

ORDINANCE NO. 09-120

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ARTICLE 9, DIVISION 9.4 SIGNS ADDITIONAL REQUIREMENTS OF THE TOWN'S LAND DEVELOPMENT CODE TO MODIFY FLAG AND FLAGPOLE STANDARDS FOR INDUSTRIAL AND BUSINESS ZONED PROPERTIES WHEN ABUTTING THE PALMETTO FRONTAGE ROAD EXPRESSWAY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") adopted Chapter 33 of the Miami-Dade County Code (2000), entitled "Zoning" as the Town of Miami Lakes Land Development Code ("the Town LDC") by Section 8.3 of the Town Charter; and

WHEREAS, subsequent to its adoption, the Town LDC has been amended by various ordinances adopted by the Town of Miami Lakes (the "LDC Ordinances") to better address and serve the needs of the Town; and

WHEREAS, on May 22, 2007, the Town adopted Ordinance 07-94, providing regulations for signage throughout the Town; and

WHEREAS, the limited access from the Palmetto Expressway (SR 826) Frontage Road combined with travel speeds on the Palmetto Expressway (SR 826) and elevational differences between the Palmetto Expressway and abutting properties restrict the visibility of passing motorists looking for commercial and industrial developments along the frontage road creating challenges for passing traffic attempting to timely exit the Palmetto Expressway and access the abutting industrial and business zoned properties; and

WHEREAS, the Town's code presently allows for flagpoles in industrial and business zoned properties to be constructed as tall as fifty (50) feet as follows: fifteen

(15') feet for single story buildings and ten (10') feet for each additional story up to a maximum of fifty (50') feet in height; and

WHEREAS, the Town recognizes that certain types of signage in close proximity to residential zoning districts creates negative impacts on those residential areas and that these impacts should be addressed by appropriate regulation; and

WHEREAS, in order to provide appropriate regulations to address the visibility challenges for industrial and business properties located along the Palmetto Expressway (SR 826) Frontage Road, the Town Council desires to amend the LDC; and

WHEREAS, the Town seeks to modify standards to allow pre-existing flagpoles located on industrial and business zoned properties fronting on the Palmetto Expressway (SR 826) Frontage Road to be registered and be permitted to remain on the property; and

WHEREAS, the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program; and

WHEREAS, the proposed amendment is in conformance with all applicable requirements of the Town's Code of Ordinances, including the LDC; and

WHEREAS, the proposed amendment will not result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed neighboring property land use; and

WHEREAS, the proposed amendment will not adversely affect property values or adversely affect the general welfare; and

WHEREAS, the proposed amendment will result in an orderly and compatible land use pattern; and

WHEREAS, the proposed amendment will not be in conflict with the public interest, and are in harmony with the purpose and intent of the Comprehensive Plan; and

WHEREAS, the proposed amendment meets the requirements of Chapter 163.3161 et seq., Florida Statutes; and

WHEREAS, the Local Planning Agency reviewed this request at its November 10, 2009 meeting and voted to recommend approval with modifications; and

WHEREAS, the Town Council has reviewed this Ordinance at a duly noticed hearing, considered the recommendations of the Local Planning Agency, the Town staff, and comments from the public, and determined that it is consistent with all policies contained in 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. Amendments to the Town Land Development Code. Article 9, Division 9.4, Signs – Additional Requirements, of the Town Code is hereby amended as follows¹:

ARTICLE 9

* * *

¹ Additions to the text are shown in underline and deletions from the text are shown in ~~striketrough~~. Words that are shown in ~~striketrough and underline~~ were additions at first reading which have been deleted prior to adoption pursuant to the direction of the LPA and Council on first reading.

Division 9.4 - Signs – Additional Requirements

(d) Miscellaneous Type Signs

6. Flagpoles:

- (a). The flags must be flown on a regular daily basis or the poles must be removed.
- (b). No more than three (3) flagpoles will be allowed per non-residential site, with corporate logos permitted, and one (1) flagpole per residential site. A maximum of two flags shall be allowed per flag pole. If a flag is flown in conjunction with the United States flag, the United States flag shall be equal to or larger than any additional flag.

References to flagpole height in this division refer to vertical flagpoles. References to the number of flags and flag poles and flag dimensions refer to both vertical flagpoles and mast arm flagpoles (staves extending at an angle from a building). On United States and Florida Holidays, there shall be no maximum flag size or number or other limitation on manner of display for U.S., State or Town of Miami Lakes flags.

- (c). Height will be as follows: one story building will be allowed fifteen (15) feet height maximum, with an additional ten (10) feet allowed for each additional floor up to a maximum of fifty (50) feet in height. Except as otherwise provided herein flags shall be displayed on flag poles. Flag poles shall not be placed on top of buildings or light poles. Flag poles in residential districts shall not exceed twenty (20) feet and shall be permitted holiday flags in conjunction with holiday decorations. A vertical flag pole must be setback from all property boundaries a distance that is at least equal to the height of the pole.

