

ORDINANCE NO. 13- 156

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-1509. FENCES, WALLS AND GATES, AND SECTION 13-1701. LANDSCAPE REQUIREMENTS, OF THE CODE OF THE TOWN OF MIAMI LAKES; AMENDING THE RESTRICTIONS AS TO PERIMETER WALLS AND FENCES AND PERIMETER HEDGES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

Whereas, the Town Council has determined that fences walls and hedges should be developed and maintained in consistent height, design, and color; and

Whereas, the Town Council in 2004, adopted an ordinance prohibiting fences, walls or hedges within the required setbacks; and

Whereas, at the time of adoption in 2004 communities within the Town existed that could not comply with the 2004 prohibition; and

Whereas, in 2008, an ordinance was adopted to permit walls, fences, and hedges on zero lot line properties; and

Whereas, as a result of the 2004 and 2008 amendments, residential properties in the West Lakes and Royal Oaks Communities are challenged to comply without a variance; and

Whereas, the sections of the code are hereby amended to address existing Code inconsistencies regarding walls, hedges, and fences in certain residential areas.

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

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Article V, Allowable Encroachments into Required Yards, of the Town LDC is hereby amended as follows¹:

Sec. 13-1509. - Fences, walls and gates.

* * *

- (a) This Subsection (a) applies to all districts.

* * *

- (4) *Perimeter walls surrounding subdivisions.*
- a. Walls surrounding subdivisions and abutting zoned or dedicated rights-of-way shall comply with Section 13-308(b)(16), pertaining to platting.
 - b. ~~Any~~ ~~no~~ changes, alterations, or modifications of any kind ~~shall be made to an existing~~ the perimeter wall surrounding a subdivision, or construction of a new or replacement perimeter wall, shall require site plan review and approval ~~without the prior written approval of the Town.~~ Exterior surfaces of perimeter walls shall be of uniform colors to be determined by the homeowners association, or by the Town pursuant to color guidelines to be adopted by the Town Council, and the perimeter walls shall be maintained by the homeowners association or property owner if an association does not exist.
 - c. Walls surrounding subdivisions and abutting zoned or dedicated rights-of-way shall be consistent with respect to height, design and color along the entire frontage on the same side of the zoned or dedicated right-of-way, except where interrupted by an intersecting street. Where a subdivision wall along a zoned or dedicated right-of-way has been established, any new or replacement subdivision wall along the same side of the right-of-way shall match the existing wall in height, design and color except where interrupted by an intersecting street.
- (5) Temporary construction fences. A construction fence, to secure a construction site, on a site in a residential or nonresidential zoning district may be approved by the Administrative Official in any required setback or yard in conjunction with a temporary certificate of use. Said fence approval shall be valid for a maximum of 180 days in connection with a valid building permit. However, a construction fence approval may be

¹ Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

extended by the Administrative Official for a second 180 day period provided that the building permit application has not expired.

(b) This Subsection (b) applies to single-family and two-family residences.

(1) *Location restrictions.*

- a. No fences, walls or gates shall be permitted within a required front yard ~~or~~ side, or rear yard-facing a street, except as provided in this section. However, perimeter walls surrounding subdivisions which are approved through the site plan review process are permitted along sides facing a street or rear yards facing a street and shall comply with Section 13-308, pertaining to platting, as applicable.
- b. In zero lot line developments, where a side and/or rear yard faces a street, a fence or wall ~~shall~~ may be permitted, with a zero setback, along the required side and rear yard property line facing a street, set back a minimum of 20 35 feet from the front property line, or even with the actual front setback of the portion of the house nearest to the side street yard, if other than 20 feet. Any such fence or wall shall comply with the corner visibility requirements of Subsection 13-1509(a)(3).
- c. In non-zero lot line developments, where a side and/or rear yard faces a street, a fence or wall shall be permitted along the required side and rear property line facing a street, with a setback of one and one-half (1.5) feet, provided that:
 1. The property is located in one of the following two areas: west of the Palmetto Expressway and north of NW 154th Street; or, west of the Palmetto Expressway, south of 154th Street and west of NW 87th Avenue.
 2. The property owner installs and maintains a hedge between the property line and the fence or wall, to be maintained at a height of at least four feet but not higher than the height of the fence or wall, except where a higher hedge may be allowed pursuant to Subsection 13-1701(a)(4)e; and,
 3. Any such fence or wall shall be set back at least 25 feet from the front property line, or even with the actual front setback of the portion of the house nearest to the side street yard, if other than 25 feet.
 4. Any such fence or wall shall comply with the corner visibility requirements of Subsection 13-1509(a)(3).
- ed. On properties abutting lakefronts, fences or walls 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.

