ORDINANCE NO. 18- 220

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 12, 2013, the Town adopted Ordinance No. 13-155, which among other provisions, provided for the siting, construction and review of governmental facilities on publicly owned land, and whereby through either purchase or sale of such land, said land is automatically rezoned as result of such transaction; and

WHEREAS, the adopted provisions, which were largely copied from the prior Miami-Dade County Code, do not provide for the standard zoning procedures when changing the permitted use of land; and

WHEREAS, it is generally accepted that government facilities are required to deliver the necessary services to ensure the general health, safety and welfare, of its citizens; and that such facilities are commonly located in a variety of zoning districts where such lands are available, or most practicable to ensure the delivery of such services; and

WHEREAS, to that end, and consistent with other governments in the practice of their service delivery, and as provided in large part by Chapter 13 of the Town's Code, an exclusive site

plan review procedure is provided for to ensure the availability of needed facilities to deliver the services desired and demanded by Town residents; and

WHEREAS, the proposed ordinance clarifies the exclusive site plan procedure afforded to the Town, and deletes other outdated provisions; and

WHEREAS, on October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of telecommunication equipment and facilities on Town owned property;

WHEREAS, the proposed ordinance makes such equipment and facilities possible, subject to notice and public hearing requirements before the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment and recommends approval, as set forth in the Staff Analysis and Recommendation dated November 14, 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 Section 163.3174, Florida Statutes; and

WHEREAS, on November 14, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on January 16, 2018, the Town Council after conducting a properly noticed public hearing moved the item for First Reading; and

WHEREAS, on February 6, 2018, 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 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 at section 13-306(b) of the Town Code; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

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

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

Section 2. **Amendment.** Division 24, of Article IV of Chapter 13, entitled "GP Governmental Property District," of the Town's Land Development Code is hereby amended as provided at Exhibit A:

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.

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**. That this Ordinance shall be effective immediately upon its adoption on second reading.

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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 Frank Mingo	yes
Councilmember Tim Daubert	absent
Councilmember Luis Collazo	yes
Councilmember Ceasar Mestre	yes
Councilmember Nelson Rodriguez	yes
Councilmember Marilyn Ruano	yes

Passed on first reading this 16th day of January 2018.

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SECOND READING

The foregoing ordinance was offered by Councilmember Daubert who moved its adoption on second 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 Frank Mingo	yes
Councilmember Luis Collazo	yes
Councilmember Tim Daubert	yes
Councilmember Ceasar Mestre	yes
Councilmember Nelson Rodriguez	absent
Councilmember Marilyn Ruano	yes

Passed and adopted on second reading this 6th day of February 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

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

EXHIBIT A

ORDINANCE

CHAPTER 13 LAND DEVELOPMENT CODE

* * *

ARTICLE IV ZONING DISTRICT REGULATIONS

* * *

DIVISION 24 ~~GP~~ GF-GOVERNMENTAL FACILITIES ~~PROPERTY DISTRICT~~

13-842. Uses permitted.

The Town Council may establish the uses listed in this Division without regard to the zoning or use classification of any particular site or location of any governmental facility on any lands leased or owned by a governmental entity within the Town's jurisdiction. The procedure to establish such facilities as provided in this Division shall be exclusive to the Town. ~~No land, body of water and/or structure shall be maintained, used or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed or structurally altered or permitted to be erected, constructed, moved, reconstructed or structurally altered for any purpose in a GP District which is designed, arranged, or intended to be used or occupied for any purpose other than the following:~~

(a~~1~~) Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses;
(b~~2~~) Fire stations;
(c~~3~~) Police stations;
(d~~4~~) Public auto inspection stations;
(e~~5~~) Public water and sewer treatment and distribution facilities;
(f~~6~~) Public libraries;
(g~~7~~) Public buildings and centers;
(h~~8~~) Public hospitals, nursing homes and health facilities;
(i~~9~~) Public auditoriums, arenas, museums, art galleries;
(j~~10~~) Maximum and minimum detention facilities;
(k~~11~~) Solid waste collection and disposal facilities;
(l~~12~~) Public maintenance and equipment yards;
(m~~13~~) Public bus stations and rapid transit stations and facilities;
(n~~14~~) Public airports and heliports;
(o) Utilities, including telecommunication facilities;
(p) Equipment yards, plant nurseries;
(q~~15~~) And other similar governmental uses or other facilities which serve the general health and welfare of the public.

