



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Construction Sites
Date: 9/5/2017

Recommendation:

Staff recommends approval of the proposed ordinance that seeks to mitigate the impact of construction sites to preserve adjacent property values and quality of life by requiring a site management plan, temporary fencing, and establishing property standards that shall apply to construction sites.

Background:

The aim of the proposed ordinance is to respond to concerns raised by the residents of the Town as reflected in a motion of the Town Council on December 6, 2016, as they relate to construction sites. The proposed ordinance provides measures that seek to manage potential impacts of construction sites such as securing the perimeter of the site with fencing, site access, construction phasing, and staging of equipment. The ordinance requires development projects to provide a detailed construction staging and management plan prior to issuance of building permits including the erection of fencing prior to the commencement of any construction activity. The ordinance is offered in addition to those already required by the Florida Building Code and Chapter 8, Building Code, of the Miami-Dade County Code of Ordinances. The request is consistent with the Town's Comprehensive Development Master Plan and the Town's Code of Ordinances.

On June 20, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency (LPA), recommended approval of the item to the Town Council. The proposed ordinance presented at that time included provisions for perimeter fencing of properties determined to be abandoned. That portion related to an action taken by the Council on October 4, 2016 relating to eyesore properties (abandoned properties). The LPA, had concerns over the need for this provision identifying such challenges associated with enforcement, compliance, and whether the proposed remedy would result in a greater eyesore. Ultimately, they recommendation was to exclude single family residential lots.

In consideration of LPA's discussion and suggestions of the matter, staff reevaluated the practicality of fencing abandoned properties and found agreement with the LPA's concerns. Implementation, would be challenging, achieving compliance even more so, and the net result may in fact be fencing that is more of an eyesore than the abandoned property itself. As such, staff has removed from the attached proposed

ordinance those portions which address abandoned properties. It is therefore recommended that those properties shall instead be managed through existing code compliance procedures and regulations.

Other modifications to the proposed ordinance since the LPA hearing involved removing redundant code provisions, clarification of proposed provisions, and a reference to Chapter 8 of the Miami-Dade County Code of Ordinances.

ATTACHMENTS:

Description

Ordinance

LPA Submittal

ORDINANCE NO. 17-_____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA RELATING TO
CONSTRUCTION SITES; AMENDING CHAPTER 16,
NUISANCES, AND CREATING ARTICLE 3,
CONSTRUCTION SITES; ESTABLISHING SITE
MANAGEMENT PROVISIONS FOR SAME; PROVIDING
FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION INTO
THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, on December 6, 2016, the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of properties under construction, the impact of which may have a negative impact on adjacent properties; and

WHEREAS, in fulfillment of that directive, this ordinance provides for screening of such properties described herein and provides for other operational standards which further the Town Council's intent; and

WHEREAS, on June 20, 2017, the Planning and Zoning Board, acting in their 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 September ____, 2017, the Town Council moved the item on First Reading; and

WHEREAS, on October ____, 2017, the Town Council considered this 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 the ordinance is consistent with the Comprehensive Development Master Plan, and 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 are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Article III, Construction Sites, in Chapter 16, Nuisances, is hereby created as provided at Attachment “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.

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 Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2017.

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 Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

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

EXHIBIT A

PROPOSED ORDINANCE

CHAPTER 16 – NUISANCES

* * *

ARTICLE III. - CONSTRUCTION SITES

16-30 Definitions. For the purpose of this article, the following definitions shall apply:

Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements.

Permanent perimeter fence shall mean any fencing required at or around the perimeter of a property pursuant to the Town's Land Development Code or as part of a development order, for a residential subdivision or nonresidential property.

Property shall mean all lands within the perimeter of a residential subdivision, or commercial or mixed-use property, or that portion of a commercial or mixed-use property, that is subject to construction. This definition does not include a single lot developed with one single family home or duplex.

Temporary perimeter fence shall mean any fencing other than that which is defined as permanent perimeter fence, which is otherwise required to be installed pursuant to this article. Temporary perimeter fences shall be required to comply with all applicable standards of the Florida Building Code as may be amended from time to time.

16-31 Site Management Plan.

No permit for construction shall be issued within the town without an approved site management plan that shall be submitted to the town's building department for review and approval prior to issuance of the construction permit. The site management plan shall include a site plan of the structure(s) to be constructed, location of utilities, material storage location, location of dumpsters and method of securing trash during hurricane season, and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, and a construction schedule.

16-32 Fencing.

(1) Temporary Perimeter Fencing Required. All construction sites, other than those explicitly exempted, shall provide, at a minimum, six (6) foot chain link fencing with green nylon mesh or silk material running the full height and length of the fence, around the entire perimeter of the property prior to, and during all phases of, the construction. A building permit for the perimeter fencing is required, and the temporary perimeter fence must be installed, inspected, and permit finalized by the building department prior to initiating all other construction. Such fencing, as described in this section, shall not be required at those portions of the property where a permanent perimeter fence was issued a building permit, was installed, and received final inspection and or where other fencing currently exists which controls for access to the site.

