

**ORDINANCE NO. 14-170**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ARTICLE I, SECTION 13-1. DEFINITIONS AND REFERENCES, AND ARTICLE III, SECTION 13-309. PUBLIC HEARING AND NOTICE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the "Town") upon incorporation adopted Chapter 33 of the Miami-Dade County Code (2000), entitled "Zoning" as the Town of Miami Lakes Land Development Code ("the Town LDC") by Section 8.3 of the Town Charter; and

**WHEREAS**, Objective 1.2 of the Town's Comprehensive Plan states that the Town shall maintain an effective and efficient Land Development Code (LDC); and

**WHEREAS**, subsequent to its adoption, the Town LDC has been amended by various ordinances adopted by the Town of Miami Lakes (the "LDC Ordinances") to better address and serve the needs of the Town; and

**WHEREAS**, the Town Council desires to provide enhanced notice of commercial applications for development approval due to the potential impact the applications may have; and

**WHEREAS**, the Town's Planning and Zoning Board, as the Local Planning Agency, considered the proposed amendments and whether they are consistent with the Town's Comprehensive Plan at a duly advertised Public Hearing on May 20, 2014 and voted to recommend approval of the ordinance; and

**WHEREAS**, after conducting a properly noticed public hearing, hearing public comments, and considering the recommendations of the Local Planning Agency, Town staff, and

the public, the Town Council wishes to adopt the amendments to the Town LDC attached hereto as Exhibits A and B; and

**WHEREAS**, the proposed amendments are in conformance with all applicable requirements of the Town's Code of Ordinances, including the LDC; and

**WHEREAS**, the proposed amendments will not be in conflict with the public interest, and are consistent and in harmony with the purpose and intent of the Comprehensive Plan; and

**WHEREAS**, the Town Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate and advances the public interest.

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

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

**Section 2.** **Adoption.** The Town Council hereby adopts the amendments to Article I and Article III of the Town LDC, which are attached as Exhibits A and B, respectively, hereto and are incorporated herein<sup>1</sup>.

**Section 3.** **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 4.** **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.

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<sup>1</sup> Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

**Section 5.**     **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 6.**     **Effective date.** This Ordinance shall become effective immediately upon its adoption on second reading.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**FIRST READING**

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

Mayor Wayne Slaton	<u>YES</u>
Vice Mayor Manny Cid	<u>YES</u>
Councilmember Tim Daubert	<u>YES</u>
Councilmember Tony Lama	<u>YES</u>
Councilmember Ceasar Mestre	<u>YES</u>
Councilmember Frank Mingo	<u>YES</u>
Councilmember Nelson Rodriguez	<u>YES</u>

Passed and adopted on first reading this 13<sup>th</sup> day of May, 2014.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

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

Mayor Wayne Slaton	<u>YES</u>
Vice Mayor Manny Cid	<u>YES</u>
Councilmember Tim Daubert	<u>absent</u>
Councilmember Tony Lama	<u>YES</u>
Councilmember Ceasar Mestre	<u>YES</u>
Councilmember Frank Mingo	<u>YES</u>
Councilmember Nelson Rodriguez	<u>YES</u>

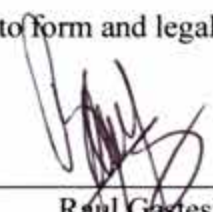
Passed and adopted on second reading this 10 day of June, 2014.

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

Attest:

  
\_\_\_\_\_  
Marjorie Tejeda  
TOWN CLERK

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# EXHIBIT A

## Chapter 13 LAND DEVELOPMENT CODE

### ARTICLE I. IN GENERAL

#### Sec. 13-1. Definitions and references.

- (a) For purposes of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise.

\* \* \*

(100) *Neighborhood.* The area, included in one predominant type of use, such as residential neighborhood, together with the area having values ardently affected by any usage in that area.

(100.5) *Neighborhood Organization.* A group consisting of 15 or more individual property owners or residents who register with the Town for notification pursuant to Section 13-309.

(101) *Neighborhood store.* A retail establishment which supplies household requirements to the immediately surrounding residential neighborhood, such as a delicatessen, grocery, drug-sundry, tobacco stores, etc.

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# EXHIBIT B



## Chapter 13 LAND DEVELOPMENT CODE

### ARTICLE III. DEVELOPMENT APPROVAL PROCEDURES

#### Sec. 13-309. Public hearing and notice.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the Administrative Official shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
- (1) Identify the applicant, if other than the Town.
  - (2) Indicate the date, time, and place of the public hearing.
  - (3) Describe the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law.
  - (4) Describe the nature, scope and purpose of the proposal being noticed.
  - (5) Identify the Town departments where the public may inspect the application, staff report and related materials during normal business hours.
  - (6) Include a statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application.
  - (7) Include other information as may be required by law.
- (b) *Mailed notice.*
- (1) When the provisions of this chapter require that mailed notice be provided, the costs or providing such notice shall be included in the application fee or billed through cost recovery as applicable. Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
  - (2) The Town Clerk shall prepare the written notice and shall be responsible for mailing the notices. Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.
- (c) *Published notice.* When the provisions of this chapter require that notice be published, the applicant shall be responsible for the cost of Town staff preparing the content of the notice and publishing the notice in the non-legal section of the local newspaper of general circulation that has been selected by the Town. This notice shall be published in accordance with timelines prescribed in Table 13-309 in this article prior to the required public hearing, except where provided otherwise in this chapter.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the Administrative Official shall be responsible for posting the property, and shall:
- (1) Place the signs on the property that is the subject of the application in accordance with timelines prescribed in Table 13-309 in this article prior to a required or requested hearing.
  - (2) Place the signs along each street that is adjacent to or runs through the subject property at intervals of not more than 200 feet in a manner that makes them clearly visible to adjacent residents and passersby.
  - (3) Place the signs no more than 25 feet from the street so that the lettering is visible from the street. Where the land does not have frontage on a street, signs shall be erected on the nearest

