

ORDINANCE NO. 04-64

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, PERTAINING TO THE LAND DEVELOPMENT CODE; CREATING ARTICLE 6, SUPPLEMENTARY USE REGULATIONS PERTAINING TO THE APPEARANCE AND CARE OF PREMISES; HOME OFFICES; EASEMENTS; NUISANCES; WATERFRONT PROPERTIES; BOATS AND WATERCRAFT; COMMERCIAL AND RECREATIONAL VEHICLES; AND ROOFS; ALL AS INCLUDED IN EXHIBIT "A" HEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") upon incorporation adopted Chapter 33 "Zoning" of the Code of Miami-Dade County to serve as the Town's Land Development Code; and

WHEREAS, the Town desires to update and streamline the existing Town Land Development Code and to tailor it to the Town's particular needs and community vision; and

WHEREAS, the Town has undertaken a comprehensive rewriting of the Land Development Code, after having conducted workshops and public hearings regarding the Code, and having adopting its Comprehensive Plan pursuant to state statutes; and

WHEREAS, as part of the ongoing work to revise the Town Land Development Code, regulations have been drafted regarding the appearance and care of premises, home offices, easements, nuisances, waterfront properties, boats and watercraft, commercial and recreational vehicles, and roofs, all as included in Exhibit "A" hereto; and

WHEREAS, after conducting a properly noticed public hearing the Town Local Planning Agency has recommended that the referenced regulations are consistent with the Town Comprehensive Plan; and

WHEREAS, after conducting a properly noticed hearing and considering the recommendations of the public, the Local Planning Agency and the Town staff, the Town Council wishes to adopt the regulations for including in the Land Development Code as attached hereto as Exhibit “A.”

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

Section 1. Adoption of Supplemental Use Regulations. The Town Council hereby adopts new regulations regarding the appearance and care of premises, home offices, easements, nuisances, waterfront properties, boats and watercraft, commercial and recreational vehicles, and roofs for inclusion in the Town Land Development Code, which are attached as Exhibit “A” hereto and are incorporated herein.

Section 2. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 3. 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 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Miami Lakes, Florida Code of Ordinances; that the sections of this Ordinance may be

renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

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

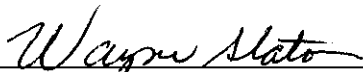
Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador, II	<u>Yes</u>
Councilmember Michael Pizzi	<u>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>
Councilmember Peter Thomson	<u>Yes</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Mayor Wayne Slaton	<u>Yes</u>

PASSED AND ADOPTED on first reading this 16th day of December, 2004.

The foregoing Ordinance was offered by Councilmember Collins, 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:

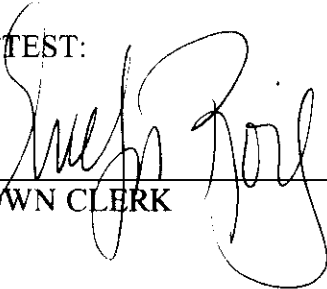
Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador, II	<u>Yes</u>
Councilmember Michael Pizzi	<u>Yes</u>
Councilmember Nancy Simon	<u>No</u>
Councilmember Peter Thomson	<u>Yes</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Mayor Wayne Slaton	<u>Yes</u>

PASSED AND ADOPTED on second reading this 18th day of January, 20045



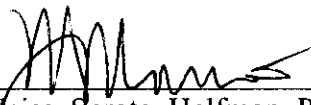
Wayne Slaton
MAYOR

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

ARTICLE 6 SUPPLEMENTARY USE REGULATIONS

Division 6.1 Appearance and Care of Premises

A. Maintenance of buildings, non-dwelling structures and fences.

Every residential or commercial building, every accessory structure used for non-dwelling purposes, including but not limited to garages, carports, cabanas, swimming pools and decks, hot tubs, screen enclosures, storage buildings, and every fence or wall shall comply with the following requirements:

1. Every foundation, exterior and interior wall, roof, awning, canopy, floor, ceiling, window and exterior door shall be structurally sound and maintained clean, free of mold and fungus and in good repair.
2. Every structure shall be maintained clean and in a sanitary condition free from rodents, insects, vermin and odor.
3. The roof of every structure shall be well drained of rainwater.
4. All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint and other approved protective coating, applied in a workmanlike fashion.