~~1. IU-C and BU zoned properties fronting on the Palmetto Expressway (SR 826) Frontage Road shall be permitted to install flagpoles as tall as sixty (60') feet in height regardless of the height of the principal building subject to the following conditions:~~

- ~~a) The installation of a flagpole must be incidental to an established primary permitted industrial or business use.~~

- ~~b) No flagpoles may be installed on vacant or undeveloped property.~~
- ~~c) The maximum number and spacing of flagpoles shall be equal to (1) flagpole per three hundred (300') feet of frontage on the Palmetto Expressway (SR 826) Frontage Road, except that under no circumstances shall there be more than three (3) flagpoles per site. No other flagpoles shall be permitted.~~
- ~~d) No flagpole greater than 25 feet in height shall be erected within two hundred and fifty (250') feet of any residentially zoned property.~~
- ~~e) Flags shall not exceed a maximum of two hundred and fifty (250') square feet and shall have a hoist dimension to fly length ratio between 1:1 and 1:1.9 (hoist:fly).~~

(d). The flag and flag pole or other permanent mounting shall be maintained in good repair. Flag poles with broken halyards shall not be used, and torn or frayed flags shall not be displayed. Giant oversized flags of any type will not be allowed. ~~Except as indicated in the preceding section~~ The maximum dimensions of any flag shall be proportional to the flag pole height. The hoist side of the flag shall not exceed 25% of the vertical height of the pole. In addition flags are subject to the following dimensional limitations:

Pole Height: Up to 20 feet with Maximum Flag Size of 27 total square feet

Pole Height: 21 to 30 feet with Maximum Flag Size of 50 total square feet

Pole Height: 31 to 40 feet with Maximum Flag Size of 75 total square feet

Pole Height: 31 to 50 feet with Maximum Flag Size of 100 total square feet.

Flagpoles greater than fifty (50') in height established prior to December 1, 2000 located in a Business (BU-1A and BU-2) and/or Industrial (IU-C) District on properties adjacent to the Palmetto Frontage Road which have registered with the Town in accordance with the following section shall be permitted to have flags which do not exceed a maximum of two hundred and fifty (250') square feet and shall have a hoist dimension to fly length ratio between 1:1.25 and 1:1.9 (hoist:fly) or such other size as specifically indicated on prior permits issued for the particular flag.

(e) Notwithstanding any other provision of the Code, all flagpoles in existence prior to December 1, 2000 located in a Business (BU-1A and BU-2) and/or Industrial (IU-C) District on properties adjacent to the Palmetto Frontage Road shall be deemed valid pre-existing uses, subject to the following:

- (1) Within ninety (90) days of the enactment of this provision, any property owner who claims a pre-existing flagpole constructed prior to December 1, 2000 shall file with the Town an affidavit indicating the pre-existence of the flagpole(s) with demonstrative evidence in the form of either photographs, aerials, permits, site plan approval or other documentation necessary to support the affidavit. Pre-existing flagpoles registered under this Section shall not be utilized for flag(s) of a commercial nature or as an advertising device or for any type of banner, pennant, or streamer.
- (2) Nothing contained herein shall be deemed to grant and/or convey any rights, privileges, entitlements or other benefits to other properties located within the zoning districts identified and mentioned in this section.
- (3) In the event that any flagpole that is deemed a valid pre-existing use pursuant to this section is damaged by any cause including, but not limited to the voluntary removal of the flagpole structure, and the cost of repairing or replacing the flagpole is more than fifty (50%) of the replacement cost, then the valid pre-existing status of such flagpole and flag shall be automatically revoked and repairs or replacements shall be made such that the new flagpole meets the requirements of this article.

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 Land Development 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 LDC 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. This Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember Nancy Simon, who moved its adoption on first reading. The motion was seconded by George Lopez and upon being put to a vote, the vote was as follows:

| | |
|------------------------------|--------|
| Mayor Michael Pizzi | Yes |
| Vice-Mayor Nick Perdomo | Yes |
| Councilmember Mary Collins | Yes |
| Councilmember George Lopez | Yes |
| Councilmember Robert Meador | Yes |
| Councilmember Richard Pulido | Absent |
| Councilmember Nancy Simon | Yes |

PASSED AND ADOPTED on first reading this 10th day of November, 2009.

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

| | |
|------------------------------|---------------|
| Mayor Michael Pizzi | <u>Yes</u> |
| Vice-Mayor Nick Perdomo | <u>Yes</u> |
| Councilmember Mary Collins | <u>Absent</u> |
| Councilmember George Lopez | <u>Yes</u> |
| Councilmember Robert Meador | <u>Yes</u> |
| Councilmember Richard Pulido | <u>Yes</u> |
| Councilmember Nancy Simon | <u>Yes</u> |

PASSED AND ADOPTED on second reading this 8th day of December, 2009.



MICHAEL PIZZI
MAYOR

ATTEST:



MARJORIE TEJEDA, 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