street, with an attached notation indicating generally the direction and distance to the property subject to the application.

- (e) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates or substantive changes to an application request during the period an application has been continued, shall require re-noticing for the new public hearing date.
- (f) *Comprehensive Plan.* Notice for public hearings on applications for amendments to the Comprehensive Plan shall be noticed as follows:
  - (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. In addition, property owners of record within a 2,500-foot radius of the property subject to map amendments shall be provided mailed notice.
  - (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within a 2,500-foot radius of the property subject to map amendments shall be provided mailed notice.
- (g) *Official Zoning Map and this chapter.* Notice for public hearings on applications for amendments to this chapter and the Official Zoning Map shall be noticed as follows:
  - (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. In addition, property owners of record within a 2,500 foot radius of the property subject to map amendments shall be provided mailed notice.
  - (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within a 2,500-foot radius of the property subject to map amendments shall be provided mailed notice.
- (h) *Other development requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to variances, conditional uses, site plans, plats, and vacations shall be noticed as follows:
  - (1) Posting of the property subject to the application ten days prior to the hearing.
  - (2) Courtesy mailed notice to the property owners of record within a 500-foot radius of the property which is the subject of the application.
  - (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.
  - (4) Where an application is made for a commercial development permit approval other than rezoning, including, but not limited to commercial variances, commercial conditional uses, commercial site plans, commercial plats, and commercial vacations, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a 1-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.

- (i) *Administrative variance.* Administrative action on applications for administrative variances shall be noticed as follows:
- (1) Posting of the property subject to the application 30 days prior to final administrative action.
  - (2) Mailed notice to the property owners of record adjacent to the property which is the subject of the application 30 days prior to final administrative action.
  - (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.
  - (4) Where an application is made for a commercial administrative variance, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a 1-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.
- (j) *Administrative site plan.* Administrative action on applications for administrative site plan requests shall be noticed as follows:
- (1) Posting of the property subject to the application 15 days prior to final administrative action.
  - (2) Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall also require mailed notice to the property owners of record adjacent to the property which is the subject of the application 15 days prior to final administrative action.
  - (3) Where an application is made for a commercial administrative site plan, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a 1-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.
- (k) *Minor conditional uses.* Administrative action on applications for minor conditional uses pursuant to Section 13-204(q) and Section 13-302(g) shall be noticed as follows:
- (1) Posting of the property subject to the application 15 days prior to final administrative action.
  - (2) Mailed notice to the property owners of record within 500 feet of the property which is the subject to the application 15 days prior to final administrative action.
  - (3) Where an application is made for a commercial minor conditional use, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a 1-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium

association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.

- (l) *Appeals of action by the Administrative Official.* An applicant seeking an appeal of the action by the Administrative Official to the Town Council shall be responsible for notice of the appeal by mailed notice to property owners of record within a 500-foot radius of the property subject to the application and posting of the property subject to the application.
- (m) *Applicant bears burden of cost.* All costs of publication, mailing and posting shall be borne by the applicant.
- (n) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements nonconflicting with the Florida Statutes.

TABLE 13-309. NOTICE REQUIREMENTS

Permit	Notice Section	Posted	Published	Mailed
Appeal of Administrative Official	13-309(l)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Variance <sup>^</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Other development permits (i.e., site plan, conditional uses, plats, vacations) <sup>^</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Minor conditional uses <sup>^</sup>	13-309(k)	15 days prior to administrative action	Not applicable	500 feet radius
Administrative variance <sup>^</sup>	13-309(i)	30 days prior to administrative action	30 days prior to administrative action	Adjacent property owners
Administrative site plan <sup>^</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Not applicable
Administrative site plan* <sup>^</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Adjacent property owners
Comprehensive Development Master Plan—Town	13-309(f)(1)	No	F.S. § 163.3184	2,500 feet radius for Map amendment
Comprehensive Development Master Plan—Owner	13-309(f)(2)	30 days prior to hearing for Map amendment	F.S. § 163.3184	2,500 feet radius for Map amendment
Land Development Code (Ch. 13)—Town	13-309(g)(1)	No	F.S. § 166.041	2,500 feet radius for Map amendment
Land Development Code (Ch. 13)—Owner	13-309(g)(2)	30 days prior to hearing for Map amendment	F.S. § 166.041	2,500 feet radius for Map amendment

\*Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall require notification of adjacent property owners.

^Courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a 1-mile radius of the property which is the subject of the application. This shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.