- a. All screening shall be maintained in good condition and free of tears, graffiti, stains, soiling, or any other degradation that may occur to it.
 - b. Graphic designs reflective of an approved development project and/or the Town's logo and tag line "Miami Lakes, Growing Beautifully" shall be exempt from Chapter 13 Article IX of the Land Development Code and instead may be permitted as authorized by the Town Manager or his/her designee. Garish and neon colors of any proposed graphics, and any associated lighting thereto shall be prohibited.
- (2) Permanent perimeter fencing. All projects required to provide permanent fencing around the perimeter of a residential subdivision or other nonresidential development, pursuant to the Town's Land Development Code, or as otherwise required by development order, shall secure the necessary permits, install the perimeter fence and receive approved final inspections prior to the issuance of any other permit for construction.
- (3) Demolition permits. All properties subject to demolition permits must be secured by fencing as described in Section 13-1702 above and additionally comply with any applicable provisions of the *Florida Building Code*, as it relates to demolition permit requirements. The required perimeter fence shall be installed on the front, sides and rear lot lines.
- (4) Condition. All fencing required pursuant to this article shall be maintained in good condition throughout the duration that such fencing is required to be installed and maintained. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours.
- (5) Perimeter fencing shall not block site visibility triangles at intersections and driveway entrances.
- (6) Except as may be provided for by Chapter 13 of the Town's Land Development Code, all fencing regulated by this article shall be free and clear of any graphic designs or advertising except as permitted by the Town Manager pursuant to paragraph (1)b above.
- (7) Term. Any fencing required by this article shall fully comply with all provisions of the *Florida Building Code*, and remain in place through completion of construction, or until re-occupancy of a vacant/unoccupied property, unless otherwise exempted by the town's building official. Additional protective safeguards may be required where the town identifies a nuisance.

16-33 Property conditions.

The following standards shall apply to construction sites as regulated by this article.

- (1) Debris and scrap materials. All construction sites and vacant/unoccupied properties shall be maintained free of debris and scrap materials, however such material may be held in approved containers.
- (2) Restoration. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.

16-34 Construction operations.

All construction sites unless otherwise exempted by the Building Official, shall conform to the following:

- (1) Construction access. Access points by construction vehicles shall be identified as part of the construction staging plan for town approval at the time a permit is issued for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.
- (2) Staging. Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.

Additions to the text are shown in underlined; deletions from the text are shown in ~~strickthrough~~.

Omitted portions of this ordinance are shown as “* * *”.

- (3) Materials. Materials or vehicles shall not be parked, placed, or stored on public right-of-way under the jurisdiction of the town except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on right-of-way with permission of the public works director.

16-35 Preemption. Chapter 8, Building Code, of Miami-Dade County's Code of Ordinances shall have preemptive authority over Chapter 13, Land Development Code, of the Town's Code of Ordinances.



Town of Miami Lakes Memorandum

To: Chairman Rodriguez and Board Members

From: Darby DelSalle, Planning Director

Subject: Construction Sites and Abandoned Properties

Date: June 20, 2017

Recommendation:

Staff recommends approval of the proposed ordinance that improves the aesthetics and mitigates the impact of construction sites and abandoned properties to preserve property values and quality of life by requiring a site management plan, temporary fencing and establishing property standards that shall apply to construction sites and vacant/unoccupied properties.

Background:

The aim of the proposed ordinance is to respond to concerns raised by the residents of the Town as reflected in separate motions of the Town Council on October 4, 2016 and December 6, 2016, as they relate to construction sites and abandoned/vacant/unoccupied properties. The proposed ordinance provides measures that seek to manage potential impacts of a construction sites such as securing the perimeter of the site with fencing, dust control, site access, construction phasing, and staging of equipment. The ordinance requires development projects to provide a detailed construction staging and management plan prior to issuance of building permits including the erection of fencing prior to the commencement of any construction activity. The ordinance also provides for the securing and screening of abandoned properties to mitigate against any deleterious impact that may result from their abandonment.

Attachments:

[Ordinance](#)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTY; CREATING ARTICLE 3, CONSTRUCTION SITES AND ABANDONED PROPERTY, IN CHAPTER 16, NUISANCES; CREATING SITE MANAGEMENT PROVISIONS FOR SAME; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 4, 2016, the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of abandoned “eye sore” properties that, as a result of their neglect and abandonment, may harm the property values of property owners in the Town of Miami Lakes; and

WHEREAS, on December 6, 2016; the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of properties under construction, the impact of which may have a negative impact on adjacent properties; and

WHEREAS, in fulfillment of those two directives, this ordinance provides for screening of such properties described herein and provides for other operational standards which further the Town Council’s intent; and

WHEREAS, on June _____, 2017, the Planning and Zoning Board, acting in their 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, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is necessary, 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 are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Article III, Construction Sites and Abandoned Properties, in Chapter 16, Nuisances, is hereby created as provided at Attachment “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 Tony Lama	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this _____ day of _____, 2017.

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 Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

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

EXHIBIT A

PROPOSED ORDINANCE

CHAPTER 16 – NUISANCES

* * *

ARTICLE III. - CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTIES

16-30 Definitions. For the purpose of this section, the following definitions shall apply:

Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements.

