

ORDINANCE NO. 17-209

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, section 13-309 of the Town’s Land Development Code(“LDC”) provides for courtesy mail notification requirements related to development approval application subject to administrative or public hearing decisions; and

WHEREAS, the intent of such notice is to keep the residents of the Town abreast to any decisions that may be rendered regarding development approval applications; and

WHEREAS, on March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore enhancements to the mailed notice requirements of the LDC in order to improve its function, and convene a workshop to discuss solutions; and

WHEREAS, on June 27, 2017, at a publicly advertised workshop, staff presented mailing notification radius options and design options to the Town Council, upon which the Council considered and provided feedback; and

WHEREAS, the amendment at Exhibit “A” is reflective of the Town Counsel’s direction as expressed at the June 27, 2017, workshop; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the LDC and recommends approval, as set forth in the Staff Analysis and Recommendation dated July XX, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to §163.3174, Florida Statutes; and

WHEREAS, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board in its capacity as the Local Planning Agency, and pursuant to §163.3174 Florida Statutes reviewed the proposed amendment and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for consideration of adoption; and

WHEREAS, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the LDC found in Subsection 13-306(b) of the Town Code; and

WHEREAS, on September 5, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.

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

Section 2. Findings. The Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A."

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 be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

FIRST READING

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

Mayor Manny Cid	yes
Vice Mayor Tony Lama	yes
Councilmember Luis Collazo	yes
Councilmember Tim Daubert	yes
Councilmember Ceasar Mestre	yes
Councilmember Frank Mingo	yes
Councilmember Nelson Rodriguez	yes

Passed and adopted on first reading this 25th day of July 2017.

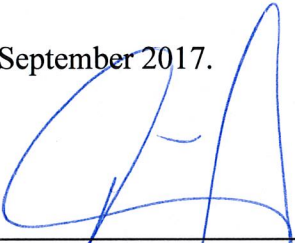
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SECOND READING

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

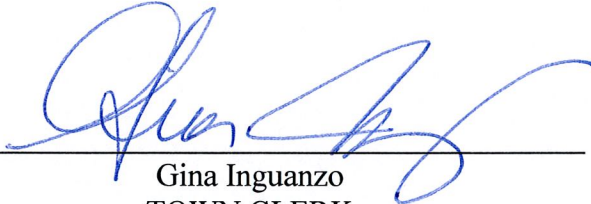
Mayor Manny Cid	yes
Vice Mayor Nelson Rodriguez	yes
Councilmember Luis Collazo	yes
Councilmember Tim Daubert	yes
Councilmember Ceasar Mestre	yes
Councilmember Frank Mingo	yes
Councilmember Marilyn Ruano	yes

Passed and adopted on second reading this 5th day of September 2017.




Manny Cid
MAYOR

Attest:



Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



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

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EXHIBIT A

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:

* * *

- (4) Describe the nature, scope and purpose of the proposal being noticed using terms and phrases clearly understandable to the general public.

* * *

- (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 5,000 ~~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 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.

(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 5,000 ~~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 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.

(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 shall be required according to the following schedule ten days prior to the hearing unless the application includes a request for amendment to the Comprehensive Plan or Future Land Use Map in which case section 13-309(f) shall apply, or if the request includes an amendment to the Town's Land Development Code or Official Zoning Map in which case section 13-309(g) shall apply: within a 500-foot radius of the property which is the subject of the application.

<u>PUBLIC HEARING APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>

- (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 one-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. The notice requirements herein are intended to supplement and the minimum requirements of the Florida Statutes, and are not in conflict with Florida Statutes.
- (i) Administrative decisions ~~variance~~. Administrative action on applications for administrative decisions, including but not limited to administrative variances, administrative site plan decisions, and administrative conditional use decisions ~~variances~~ shall be noticed as follows:
 - (1) Posting of the property subject to the application 30 days prior to final administrative action.
 - (2) Courtesy mailed notice to the property owners of record shall be noticed adjacent to the property which is the subject of the application 30 days prior to final administrative action according to the following schedule:-

<u>ADMINISTRATIVE APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>
<u>Administrative (De Minimus) Variances</u>	<u>Adjacent Properties</u>

- (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 one-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. The notice requirements herein are intended to be supplemental to the minimum requirements of the Florida Statutes
- (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 one-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 one 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) *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.
- (k) *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 ^Δ	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) ^Δ	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Minor conditional uses ^Δ	13-309(k)	15 days prior to administrative action	Not applicable	500 feet radius
Administrative variance ^Δ	13-309(i)	30 days prior to administrative action	30 days prior to administrative action	Adjacent property owners
Administrative site plan ^Δ	13-309(j)	15 days prior to administrative action	Not applicable	Not applicable

Additions to the text are shown in underlined; deletions from the text are shown in ~~strikethrough~~.
 Omitted portions of this ordinance are shown as “* * *”.

Administrative site plan * [△]	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 one-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.~~