13-843. ~~Designation of property.~~

~~All governmental property in the Town of Miami Lakes heretofore and hereafter purchased and/or designated for a governmental use shall be so noted in the public records and maps of the Department. If a specific governmental use or uses has or have been designated pursuant to Section 13-844 of the Code for a particular property, the public records and maps of the Department shall~~

~~so reflect said designation(s). All land subject to the permitted uses enumerated in Section 13-842 and owned in fee simple by a governmental entity shall be designated as governmental property. The designation GP shall be deemed an overlay zoning district and shall be in addition to any other zoning district by which the property is designated. If applicable, a GP District shall automatically revert to its other district classification if the property is no longer utilized as provided in Section 13-842 of the Code.~~

~~13-844. Exclusive procedure.~~

~~(a) The procedure provided herein shall be exclusive in the Town; provided, however, that unless a governmental facility is authorized as a designated permitted use in a zoning district, the Town Council shall not be bound by the procedures herein contained in constructing, erecting or operating any governmental facility listed below in the Town, and the Town Council may establish any governmental facility listed as follows where the Town Council may direct without regard to the zoning or use classification of any particular site or location: Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; public hospitals, nursing homes and health facilities; public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid-waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid-Transit stations and facilities; and uses determined by the Town Council to be similar to those listed above.~~

~~(b)~~ Exclusive site plan review procedure.

The site plan procedures in this Division shall be exclusive to the Town as further provided below:

(a) Public hearing and notice required. The Town Council may only authorize the erection, construction and operation of the governmental facilities enumerated in this Division ~~Subsection (a) above~~ by resolution following public hearing. The said public hearing shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Town, which publication shall include the time and place of hearing before the Town Council. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of 300 feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder. At the public hearing the Town Council shall consider, among other factors, the type of function involved, the public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of the impact of the facility on the surrounding property. After considering these said factors, the Town Council shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of the Town of Miami Lakes.

(b)~~(1)~~ In the event the Town Council authorizes the construction, erection, use or operation of a governmental facility in accordance with the procedures delineated above, or in the event

the Council otherwise determines that ~~Town-owned~~ property should be utilized by the Town for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The Town Manager or designee shall periodically check the property to ensure that the signs provided for in this subsection remain in existence and accurately depict the proposed use of the subject property. This subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the Town Council's action authorizing the use of the property for the designated purposes.

(c) *Notice exemption.* Any facility which is designated as or intended to be operated as a domestic violence center at the time of consideration, planning, erection, construction or acquisition, shall be exempt from the notice and public hearing provisions set forth in Subsection (b) above.

(d) *Minor site plan amendments.* The Administrative Official, upon a determination that a requested site plan change of a previously approved governmental facility is minor, shall have the authority to review and approve, approve with modifications and/or conditions or deny the minor change or amendment, providing the amended site plan complies with the following:

(1) Is compliant with the minimum requirements of this code;

(2) Does not increase the intensity of the project;

(3) Does not violate any conditions of the original approval;

(4) Does not increase the floor area of the project;

(5) Is compliant with concurrency requirements; and

(6) Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.

(e) *Deferral.* A council member may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to 30 days the first time the item appears on a council agenda or the first time the item is raised at a Town Council meeting if the proposed construction, erection, use or operation of the governmental facility affects that council member's district exclusively or primarily. Upon the council member's invoking this right, discussion upon that item shall cease and the council shall move to another item of business.

(f) *Issuance of permits upon appeal.* Notwithstanding any contrary provisions of this Division, during an appeal of a development order for a government facility approved pursuant to this section, zoning approvals relating to that development order being appealed shall be issued upon the request of the applying government, providing that:

(1) The applying government indicates in writing that it will conform as necessary to any subsequent changes mandated as a result of the appellate process by the court or by the Town Council; and

(2) That other applicable requirements of law are met.

~~(d) The procedure established by this chapter shall be the exclusive procedure when applicable to any airport zoning regulations, and no application for a district boundary change, change in zoning regulations, appeals of administrative decisions, special exceptions or unusual and new uses or variances shall be considered or granted by any Town Board unless the same is~~

~~provided for by this chapter and only by the procedure and method so provided; provided, however, the Town Council may change the zoning regulations without following the procedure provided therefore in this article; provided, however, that no such change will be made unless the written recommendation of the Director are first considered by the Town Council. No special permit shall be considered or granted by any Town Board.~~