Vacated/unoccupied property shall mean lands improved with a structure or building that have otherwise gone unoccupied for a period of six (6) months or more. Any determination of vacant/unoccupied property shall be evaluated separate from any determination or review of conforming status.

Permanent perimeter fence shall mean any fencing required at or around the perimeter of a property pursuant to the Town's Land Development Code or as part of a development order, for a residential subdivision or nonresidential property.

Property shall mean all lands within the perimeter of a residential subdivision, or vacant unoccupied property, or that portion of a vacant commercial or mixed-use property subject to construction.

Temporary perimeter fence shall mean any fencing other than that which is defined as permanent perimeter fence, which is otherwise required to be installed pursuant to this Division. Temporary perimeter fences shall be required to comply with all applicable standards of the *Florida Building Code* as may be amended from time to time.

16-31 Site Management Plan.

No permit for construction shall be issued within the town without an approved site management plan that shall be submitted to the town's building department for review and approval prior to issuance of the construction permit. The site management plan shall include a site plan of the structure to be constructed, location of utilities, material storage location, location of dumpsters and method of securing trash during hurricane season, and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, and a construction schedule.

16-32 Fencing.

(1) Temporary Perimeter Fencing Required. All construction sites, other than those explicitly exempted, shall provide, at a minimum, six (6) foot chain link fencing with green nylon mesh or silk material running the full height and length of the fence, around the entire perimeter of the property prior to, and during all phases of, the construction. A building permit for the perimeter fencing is required, and the temporary perimeter fence must be installed, inspected, and permit finalized by the building department prior to initiating all other construction. Such fencing, as described in this subsection, shall not be required at those portions of the property where a

permanent perimeter fence was issued a building permit, was installed, and received final inspection.

- a. All screening shall be maintained in good condition and free of tears, graffiti, stains, soiling, or any other degradation that may occur to it.
 - b. Graphic designs reflective of an approved development project and/or the Town's logo and tag line "Miami Lakes, Growing Beautifully" may be permitted as authorized by the Town Manager or his/her designee. Garish and neon colors of any proposed graphics, and any associated lighting thereto shall be prohibited.
- (2) Permanent perimeter fencing. All projects required to provide permanent fencing around the perimeter of a residential subdivision or other nonresidential development, pursuant to the Town's Land Development Code, or as otherwise required by development order, shall secure the necessary permits, install the perimeter fence and receive approved final inspections prior to the issuance of any other permit for construction.
 - (3) Demolition permits. All properties subject to demolition permits must be secured by fencing as described in Section 13-1702 above and additionally comply with any applicable provisions of the *Florida Building Code*, as it relates to demolition permit requirements. The required perimeter fence shall be installed on the front, sides and rear lot lines.
 - (4) Vacant/unoccupied property. Vacant/unoccupied property shall be enclosed with a temporary six (6) foot fence if it is determined by the Town Manager or his/her designee that in so doing, the best interests of the Town are served. This provision does not preclude a property owner from voluntarily erecting a perimeter fence during such time the property is vacant/unoccupied. The fencing shall include a green mesh or silk covering the full height and length of the temporary constructions fence. A Building Permit is required.
 - (5) Condition. All fencing required pursuant to this Division shall be maintained in good condition throughout the duration that such fencing is required to be installed and maintained. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours.
 - (6) Perimeter fencing shall not block site visibility triangles at intersections and driveway entrances.
 - (7) Except as may be provided for by Chapter 13 of the Town's Land Development Code, all fencing regulated by this Division shall be free and clear of any graphic designs or advertising except as permitted by the Town Manager pursuant to paragraph (1)b above.
 - (8) Term. Any fencing required by this section shall fully comply with all provisions of the *Florida Building Code*, and remain in place through completion of construction, or until re-occupancy of a vacant/unoccupied property, unless otherwise exempted by the town's building official. Additional protective safeguards may be required where the town identifies a nuisance.

16-33 Property conditions.

The following standards shall apply to construction sites and vacant/unoccupied properties as regulated by this Division.

- (1) Debris and scrap materials. All construction sites and vacant/unoccupied properties shall be maintained free of debris and scrap materials.
- (2) Dust, dirt, and particulate matter. All construction sites shall be controlled for dust, dirt, and particulate matter. The methodology used shall be sufficient to ensure prompt and efficient maintenance of the site in order to control of the dust, dirt and particulate matter.
- (3) Restoration. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.

16-34 Construction operations.

All construction sites unless otherwise exempted by the Building Official, shall conform to the following:

- (1) Construction access. Access points by construction vehicles shall be identified as part of the construction staging plan for town approval at the time a permit is issued for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.
- (2) Staging. Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.
- (3) Construction trailers. Building permit required. Construction trailers for staging area shall be permitted solely during construction and shall be removed prior to the issuance of the final certificate of occupancy.
- (4) Materials. Materials or vehicles shall not be parked, placed, or stored on public right-of-way under the jurisdiction of the town except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on right-of-way with permission of the appropriate public works department, with a time limit reported to council and public.