Division 6.2 Home Offices

A. A home office shall be permitted as an accessory use to all lawful residential uses subject to the following limitations:

1. The area of the dwelling unit devoted to a home office shall not exceed two hundred (200) square feet of the living area of the dwelling unit, including garages.
2. The home office shall not be conducted in any accessory building or other structure detached from the residence. The area containing the home office shall not have a separate entrance or exit.
3. The home office must be conducted by a member of the household residing in the dwelling unit, and no person shall be employed at any time in connection with the home office use who is not a member of the household residing in the dwelling unit, except that a disabled individual may employ a personal care attendant as necessary to accommodate a home office on the premises by such individual.
4. No sign identifying or advertising the home office may be posted or displayed on

the premises and no vehicle with any sign displaying the home office use or home office residential address, which might serve to indicate that the dwelling unit is being used for a home office, may be located on the premises.

5. No customer, vendor, client or other patron shall be served in person on the premises, nor shall the home office use be conducted in any way which would necessitate the presence of suppliers or patrons on the site, with the exception of deliveries customary to residential use.
6. There shall be no display, manufacturing, distribution, or repair of any type of materials, merchandise or other products on the premises. Storage of such items shall be confined to the home office area.
7. There shall be no change in the outside residential character of the building or premises as a result of the conduct of such home office use, or any visible evidence thereof.
8. More than one (1) home office may be permitted at any one (1) time in a dwelling unit, provided that each such home office complies with each of the forestated requirements and further provided that the combined total square footage of all home office uses in the dwelling unit does not exceed 200 sq. ft.
9. An annually renewable certificate of use and occupancy shall be obtained for any home office.

B. No variances shall be granted to the provisions of the Home Office regulations.

Division 6.3 Easements

- A. Where real property is encumbered by one (1) or more easements for drainage purposes, canal maintenance, access, water, sewage and gas, telephone or power lines, fire lanes, or the like and the easement is of record, by deed, survey, plat, zoning map or otherwise, and is of notice to the Town, no permit shall be issued unless the applicant therefore secures from the easement owner a written statement that the proposed use, building or structures, if installed in the proposed manner, will not interfere with the owner's reasonable use of the easement.
- B. The written statement required by Subsection (A) above shall be submitted to the Town as part of the application for the permit.
- C. The easement areas of each lot shall be maintained in good order continuously by the owner of the lot.

Division 6.4 Nuisances

Nothing shall be allowed on any premises in any zoning district which would in any way be offensive or obnoxious by reason of color, design, or the emission of odors, liquids, gases, dust, smoke, vibration or noise. Nor shall anything be placed, constructed or maintained on any premises that would in any way constitute an eyesore or nuisance to adjacent property owners, residents, or to the community.

Division 6.5 Waterfront Properties

This division shall govern the placement of accessory improvements and landscaping waterward of the top of the slope or tie line in the rear or side yards of lakefront or canal front properties. This division shall not apply to the placement of accessory improvements landward of the top of the slope of such lakes or canals, which are permitted as accessory structures and uses otherwise under this Code. This division shall also apply to improvements into lakes or canals which are privately or publicly owned or maintained. No permit shall be issued for improvements into a lake or canal until the applicant receives approval from the owner of the portion of the lake or canal or the governmental authority or homeowners association having jurisdiction over the portion of the lake or canal where the proposed improvements will be constructed.

A. Definitions

1. **Watercraft:**

Any boat, dinghy, raft, or other vessel or structure of any size, shape, material or configuration which is designed to float or travel on water and carry or transport one or more persons on water, whether or not it is motorized.

2. **Lake:**

A lake is a body of water, whether or not connected to a canal or other body of water and all water areas specified on a plat to the shoreline, whether or not the water area is over a portion of a lot. When a lake abuts a body of water designated by a governmental authority to be within the geographical limits of or defined as a canal, that portion designated as a canal shall not be considered a part of a lake unless that body of water is specifically designated as such herein.

3. **Waterfront Lot:**

A waterfront lot is a lot any part of which touches the high water mark of a lake, or a lot which has a sea wall beyond which is a lake, canal or other body of water.

4. **Water's edge:**

The water's edge is defined as the average high ground water elevation. For properties originally developed with a bulkhead or seawall, the water's edge shall be the waterside of the existing bulkhead or seawall.

5. Top of Slope:

The survey tie line shown on the plat or the established point on the lot or property where the elevation of the property starts sloping towards the water's edge. In the event that the survey tie line and actual top of slope shown on the survey differ, the top of slope for zoning purposes will be determined by the Administrative Official.

6. Dock:

That portion of a horizontal deck or structure constructed on pilings, floated or cantilevered past the water's edge into a lake or canal.

