

ORDINANCE NO. 07-95

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, DELETING CHAPTER 33, SECTION 33-35.1 HURRICANE RELIEF REGARDING EXISTING AND NONCONFORMING RESIDENTIAL USES AND CREATING DIVISION 4.16 HURRICANE RELIEF REGARDING EXISTING AND NONCONFORMING RESIDENTIAL STRUCTURES IN THE RU AND RU-TH DISTRICTS; ESTABLISHING PROCEDURES TO BE IMPLEMENTED TO BRING STRUCTURES WHICH HAVE NOT RECEIVED PERMITS OR CERTIFICATES OF COMPLETION INTO COMPLIANCE WITH THE CODE; PROVIDING SUCH STRUCTURES COMPLY WITH THE FLORIDA BUILDING CODE CURRENTLY IN EFFECT, SUBJECT TO THE PROCEDURE SET FORTH IN ORDINANCE; PROVIDING TIME LIMITATIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town"), upon incorporation, adopted Chapter 33 "Zoning" of the Code of Miami-Dade County to serve as the Town's Land Development Code; and

WHEREAS, the Town desires to update and streamline the existing Town Land Development Code and to tailor it to the Town's particular needs and community visions; and

WHEREAS, the Town has undertaken a comprehensive rewriting of the Land Development Code and, after having conducted workshops and public hearings regarding the Code, is replacing Chapter 33, Section 33.35.1 of the Miami-Dade County Code in its entirety with the Hurricane Relief Ordinance, attached as Exhibit "A"; and

WHEREAS, after conducting a properly noticed public hearing, the Town Local Planning Agency has recommended that the referenced regulations are consistent with the Town Comprehensive Plan; and

WHEREAS, after conducting a properly noticed hearing and considering the recommendations of the public, the Local Planning Agency and the Town staff, the Town Council wishes to adopt the regulations for inclusion in the Land Development Code; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on June 19, 2007, and recommended its adoption; and

WHEREAS, the Town Council has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with the Town's comprehensive plan; and

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

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

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

Section 2. Adoption of the Hurricane Relief Ordinance. The Town Council hereby adopts revised the Hurricane Relief Ordinance, attached as Exhibit "A"¹ hereto and incorporated herein.

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. Enforcement of the Code. Notwithstanding the provisions of this Ordinance, the Town may at all times continue enforcement of the Town code through any authorized code compliance methods specified in Chapter 8CC of the Town Code or other authorized means, including but not limited to, issuance of and prosecution of a notice of violation or the issuance of a citation. This section shall not be construed or interpreted to serve as a defense against any enforcement action brought by the Town based on non-compliance with the current requirements of the Town Code.

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 Code. It is the intention of the Town Council, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Miami Lakes, Florida, Code of Ordinances; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Michael Pizzi, who

moved its adoption on first reading. The motion was seconded by Roberto Alonso and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	yes
Vice Mayor Mary Collins	absent
Councilmember Roberto Alonso	yes
Councilmember Robert Meador	yes
Councilmember Michael Pizzi	yes
Councilmember Richard Pulido	yes
Councilmember Nancy Simon	yes

PASSED AND ADOPTED on first reading this 19th day of June, 2007.

The foregoing Ordinance was offered by Councilmember Michael Pizzi, who moved its adoption on second reading. The motion was seconded by Councilmember Richard Pulido, and upon being put to a vote, the vote was as follows:


Mayor Wayne Slaton	yes
Vice Mayor Mary Collins	yes
Councilmember Roberto Alonso	yes
Councilmember Robert Meador	yes
Councilmember Michael Pizzi	yes
Councilmember Richard Pulido	yes
Councilmember Nancy Simon	absent

PASSED AND ADOPTED on second reading this 21st day of August, 2007.



