:

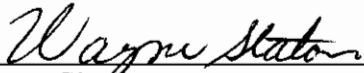
Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador, II	<u>Yes</u>
Councilmember Michael Pizzi	<u>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>
Councilmember Peter Thomson	<u>Yes</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Mayor Wayne Slaton	<u>Yes</u>

PASSED AND ADOPTED on first reading this 16<sup>th</sup> day of December, 2004.

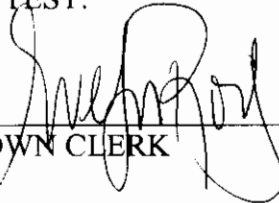
The foregoing Ordinance was offered by Councilmember Pizzi, who moved its adoption on second reading. The motion was seconded by Councilmember Thomson, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador, II	<u>Yes</u>
Councilmember Michael Pizzi	<u>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>
Councilmember Peter Thomson	<u>Yes</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Mayor Wayne Slaton	<u>Yes</u>

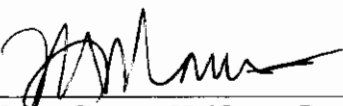
PASSED AND ADOPTED on second reading this 18<sup>th</sup> day of January, 20045

  
\_\_\_\_\_  
Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
TOWN CLERK

Approved as to form and legality for the use  
and benefit of the Town of Miami Lakes only:

  
\_\_\_\_\_  
Weiss, Serota, Helfman, Pastoriza, Guedes  
Cole & Boniske, P.A.  
TOWN ATTORNEY

F:/700/702001/Ordinances/maintenance of perimeter walls