B. Development and Use Restrictions

1. In all zoning districts, allowable structures and improvements waterward of the top of the slope or waterward of a bulkhead on a lake or canal shall require approval through the Site Plan Review process.
2. No powerboat or other mechanically powered water craft or device propelled by anything other than manpower, sail or 12 volt electric trolling motor shall be used or operated on a privately owned lake. Where a lake abuts a body of water designated by a governmental authority to be within the geographical limits of or defined as a canal, power boats or mechanically powered craft are permitted.
3. Shoreline contours and established slopes of any lake or canal and the lots above or below water may not be changed or modified with the exception of interlocking block, concrete, wood or similar material bulkheads or decks as permitted in this division.
4. Townhouse properties that have side privacy walls extending past the residence towards the lake may construct decks between the walls that modify the established slope.
5. No lot shall be increased in size by filling in the water upon which it abuts.
6. The placement of the following accessory improvements and landscaping shall be permitted waterward of the top of slope on a lot, parcel or tract, subject to the following conditions:
 - a. Docks
 - (1) Docks shall either be floated or be placed on pilings at right angles to the water's edge or shoreline, except as otherwise provided herein.
 - (2) The width of all docks on a single lot, parcel or tract collectively shall not exceed thirty (30) percent of the lot's width at the water's edge. However, a dock that is placed parallel to the lot and that does not extend more than

six (6) feet beyond the water's edge may exceed 30% of the lot's width but may not encroach into the required side setbacks for docks in this section.

- (3) No dock shall project past the water's edge more than one-half (1/2) the length of the lot's shoreline frontage as measured at the water's edge, or twenty (20) percent of the lake or canal width at its widest point, whichever is smaller. In no event shall a dock exceed twenty-five (25) feet in length. For purposes of this section, the length shall be the perpendicular dimension measured from the water's edge (the average low ground water elevation) to the farthest point of the dock (including floating docks) extending into the lake.
- (4) Docks in all zoning districts shall be setback 7.5' on interior side property lines and 15' on side property lines facing a street.
- (5) Only one (1) dock shall be permitted for each principal building on the subject lot, parcel or tract.
- (6) Enclosed or roofed structures, open sided gazebos shall not be permitted on docks or waterward of the water's edge.

b. Landscaping, Hedges, Rocks, Rip Rap, Bulkheads

- (1) Landscaping or hedges waterward of the top of slope but landward of the water's edge are allowed; however, hedges or mass plantings shall be placed no closer than ten (10) feet from the water's edge. No hedge or mass plantings shall exceed two and a half (2 ½) feet in height waterward of the top of the slope. Fences, wall or rocks arranged to form a fence or wall or objects which restrict access or block views from adjacent properties are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.
- (2) A Rip-rap, interlocking block, concrete, wood or similar material bulkhead running parallel to the waters edge is permitted waterward of the top of slope. The bulkhead shall not extend more than one (1) foot below the water's edge and no higher than one (1) foot above the existing grade.

c. Open Sided Structures, Gazebos

- (1) Only one open sided structure shall be permitted waterward of the top of slope but landward of the water's edge, subject to compliance with the side setback requirements for decks in this section and accessory building lot coverage requirements of the zoning district in which the structure is located; provided, however, the rear setback requirement from the water's edge shall be zero (0) feet. In no event shall an open sided structure or gazebo that is placed waterward of the top of slope exceed fifteen (15) feet

in height, measured from the height of the undisturbed land where it is placed, nor shall it exceed 150 square feet in area. Open sided structures, with the exception of chickee huts as defined in this code, shall be constructed and finished to match the existing residence (including roofing material) or designed in an architectural style complimentary to the existing residence.

d. Steps and Decks

- (1) At grade steps no wider than four (4) feet, and leading from the top of the slope or tie line towards the lake, dock, open sided structure, gazebo or deck, shall be permitted waterward of the top of slope and landward of the water's edge.
- (2) Decks that do not alter the established slope by more than eighteen (18) inches at any point along the deck, with a maximum size of 225 sq. ft. per lot or parcel, including the footprint of a gazebo, shall be permitted waterward of the top of slope. The deck area shall be set back a minimum of 7.5' from the interior side property lines and 15' from a side facing a street and subject to all lot coverage requirements for impervious area contained else where in this code.

e. Boat Ramps

- (1) Boat ramps shall be permitted providing no filling of the slope area occurs. Ramps shall be set back a minimum of seven and one half (7.5') feet from adjacent properties.
- (2) Filling waterward of the top of slope shall be prohibited.

7. Structures or improvements other than those specifically listed above are prohibited from placement within the area waterward of the top of slope.

C. Nonconforming structures or improvements that were constructed without a building permit waterward of the top of the slope.

1. Notwithstanding the provisions of Subsection B above, existing structures or improvements located waterward of the top of the slope that have modified the existing slope of the lake or canal and that can be shown to have existed prior to December 5, 2000 and that did not receive building permits from the County may be considered legal nonconforming structures with respect to all zoning requirements in this division provided that the owner of the property complies with the following:

- a. Provide proof such as but not limited to aerial photographs, signed and sealed surveys, photographs, and affidavits from previous owners or neighboring

property owners that the improvements or structures in question existed prior to December 5, 2000.

