

ORDINANCE NO. 23-315

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA; AMENDING CHAPTER 42, AMENDING TITLE TO READ “TREES AND BIRDS”; CREATING SECTION 42-13 OF THE TOWN OF MIAMI LAKES CODE OF ORDINANCE, TITLED “BIRD SANCTUARY”; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (CID)

WHEREAS, historically the Town of Miami Lakes (the “Town) has prided itself as a sanctuary for native and migratory birds; and

WHEREAS, during the November 2022 Town Council meeting, the Town Council directed staff to research the possibility of designating the Town as a “Bird Sanctuary”; and

WHEREAS, during the March 2023, Council Meeting, staff suggested various courses of action the Town could take in order to protect native and migratory birds, including the adoption of an Ordinance; and

WHEREAS, on June 6, 2023 the Town Council met and passed the proposed Ordinance in First Reading; and

WHEREAS, on July 11, 2023 the Town Council met and passed the proposed Ordinance in Second Reading; and

WHEREAS, passage of this Ordinance will designate the Town as a refuge for native and migratory birds.

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. Amending Chapter 42 and creating Section 42-13 of the Town Code. The Town Council hereby amends the title to Chapter 42 to read “Trees and Birds” and establishes Section 42-13 titled “Bird Sanctuary” as described 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 All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.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 Councilmember Fernandez who moved its adoption on first reading. The motion was seconded by Councilmember Garcia and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	Absent
Vice Mayor Carlos O. Alvarez	Absent
Councilmember Luis E. Collazo	Yes
Councilmember Josh Dieguez	Yes
Councilmember Tony Fernandez	Yes
Councilmember Ray Garcia	Yes
Councilmember Marilyn Ruano	Yes

Passed on first reading this 6th day of June, 2023

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~~.

SECOND READING

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

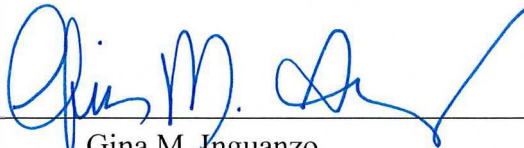
Mayor Manny Cid	Yes
Vice Mayor Carlos O. Alvarez	Yes
Councilmember Luis E. Collazo	Yes
Councilmember Josh Dieguez	Yes
Councilmember Tony Fernandez	No
Councilmember Ray Garcia	Yes
Councilmember Marilyn Ruano	Yes

Passed and adopted on second reading this 11th of July, 2023.



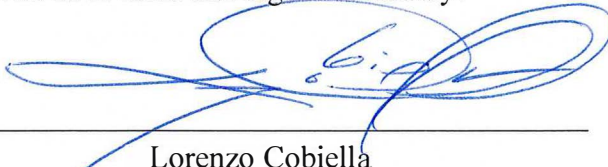
Manny Cid
MAYOR

Attest:



Gina M. Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Lorenzo Cobiella
Gastesi, Lopez and Mestre, PLLC
DEPUTY TOWN ATTORNEY

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EXHIBIT A

CHAPTER 42 TREES AND BIRDS

42-13 Bird Sanctuary:

- (a) The Town of Miami Lakes shall be known and referred to as a bird refuge for the protection of all species of birds not specifically excluded by this chapter, or defined as a nuisance by Miami-Dade County
- (b) The entire area within the corporate limits of the Town of Miami Lakes is hereby designated as a Bird Refuge as defined herein
- (c) “Bird” shall be defined as a warm blooded, egg laying, vertebrate of the class Aves, distinguished by the possession of feathers, wings, a beak and typically being able to fly.
- (d) “Refuge” shall be defined as a geographically designated area where there is a high concentration of Bird populations, such as along migration routes, that provides safe place for Birds to rest and feed during their journeys.
- (e) These species include non-Muscovy Ducks, and all species of Birds, including all migratory Birds, which are native to the United States and its territories, regardless if the Bird maintains a natural habitat in the Town; and
- (f) No person shall molest, harm, frighten, kill, net, trap, snare, chase, shoot, throw or propel by any means missiles at any Birds roaming free in the Town nor shall any person remove or molest the nest or eggs of a Bird.
- (g) Subsections (e) and (f) is not intended to affect:
 - a. Individuals or entities that humanly capture and transport Muscovy Ducks and Fowl, and provide notice to the Town of the location where the Muscovy Duck(s) and, or Fowl will be transported to;
 - b. The removal and live transport by Miami-Dade Animal Control of ducks, chickens, or other fowl from any Town Park or right-of way;
 - c. The rules and regulations of the Florida Wildlife and Conservation Commission;
 - d. Good Faith actions to administer care or medical treatment to a sick or injured Bird(s).
 - e. Actions taken by the Town of Miami Lakes to humanely remove and, or transfer a Bird nesting area that interferes and adversely affects Town infrastructure and, or the life, health, and safety of Town residents as permitted by Miami Dade County Code and FWC guidelines.

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~~.

- (h) Landowners must provide written permission for any trapper to enter upon private property. Trappers must carry insurance and show proof of insurance to the landowner prior to entry on private property.
- (i) As provided in 16 USC 703-712, the Migratory Bird Treaty Act, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive shipment, transportation, carriage, or export, any migratory bird, any part, nest or eggs of any such bird or an part, nest or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916(39 Stat. 1702); the United States and United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936; the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction and their environments concluded March 4, 1972 and the convention between the United States and Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.
- (j) Any person, firm or entity knowingly violating any provision of this section shall be subject to a fine not exceeding \$500.00 for each and every offense.