- d. ~~A construction fence, to secure a construction site, on a site in a residential or nonresidential zoning district may be approved by the Administrative Official in any required setback or yard in conjunction with a temporary certificate of use. Said fence approval shall be valid for a maximum of 180 days in connection with a valid building permit. However, a construction fence approval may be extended by the Administrative Official for a second 180 day period provided that the building permit application has not expired.~~

(2) *Height.*

- a. Where permitted, the maximum height of all fences, walls or decorative columns located within a required yard shall be six feet. Decorative open see-through type gates and decorative columns that are not more than 16 inches wide and spaced a minimum of eight feet apart, shall be permitted to exceed the maximum permitted height of the wall by 18 inches.
- b. Height between different districts. Where an RU District abuts another district, a fence or wall on the RU property may be erected or maintained on the common property line at the height permitted in the abutting district.

Section 3. Article VII, Environmental Regulations, of the Town LDC is hereby amended as follows²:

Sec. 13-1701. - Landscape requirements.

* * *

- (a) All single-family and two-family residences shall comply with Chapter 18A, Landscape Ordinance (see Section 13-1), and the following minimum standards.

* * *

(4) *Hedges.*

² Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

- a. Hedges shall not be permitted parallel to the front, ~~or side or rear~~ street property line within the required front, ~~or side or rear~~ street required yards except as provided in this section.
- b. Within the required front or side street yard, a hedge shall include any plant grouping, parallel to the front or side street property line, that is greater than ten feet in length or which is less than ten feet from any other plant grouping. A plant grouping shall include, but not be limited to, plant materials such as, grasses, ground covers, shrubs, vines, trees and rocks.
- c. In zero lot line developments, where a side and/or rear yard faces a street, a hedge ~~may~~ shall be permitted, with a zero setback, along the required side and rear yard property line facing a street, set back a minimum of 20 35 feet from the front property line. Any such hedge shall comply with the corner visibility requirements in Subsection (h) below.
- ~~d.~~ In non-zero lot line developments, where a side and/or rear yard faces a street, a hedge shall be permitted, with a zero setback, along the required side and rear property line facing a street, provided that:
 - 1. The property is located in one of the following two areas: west of the Palmetto Expressway and north of NW 154th Street; or, west of the Palmetto Expressway, south of 154th Street and west of NW 87th Avenue.
 - 2. The hedge shall be set back a minimum of 25 feet from the front property line.
 - 3. Any such hedge shall comply with the corner visibility requirements in Subsection (h) below.
- ~~ed.~~ The maximum height of hedges located within a required yard shall not exceed six feet with the following exceptions:
 - 1. For waterfront properties, hedges located waterward of the top of the slope or tie line shall not exceed a height of 2½ feet.
 - 2. Hedges facing arterial or collector roadways shall have a maximum height of ten feet. Hedges facing state roadways shall not have a height limit but must be maintained neat and trimmed.
 - 3. Hedges along the side property lines within the required front yard or along the rear property line within the side yard facing a street shall not exceed a height of 2½ feet.
 - 4. Height between different districts. Where an RU District abuts another district, a hedge on the RU property may be

erected or maintained on the common property line at the height permitted in the abutting district.

- fe.** Hedges for waterfront properties.
1. Hedges along the side property lines shall not be permitted within ten feet of the water's edge. The water's edge is defined as the average high groundwater elevation.
 2. Hedges shall not be permitted to be placed parallel to the water's edge waterward of the top of the slope.
 3. Landscaping or hedges waterward of the top of slope but landward of the water's edge are allowed; however, hedges or plant groupings shall be placed no closer than ten feet from the water's edge. No hedge or plant groupings shall exceed 2½ 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.

Section 4. 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 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 Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Article", "Division" or other appropriate word.

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

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

Mayor Michael Pizzi	<u>yes</u>
Vice-Mayor Ceasar Mestre	<u>yes</u>
Councilmember Manny Cid	<u>yes</u>
Councilmember Tim Daubert	<u>yes</u>
Councilmember Tony Lama	<u>yes</u>
Councilmember Nelson Hernandez	<u>yes</u>
Councilmember Nelson Rodriguez	<u>yes</u>

PASSED AND ADOPTED on first reading this 12 day of March, 2013.

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

Mayor Michael Pizzi	<u>yes</u>
Vice-Mayor Ceasar Mestre	<u>yes</u>
Councilmember Manny Cid	<u>yes</u>
Councilmember Tim Daubert	<u>yes</u>
Councilmember Tony Lama	<u>yes</u>
Councilmember Nelson Hernandez	<u>yes</u>
Councilmember Nelson Rodriguez	<u>yes</u>

PASSED AND ADOPTED on second reading this 23 day of April, 2013.



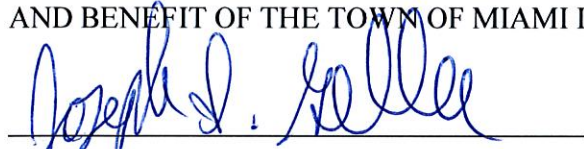
MICHAEL PIZZI
MAYOR

ATTEST:



MARJORIE TEJEDA
TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



JOSEPH S. GELLER
GREENSPOON MARDER
TOWN ATTORNEY