WAYNE SLATON
MAYOR

ATTEST:



DEBRA EASTMAN, MMC TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



WEISS, SEROTA, HELFMAN, PASTORIZA, COLE & BONISKE, P.L.
TOWN ATTORNEY

Exhibit "A"

Division 4.16 HURRICANE RELIEF REGARDING EXISTING AND NONCONFORMING RESIDENTIAL STRUCTURES IN THE RU AND RU-TH DISTRICTS

- A. Definitions. For the purposes of this Division, the following terms shall have the designated meanings.
- (a) Legal Non-Conforming Fence or Awning, shall mean a fence, and as defined in Division 4.3.D.17 an awning or patio covering that obtained and closed all proper permits for building and zoning.
 - (b) Illegal Non-Conforming Fence or Awning, shall mean a fence, and as defined in Division 4.3.D.17 an awning, or patio covering, which prior to December 5, 2000, was:
 - 1) built without a building permit or zoning permit and is a Legally Permissible Fence or Awning as defined herein ; or
 - 2) issued a building or zoning permit but the permit expired without an approved final inspection, and which was otherwise in compliance with all other provisions of the Miami-Dade County zoning code in effect on December 5, 2000, but no longer conforms to the Town code.
 - (c) "Hurricane" shall mean Hurricane Wilma or any storm that had an impact on the Town of Miami Lakes for which the Town Council has authorized by Resolution that the provisions of this Ordinance shall apply.
 - (d) "Hurricane Damage" shall mean damage caused by Hurricane Wilma or any other storm designated as a Hurricane by the Town Council.
 - (e) "Legally Permissible Fence" shall mean a fence either belonging to a single family in the RU District or belonging to a townhouse in the RU-TH District that was permissible under the Town land development regulations in effect on December 5, 2000.
 - (f) "Legally Permissible Awning" shall mean an awning or patio covering as defined in Division 4.3.D.17 belonging to a townhouse that was permissible under the Town land development regulations in effect on December 5, 2000.
 - (g) "RU District" shall mean all single and two-family residential districts, including RU-1, RU-1A, RU-1B, RU-1Z and RU-2.

B. Providing for Exemption from 33-35(c) of the Code and Providing Procedures for Legal and Illegal Non-Conforming Fences in the RU Districts and Fences and Awnings in RU-TH District to Obtain Permits or Final Inspection After Hurricane Damage.

- (a) Applicability. This Division shall apply to repairs or replacement of:
- 1) Legal Non-Conforming Fences and Awnings in the RU an RU-TH District; and
 - 2) Illegal Non-Conforming Fences in the RU Districts built before December 5, 2000 and Illegal Non-Conforming Fences and Awnings in the RU-TH District built before December 5, 2000.
- (b) Time for application for building permit. Applications for building permits hereunder shall be made no later than one (1) year after the effective date of the Town Council Resolution authorizing application of this Division to the Hurricane Damage. However, persons affected by Hurricane Damage from Hurricane Wilma shall have one (1) year from the effective date of passage of this Ordinance to apply for a building permit.
- (c) The permit application shall comply with all requirements of the Florida Building Code (FBC) and the owner shall furnish to the Zoning Official and Building Official the following:
- 1) Evidence satisfactory to the Zoning Official that the structure in question existed prior to December 5, 2000, and sustained damage due to a Hurricane by providing proof such as but not limited to aerial photographs, signed and sealed surveys, photographs, insurance claim applications, and affidavits from previous owners or neighboring property owners.
 - 2) Evidence satisfactory to the Zoning Official that the structure in question was a Legal Non-Conforming Fence or Awning as defined herein.
 - 3) Evidence satisfactory to the Building Official that the structure or repair to or replacement of the structure satisfies the requirements of the Building Code and the Florida Fire Prevention Code in effect at the time of the current building permit application. In no instance will a Non-conforming structure be allowed to be rebuilt, repaired or replaced without complying with the requirements of the Building Code and the Florida Fire Prevention Code in effect at the time of the current building permit application.

- (d) All permit applications. All repairs and/or replacement applications must secure a proper building permit and final approved inspection. The permit must be issued within six months of the application.
- (e) Fees. The Building Official shall calculate a fee for processing applications and to conduct any inspections done pursuant to this Division in accordance with the approved Building Department Fee Schedule.
- (f) Notice. The Town Manager or designee shall notify residents that previously applied for a variance for which this Division provides relief. The notice shall state the structures which may take advantage of the provisions of this Division; set forth the requirements of this Division, the time limits allowed, and the possible effects of the failure to comply with the Division provisions and the Florida Building Code. A public notice will be printed in a newspaper of general circulation advising residents of the relief provided by this Division due to future Hurricane Damage.
- (g) The provisions of this Division shall not be interpreted to supersede the following requirements, which must be complied with by all structures in question at all times:
 - (1) Zoning requirements on December 5, 2000.
 - (2) Requirements of the Florida Building Code or federal or state laws or other preemptive laws, codes or standards.