

ORDINANCE NO. 02-15

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR REZONING WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN; PROVIDING FOR EXEMPTIONS AND WAIVERS; PROVIDING FOR A TERM; PROVIDING FOR VESTED RIGHTS; PROVIDING FOR EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR THE REPEAL OF THE MORATORIA PROVISIONS OF SECTIONS 33-319 THROUGH 33-324 OF THE TOWN CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town of Miami Lakes was incorporated on December 5, 2000; and

WHEREAS, pursuant to Section 8.3 of the Charter of the Town of Miami Lakes (the "Town"), the provisions of the Comprehensive Plan of Miami-Dade County are considered the interim Comprehensive Plan of the Town (the "Comprehensive Plan"); and

WHEREAS, Section 163.3167, Florida Statutes, entitled the Local Government Comprehensive Planing and Land Development Regulations Act (the "Growth Management Act") requires that the Town adopt a comprehensive plan within three years of the date of incorporation; and

WHEREAS, the Town Council is presently working through its consultants and staff on the preparation of a comprehensive plan for the Town (the "Town Plan") in accordance with the Growth Management Act which, upon implementation, shall serve to guide, control and determine land use, development and growth, so that the public health, welfare and safety is protected and the aesthetic and visual qualities of the Town are further enhanced and are protected from impairment by incompatible uses; and

(Coding: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.)

WHEREAS, the Town Council has determined that there is a substantial risk that during the pendency of the adoption of the Town Plan, interim incompatible, irreparable and irreversible growth and development is likely to occur and such development may cause public services to fall below acceptable levels; and

WHEREAS, the Town wishes to avoid such interim growth and development and to maintain the status quo by adopting this limited, temporary moratorium on the acceptance of applications for rezoning within the municipal boundaries of the Town, so that once the Town Plan is prepared and implemented it will be fully effective in accomplishing its purposes.

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

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

**Section 2.** **Moratorium Imposed.** During the time that this Ordinance is in effect as specified in Section 9 below, there shall be a moratorium on the acceptance of applications for rezoning within the municipal boundaries of the Town.

**Section 3.** **Exemptions.** This moratorium shall apply solely to the acceptance of applications for a rezoning filed after January 30, 2002. Except for applications for rezoning, applications for Development Orders as defined in Section 163.3164, Florida Statutes, shall be exempt from this moratorium. An application for a rezoning initiated by the Town Council for the sole purpose of accomplishing a rezoning to a Governmental Property (GP) designation shall not be subject to this moratorium.

**Section 4.**     **Waivers.** The Town Council, after a public hearing, may grant a waiver to the moratorium provided above and authorize the acceptance of an application requesting a rezoning, where the Town Council determines, based upon substantial competent evidence, that the rezoning requested by the waiver application meets the standards prescribed in this section. The following review process and standards shall apply to all waiver requests:

(a)     Review Process:

1.     An application for a waiver shall be submitted to the Town on a form approved by the Town Manager or his designee. A fee of \$2000.00 shall accompany the application for a waiver.
2.     The application shall include a statement by the applicant of the facts that show that the standard for a waiver has been met.
3.     The application shall include such additional material in support of the application as determined by the Town Manager to be appropriate.
4.     The Town Manager and staff shall review the application to consider if the application is complete.
5.     The Town Manager shall forward a recommendation to the Town Council for consideration.
6.     The Town Council shall hold a public hearing to review the request.
7.     After the public hearing, the Town Council shall approve, deny or approve with conditions the waiver request.

