

ORDINANCE NO. 14-168

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ARTICLE II, SECTION 13-203, PLANNING AND ZONING BOARD, AMENDING ARTICLE III, SECTION 13-301, GENERALLY, AND SECTION 13-310, APPEALS, AMENDING ARTICLE XI, SECTION 13-2102, APPLICATION FEES FOR PLANNING AND ZONING APPROVALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) upon incorporation 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, Objective 1.2 of the Town’s Comprehensive Plan states that the Town shall maintain an effective and efficient Land Development Code (LDC); 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, the Town Council desires to provide a process by which an affected party can request that the Council review decisions of the Planning and Zoning Board; and

WHEREAS, the Town Council held a workshop on January 7, 2014 to discuss the potential appeals process; and

WHEREAS, the Town’s Planning and Zoning Board, as the Local Planning Agency (LPA), will review the proposed amendments at a duly advertised Public Hearing on March 18, 2014; and

WHEREAS, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency (LPA) and Town staff, the Town Council wishes to adopt the amendments to the Town LDC attached hereto as Exhibit A; and

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

WHEREAS, the proposed amendments will not be in conflict with the public interest, and are consistent and in harmony with the purpose and intent of the 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. The Town Council hereby adopts the amendments to Article II, Article III and Article XI of the Town LDC, which are attached as Exhibit A hereto and are 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. 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.

The foregoing Ordinance was offered by Councilmember Tim Daubert, who moved its adoption on first reading. The motion was seconded by Councilmember Nelson Rodriguez and upon being put to a vote, the vote was as follows:

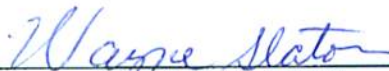
Mayor Wayne Slaton	absent
Vice-Mayor Manny Cid	yes
Councilmember Tim Daubert	yes
Councilmember Tony Lama	yes
Councilmember Frank Mingo	yes
Councilmember Ceasar Mestre	yes
Councilmember Nelson Rodriguez	yes

PASSED AND ADOPTED on first reading this 11th day of March, 2014.

The foregoing Ordinance was offered by Vice-Mayor Manny Cid, who moved its adoption on second reading. The motion was seconded by Councilmember Tim Daubert and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	Yes
Vice-Mayor Manny Cid	Yes
Councilmember Tim Daubert	Yes
Councilmember Tony Lama	Yes
Councilmember Frank Mingo	Yes
Councilmember Ceasar Mestre	Yes
Councilmember Nelson Rodriguez	Yes

PASSED AND ADOPTED on second reading this 8th day of April, 2014.



WAYNE SLATON
MAYOR

ATTEST:



MARJORIE TEJEDA
TOWN CLERK

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



RAUL GASTESI
TOWN ATTORNEY

EXHIBIT A

Chapter 13 – Land Development Code

Article II. – Decision Making and Administrative Bodies.

Sec. 13-203. Planning and Zoning Board.

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- (i) *Appeal of Planning and Zoning Board actions.* Appeals of P&Z Board decisions shall be processed in accordance with Section 13-310, pertaining to appeals, except as specifically provided in this Subsection (i). A P&Z Board final development order may be appealed in either of the following manners:
- (1) By the filing of an appeal or writ of certiorari in the appropriate court as prescribed in the Florida Rules of Appellate Procedure. A development order is final, or rendered, for purposes of filing an appeal or writ of certiorari to the court only upon the order's execution by the Town Clerk; or
 - (2) An applicant or other affected party may request that the Town Council reconsider any decision by the Planning and Zoning Board on a variance application regarding (i) construction of a new single family home on a property in which a single family home is a use by right and (ii) properties that include at least one non-residential use as a primary (and not accessory) use, provided that the eligibility criteria in Subsection (3) below are met, by submitting a letter to the Administrative Official within 10 days of the Planning and Zoning Board decision hearing date. If the Administrative Official determines that the criteria in Subsection (3) have been met, the decision of the Planning and Zoning Board shall be set aside in its entirety, and the Town Council shall conduct a *de novo* quasi-judicial public hearing on the entire variance application. Public notice shall be provided in the same manner as provided for the original hearing. The rehearing shall be held at a special Council meeting. The party requesting the rehearing shall be responsible for additional costs associated with the rehearing, including but not limited to staff time, public notice and consultants hired by the Town, and shall submit a cost recovery deposit per the requirements of Section 13-2102 prior to scheduling and noticing the rehearing. Failure to timely submit the required cost recovery deposit shall result in the cancellation of the rehearing and the loss of right to the appeal provisions provided by this Subsection (2). Any appeal of the decision of the Town Council upon rehearing shall be in accordance with Section 13-310, pertaining to appeals.
 - (3) The following criteria shall be utilized to determine whether an applicant or other affected party may request a rehearing by the Town Council of a variance decision of the Planning and Zoning Board, in accordance with Subsection (2), above:
 - a. For proposed construction of a new single family home on a property in which a single family home is a use by right, all of the following must be true:
 1. The regulation(s) from which a variance is sought would have the effect of materially preventing the primary structure from being constructed as designed.

