

ORDINANCE NO. 18-\_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONDITIONAL USES; AMENDING SECTION 13-303, ENTITLED “CONDITIONAL USES”, ESTABLISHING PROVISIONS REGARDING THE CESSATION OF OPERATIONS OF USES CLASSIFIED AS CONDITIONAL USES AND ANNUAL CERTIFICATE OF USE RENEWAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Cid)**

**WHEREAS**, section 13-303 of the Town’s Land Development Code provides for review of conditional uses, which are uses that would not be appropriate within a particular zoning district unless otherwise controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, so as to promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood; and

**WHEREAS**, section 13-303 does not address the status of such uses when they cease to operate; and

**WHEREAS**, on May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions that address disposition of conditional uses that have ceased operations; and

**WHEREAS**, on January 23, 2018, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, on February 6, 2018, the Town Council at a duly noticed public hearing, moved the item on First Reading; and

**WHEREAS**, on March 6, 2018, the Town Council considered the ordinance at a duly advertised public hearing; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

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

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

**Section 2. Amendment.** Section 13-303, Conditional Uses, of the Town's Land Development Code is hereby amended as provided at Exhibit A:

**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Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.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 \_\_\_\_\_, who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

#### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Frank Mingo \_\_\_\_\_

Councilmember Tim Daubert \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Nelson Rodriguez \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

Passed on first reading this 6<sup>th</sup> day of February, 2018.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**SECOND READING**

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

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Frank Mingo \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Tim Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Nelson Rodriguez \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



EXHIBIT A  
ORDINANCE

Sec. 13-303. - Conditional use approval.

- (a) *Generally.* ~~The purpose of this section is to ensure that a~~ A conditional use, is a use that would not be appropriate without restriction throughout the land use district, but which, if controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood. A conditional use ; shall only be permitted on specific sites as provided in a particular zoning district or as provided in this chapter, where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. This section sets forth the procedures and criteria for approval of conditional uses on specific sites. A conditional use shall be permitted only upon a finding that the proposed use satisfies the specific review criteria of this section and other requirements of this chapter. An approval of a conditional use does not eliminate the need for other approvals, which may be required under this chapter, including but not limited to site plan review. Site plan approvals shall be processed concurrently with the conditional use application (and, if required, the site plan public hearing shall be held jointly with the conditional use public hearing) and the requirements of Sections 13-301 through 13-304, as applicable, shall be met. Any uses specified in this chapter as an "unusual use" shall be treated and processed as a conditional use under this section.

\* \* \*

(c) Change or cessation of operation of a conditional use.

- (1) A change of conditional use to another conditional use shall require a review of a new application pursuant to this section.
- (2) A change of a conditional use to a permitted use shall operate as a cessation of the conditional use.
- (3) An expansion or intensification of a conditional use shall require a review of a conditional use application pursuant to this section. This shall also apply to an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018. However, if the Administrative Official determines that the requested expansion or intensification is minor, the Administrative Official shall have the authority to review and approve, or approve with modifications or conditions the minor change, providing the change complies with the following:
  - a. Is compliant with the minimum requirements of Chapter 13;
  - b. Does not violate any conditions of the original approval;
  - c. Is compliant with concurrency requirements; and
  - d. Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.

(4) Unless otherwise specifically authorized by Town Council issued conditional use development order, should a conditional use cease operation for more than twelve (12) continuous months, any use of the same property or portion thereof shall only be one that is permitted under this chapter and any reinstitution of the conditional use shall require a review of a new application pursuant to this section. For purposes of an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018, the twelve (12) continuous month period shall be counted from March 6, 2018. The issuance or existence of a required license, permit or other governmental authorization to conduct such conditional use shall not mean that the use has not ceased, but the lack of any such required license, permit or authority shall create a rebuttable presumption that the use has ceased. Actions or activities of the property owner or agent of the property owner attempting to lease or rent the premises shall not be considered a use of the property in determining whether a conditional use has ceased.

(d) *Certificate of Use Renewal.* Beginning March 6, 2018, all property with a conditional use permit must annually renew its certificate of use on a time schedule consistent with the renewal of business tax receipts.