ORDINANCE NO. 14-171

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ARTICLE V, SECTION 13-1509. FENCES, WALLS AND GATES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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, the Town Council finds that where a fence or wall is parallel to a public right-of-way or private street, the method currently prescribed in the Land Development Code to determine the height of a fence or wall results in a maximum height that does not afford some property owners a reasonable degree of privacy; and

WHEREAS, the Town's Planning and Zoning Board, as the Local Planning Agency (LPA), reviewed the amendments at a duly advertised Public Hearing on June 17, 2014, and voted to recommend approval; 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 RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

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

Section 2. **Adoption.** The Town Council hereby adopts the amendment to Article V of the Town LDC, which is attached hereto as Exhibit A and are incorporated herein[1].

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Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.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.** This Ordinance shall become effective immediately upon its adoption on second reading.

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[1] Additions to the text are shown in underline and deletions from the text are shown in ~~strikethrough~~.

FIRST READING

The foregoing ordinance was offered by Councilmember Ceasar Mestre 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	Yes
Vice Mayor Manny Cid	Yes
Councilmember Tim Daubert	Absent
Councilmember Tony Lama	Yes
Councilmember Ceasar Mestre	Yes
Councilmember Frank Mingo	Yes
Councilmember Nelson Rodriguez	Yes

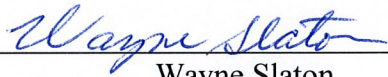Passed and adopted on first reading this 10th day of June, 2014.

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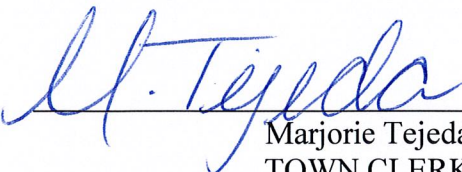
SECOND READING

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

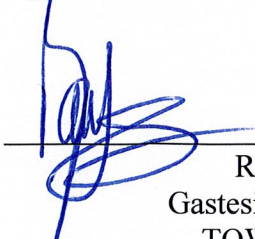|	
Mayor Wayne Slaton	Yes
Vice Mayor Manny Cid	Yes
Councilmember Tim Daubert	Yes
Councilmember Tony Lama	Yes
Councilmember Ceasar Mestre	Absent
Councilmember Frank Mingo	Yes
Councilmember Nelson Rodriguez	Yes

Passed and adopted on second reading this 8th day of July, 2014.

_____
Wayne Slaton
MAYOR

Attest:

_____
Marjorie Tejeda
TOWN CLERK

Approved as to form and legal sufficiency:

_____
Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A

Chapter 13 LAND DEVELOPMENT CODE

ARTICLE V. Allowable Encroachments into the Required Yards and Exceptions to the Maximum Permitted Heights

Sec. 13-1509. Fences, wall and gates.

(a)   This Subsection (a) applies to all districts.

* * *

(2)   *Measurement of height.*
       a.   The height of a wall or fence shall be the average vertical distance measured from the elevation of the property where the wall or fence is located to the top of the wall or fence. Average vertical distance shall be determined by taking elevations along both sides of the wall or fence line, except where a wall or fence is parallel to a street and within the required setback from said street for a principal structure, in which case the elevations shall be taken only along the street side of the wall or fence. Elevations shall be taken at five-foot intervals and totaled,ing the same and then divideding by the total by the number of elevations which were taken. The maximum permitted height of a wall or fence on a property shall be measured from the natural height and contours of the land. Virgin land may not be increased or decreased in elevation to affect the permitted (or required) height of a wall, hedge or fence. A fence or wall shall not exceed the maximum permitted height when measured from the adjoining property.
       b.   Fences, walls, gates or columns not located within the required yards may be constructed up to the maximum permitted height for the primary structures of the zoning district in which the property is located.