- b. The property owner shall apply for site plan approval within nine (9) months of the adoption date of this ordinance and receive approval for the existing nonconforming structures or improvements through the site plan review process. As part of the site plan analysis and approval process, the Town may attach conditions or recommend changes to the existing improvements shown on the site plan to mitigate any impacts on adjacent properties or lake.
 - c. Obtain all required building permits and a Certificate of Completion or Certificate of Occupancy, as required.
 - d. Complete the above requirements, including any conditions required as part of the site plan review process, within one year of the date of the adoption of this ordinance.
2. Fences or walls constructed along the side property line or parallel to the waters edge past the top of the slope without a building permit may not be legalized through the process in C(1) and must be removed. Hedges that do not comply with the regulations contained in this section must be removed or trimmed and may not be legalized through this process.

Division 6.6 Boats and Watercraft

- A. In all residential districts, accessory storage of boats, personal watercraft or boat trailers shall be limited to residential garages if they will fully fit inside the garage and are stored with the garage door fully closed.
- B. The temporary parking for a period of less than 24 hours of a boat in front of the front building line of the property or in front of the side street building line of the property shall be permitted for routine cleaning, loading, or unloading while the boat is hitched to an operable motor vehicle with a valid permanent license tag. Under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way or sidewalk.
- C. Owners of lakefront properties may keep no more than two (2) functional watercrafts, appropriate for that lake or canal, on the shoreline or in the rear yard.
- D. No maintenance or repair of watercraft is permitted outside of a garage.
- E. Existing watercraft or boats that comply with the Town Code as of December 5, 2000 may be permitted if they are registered with the Town within 90 days of the date of the adoption of this ordinance. A registered boat or registered personal watercraft may be replaced with a boat or personal watercraft of equal or smaller length

provided that the boat or personal watercraft is registered with the Town within 180 days of the date of purchase of the boat or personal watercraft. The boat or personal watercraft must be registered to the owner of the real property. Once the residence is sold no further boats or personal watercraft may be kept on the property unless the boat or personal watercraft complies with this Code.

Division 6.7 Commercial and Recreational Vehicles

A. Definitions:

1. A commercial vehicle is any vehicle which displays, whether temporarily or permanently, any lettering, logo, or other markings which identify the vehicle as belonging to or used for any commercial purpose; and/or any vehicle on which is visible and is designed to carry cargo, supplies, merchandise, machinery, tools, equipment, racks, or other items of a commercial nature; any vehicle manufactured and commonly used as a work or commercial vehicle, including tow trucks; or any vehicle for hire such as but not limited to buses, jitneys, limousines or taxi cabs.
2. A recreational vehicle is a vehicle which provides sleeping and other facilities for short periods of time, while traveling or vacationing, designed to be towed behind a motor vehicle, placed on a vehicle or self-propelled, and includes such vehicles as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes or other similar vehicles.
3. An off-road vehicle is any vehicle that is used off the roads or highways for recreational purposes and that is not registered and licensed for highway use in the State. Off-road vehicles include all terrain vehicles (ATV) and golf carts.

B. In order to maintain the high standards of the Town with respect to residential appearance, commercial trucks or other commercial vehicles, off-road vehicles, campers, recreational vehicles, motor homes, house trailers, boat trailers and trailers of every other description "as defined herein" whether operable or inoperable, shall not be permitted to be parked or to be stored at any place on any lot, common area or right of way within residentially zoned property in the Town unless they will fully fit inside the a garage and are stored with the garage door fully closed. This prohibition of parking shall not apply to temporary parking (no overnight parking) of trucks and commercial vehicles during the performance of commercial services and to the loading and unloading for no more than 24 hours of recreational vehicles.

C. Marked and unmarked law enforcement and local government "take home" passenger vehicles may be permitted to be parked in driveways or parking spaces.

D. All recreational vehicles, campers, and commercial vehicles that comply with the Town Code as of December 5, 2000, may be permitted if they are registered with the

Town within 90 days of the date of the adoption of this ordinance. Once the registered vehicle is sold no other recreational vehicle or commercial vehicle may be parked or stored on the property unless it complies with this Code.

Division 6.8 Roofs

- A. All new roofs with a pitch equal to or greater than 2 1/2 shall be constructed of barrel tile or flat cement tile. Other roofing materials may be approved by the Town Council at a public hearing through the site plan review process. However, flat asphalt shingles on pitched roofs are not permitted for new construction or for additions to existing buildings.
- B. All single family or two family roof materials shall be replaced or repaired with similar types of roofing material as originally installed on the residence. Existing gravel or asphalt shingle pitched roofs may be replaced with tile.