- (b) Standard of Review for all Applications for Waivers. An application for a waiver to this Ordinance shall be reviewed in accordance with the following standard:
1. The proposed rezoning shall not detrimentally affect the outcome and implementation of the comprehensive planning process.
  2. In considering whether the applicant meets the standard for a waiver to this Ordinance, the Town Council may consider the following factors:
    - a. Does the proposed ~~non-residential~~ development further the orderly development of the Town?
    - b. Is the proposed rezoning compatible with the surrounding land uses and zoning district(s), and does it enhance the community character of the immediate vicinity of the property sought to be developed?
    - c. Is there a compelling public purpose or need for the proposed rezoning, such that the requested waiver should be granted prior to the effective date of the Town's Plan?
  3. In granting a waiver, the Town Council may prescribe appropriate conditions and safeguards as are necessary to protect the public interest and ensure harmony with the purpose and intent of this Ordinance. If an applicant fails to meet such conditions, the waiver may be revoked by the Town ~~Manager~~ Council upon providing the applicant with written notice of the revocation.

4. The resolution granting a waiver to this Ordinance shall include a time period established by the Council, within which an application for a rezoning shall be filed. The waiver shall automatically expire if the application for rezoning is not filed within the time frame specified in the resolution.

**Section 5. Vested Rights.** Nothing in this ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner can demonstrate that he/she has vested rights to development that would otherwise be prohibited by this Ordinance. The Town Council may make a determination of vested rights and authorize the acceptance of an application requesting a rezoning where the Town Council determines, based upon substantial competent evidence, that the rezoning requested by the vested rights application meets the standards prescribed in this section. The following review process and standards shall apply to all requests for a vested right determination:

(a) Review Process:

1. An application for a vested rights determination shall be submitted to the Town on a form approved by the Town Manager or his designee. A fee of \$2000.00 shall accompany the application.
2. The application shall include a statement by the applicant of the facts that show that the standard for vested rights has been met.
3. The application shall include such additional material in support of the application as determined by the Town Manager to be appropriate.

4. The Town Manager and staff shall review the application to consider if the application is complete.
  5. The Town Manager shall forward a recommendation to the Town Council for consideration.
  6. The Town Council shall hold a quasi-judicial proceeding to review the request.
  7. After the quasi-judicial proceeding, the Town Council shall approve or deny the vested rights request.
- (b) Standard of Review for all Applications for Vested Rights Determinations. An application for a vested rights determination under this Ordinance shall be approved if each of the following criteria are met:
- (1) A governmental act of development approval was obtained prior to the effective date of this Ordinance; and
  - (2) Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
  - (3) That it would be highly inequitable to deny the property owner the right to complete the previously approved development.
- (c) The resolution granting a vested rights determination under this Ordinance shall include a time period established by the Council within which an application for a rezoning shall be filed. The vested rights determination shall automatically expire if the application for rezoning is not filed within the time frame specified in the resolution.

**Section 6.** **Appeals.** Appeals from final decisions by the Town Council under Section 4 or Section 5 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipal agencies.

**Section 7.** **Exhaustion of Administrative Remedies.** No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court unless he or she has first exhausted the administrative remedies provided in this Ordinance.

**Section 8.** **Repeal of Town Code Moratoria Provisions.** The provisions of Section 33-319 through 33-324 of the Town Code<sup>1</sup> pertaining to building and zoning moratoria are repealed.

**Section 9.** **Term.** The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the Town Council, shall automatically dissolve 180 days following the date of adoption of this ordinance.

**Section 10.** **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 11. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on first reading. The motion was seconded by **Councilmember Simon** and upon being put to a vote, the vote was as follows: **5-1-0**

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Absent
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	No
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this **12<sup>th</sup>** day of **February**, 2002.

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on second reading. The motion was seconded by **Councilmember Pizzi**, and upon being put to a vote, the vote was as follows: **4-1-0**

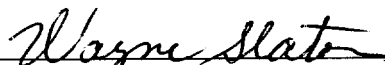
Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Absent
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	No
Vice Mayor Roberto Alonso	Absent
Mayor Wayne Slaton	Yes

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<sup>1</sup> / Section 8.3 of the Town Charter adopts the applicable provisions of the Miami-Dade County Code as the Town's Code.



PASSED AND ADOPTED on second reading this 12<sup>th</sup> day of March, 2002.

  
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Wayne Staton, Mayor

ATTEST:

  
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BEATRIS M. ARGUELLES  
TOWN CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ACTING TOWN ATTORNEY

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