

ORDINANCE NO. 20- 261

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ENCROACHMENTS BEYOND THE TIE-LINE FOR WATERFRONT SINGLE-FAMILY AND TWO-FAMILY BUILDINGS; AMENDING CHAPTER 13, “LAND DEVELOPMENT CODE”, AT ARTICLE VI, “SUPPLEMENTARY REGULATIONS”, AT SECTION 13-1605, “WATERFRONT PROPERTIES”; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (PIDERMANN)

WHEREAS, in the last three years, several Town of Miami Lakes (the “Town”) property owners have filed requests for variance from Town Code Section 13-1605, which prohibits encroachments onto the top of the slope, beyond the Tie Line, in order to build infinity pools on waterfront residential properties; and

WHEREAS, on March 3, 2020, the Planning Board adopted a recommendation for the Town Council to consider the possibility of revising allowable encroachments waterward of the top of slope and beyond the tie line, of single-family properties to allow the catch basins of infinity edge pools; and

WHEREAS, waterfront properties are naturally suited for infinity pools, and stand to take the most advantage of their visual appeal, when the water from the pool appears to blend with the water from the lake; and

WHEREAS, Town Staff has studied the matter and found that without such a change allow infinity edge pools are effectively not allowed to be built in the town, as they require the slope in order to create the “infinity” visual effect; and

WHEREAS, on April 7, 2020, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and,

WHEREAS, on April 21, 2020, the Town Council at a duly noticed public hearing, moved the item on First Reading; and,

WHEREAS, on May 19, 2020, the Town Council considered the ordinance at a duly advertised public hearing; 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 is true and correct and is incorporated herein by this reference.

Section 2. Amendment. Section 13-1605, of the Town's Land Development Code is hereby amended as provided in 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.

FIRST READING

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

Mayor Manny Cid	yes
Vice Mayor Nelson Rodriguez	yes
Councilmember Carlos O. Alvarez	yes
Councilmember Luis Collazo	yes
Councilmember Joshua Dieguez	yes
Councilmember Jeffrey Rodriguez	yes
Councilmember Marilyn Ruano	yes


Passed on first reading this 21st day of April 2020.

SECOND READING

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

Mayor Manny Cid	yes
Vice Mayor Nelson Rodriguez	yes
Councilmember Carlos O. Alvarez	yes
Councilmember Luis Collazo	yes
Councilmember Joshua Dieguez	yes
Councilmember Jeffrey Rodriguez	yes
Councilmember Marilyn Ruano	yes

Passed and adopted on second reading this 19th day of May 2020.




Manny Cid
MAYOR

Attest:



Gina M. Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi, Lopez & Mestre, PLLC.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

Chapter 13 - LAND DEVELOPMENT CODE

ARTICLE VI. - SUPPLEMENTARY REGULATIONS

DIVISION 1. - GENERALLY

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Sec. 13-1605. - Waterfront properties.

- (a) This section 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 canalfront properties. This section 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 section 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.
- (b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Catch Basin means the reservoir or well into which water from an infinity edge pool drains off.

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

Infinity Edge Pool means a swimming pool that produces a visual effect of water extending to the horizon or vanishing into a lake or canal.

Lake means 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 by the Town.

Top of slope means 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.

Water's edge means 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.

Watercraft means 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.

Waterfront lot means a lot any part of which touches the high-water mark of a lake, or a lot which has a seawall beyond which is a lake, canal or other body of water.

(c) 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 watercraft 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 section.
- (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 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 feet beyond the water's edge may exceed 30 percent 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 the length of the lot's shoreline frontage as measured at the water's edge, or 20 percent of the lake or canal width at its widest point, whichever is smaller. In no event shall a dock exceed 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 set back 7.5 feet on interior side property lines and 15 feet on side property lines facing a street.
 5. Only one dock shall be permitted for each principal building on the subject lot, parcel or tract.
 6. Enclosed or roofed structures, or open-sided gazebos shall not be permitted on docks or waterward of the water's edge.
 - b. Landscaping, hedges, rocks, riprap, bulkheads.
 1. 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 two and one-half feet in height waterward of the top of the slope. Fences, 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.
 2. A riprap, interlocking block, concrete, wood or similar material bulkhead running parallel to the water's edge is permitted waterward of the top of slope. The bulkhead shall not extend more than one foot below the water's edge and no higher than one foot above the existing grade.

- c. Open-sided structures, gazebos. 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 feet. In no event shall an open-sided structure or gazebo that is placed waterward of the top of slope exceed 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 and catch basins associated with an infinity edge pool.
 - 1. At grade steps no wider than four 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 18 inches at any point along the deck, with a maximum size of 225 square feet 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 feet from the interior side property lines and 15 feet from a side street property line and subject to all lot coverage requirements for impervious area contained elsewhere in this Code.
 - 3. A catch basin associated with an infinity edge pool up to four (4) feet wide shall be permitted and counted in the total 225 square feet of deck area allowed under 2, above. All other components of the infinity edge pool shall remain landward of the top of slope.
 - 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 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.
- (d) Nonconforming structures or improvements that were constructed without a building permit waterward of the top of the slope.
- (1) Notwithstanding the provisions of Subsection (c) of this section, 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 existed prior to December 5, 2000, and that received approval from the Town prior to January 18, 2006, or have received subsequent approval from the Town Council, shall be considered legal nonconforming structures with respect to all zoning requirements in this section. No variances to this section shall be permitted.
 - (2) Fences or walls constructed along the side property line or parallel to the water's edge past the top of the slope without a building permit may not be legalized 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.

Additions to the Ordinance in First Reading shall be reflected by underlined, and deletions shall be reflected as ~~strike throughs~~. Additions to the Ordinance between first reading and second reading shall be reflected by a double underline, and deletions between first reading and second reading shall be reflected by a ~~double strike through~~.