2. Of those Planning and Zoning Board members voting on the variance application, there was at least one dissenting vote, provided that an abstention is not considered a dissenting vote.
 3. The Planning and Zoning Board did not vote to uphold the recommendation of the Administrative Official in its entirety.
 4. If the variance was sought, in whole or in part, to legalize a code violation for which a warning or citation has been issued, then neither the Applicant for the variance, nor the property owner, may appeal using the provisions of Subsection (2). However, this shall not impact the right of other affected parties to appeal the decision using the provisions of Subsection (2).
 5. Neither the Applicant for the variance, nor the property owner, may appeal using the provisions of Subsection (2) if there are any other known code violations on the property that is the subject of the variance request. However, this shall not impact the right of other affected parties to appeal the decision using the provisions of Subsection (2).
- b. For properties that include at least one non-residential use as a primary (and not accessory) use, all of the following must be true:
1. The regulation(s) from which a variance is sought would have the effect of legally preventing a business from opening or continuing to operate.
 2. Of those Planning and Zoning Board members voting on the variance application, there was at least one dissenting vote, provided that an abstention is not considered a dissenting vote.
 3. The Planning and Zoning Board did not vote to uphold the recommendation of the Administrative Official in its entirety.
 4. If the variance was sought, in whole or in part, to legalize a code violation for which a warning or citation has been issued, then neither the Applicant for the variance, nor the property owner, may appeal using the provisions of Subsection (2). However, this shall not impact the right of other affected parties to appeal the decision using the provisions of Subsection (2).
 5. Neither the Applicant for the variance, nor the property owner, may appeal using the provisions of Subsection (2) if there are any other known code violations on the property that is the subject of the variance request. However, this shall not impact the right of other affected parties to appeal the decision using the provisions of Subsection (2).
- c. In all cases not meeting the criteria above, any appeal of a Planning and Zoning Board decision on a variance application shall be in accordance with the provisions of Subsection (1), above.

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Article III. – Development Approval Procedures.

Sec. 13-301. Generally.

* * *

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

* * *

Affected party means the applicant or respondent or any adjacent property owner or resident that which may be directly impacted by a particular decision of the Town.

* * *

Sec. 13-310. Appeals.

(a) *Exhaustion of remedies required; rendition of development orders.* No person affected by any development order, or decision of the Administrative Official, the Local Planning Agency, the Town Council or other Town Board, pursuant to this chapter may apply to the court for relief unless that person has first exhausted the remedies provided for in this chapter. It is the intention of the Town Council that no application shall be made to the court for relief except from a development order reflecting final action of the Town Council or designated Town Board. Development orders of the Town Council or designated Town Board shall be reviewed by the filing of an appeal or writ of certiorari in the appropriate court as prescribed in the Florida Rules of Appellate Procedure, except where decisions by the Planning and Zoning Board may be appealed to the Town Council consistent with Subsection 13-203(i). A development order is final, or rendered, for purposes of filing an appeal or writ of certiorari to the court only upon the order's execution by the Town Clerk.

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Article XI. – Fees.

Sec. 13-2102. Application fees for planning and zoning approvals.

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Application fees for planning and zoning approvals shall be as follows:

Development	Approval	Application Fee	Deposit
		* * *	

Variations			
<i>Variance application fees cover up to three variations</i>		\$50.00 for each additional variance after the first three	
	<i>Administrative</i>	\$350.00 plus notification and recording costs	\$650.00*
	<i>Public hearing</i>		
	One single-family, two-family, or townhouse unit	\$750.00 plus notification and recording costs	\$650.00*
	Multifamily	\$1,100.00 plus notification and recording costs	\$650.00*
	Commercial and industrial	\$1,700.00 plus notification and recording costs	\$650.00*
	Signs	\$1,100.00 plus notification and recording costs	\$650.00*
	<u>Town Council rehearing of P&Z Board Decision</u>	<u>No application fee. Cost Recovery only. See deposit in right column.</u>	<u>\$650.00</u>
	All others	\$1,100.00 plus notification and recording costs	\$650.00*

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