ORDINANCE NO. 19- _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO LANDSCAPING; AMENDING SECTION 13-1701, ENTITLED "REQUIRED LANDSCAPING," OF THE LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS REGARDING MINIMUM LANDSCAPE REQUIREMENTS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Ceasar Mestre, Josh Dieguez)

WHEREAS, section 13-1701 of the Town's Land Development Code provides for minimum landscape requirements for residential single-family districts; and

WHEREAS, section 13-1701 does not address loss of tree canopy in any of the Town's zoning districts, nor does it provide for desired planting lists as provided by the Town's Beautification Master Plan; and

WHEREAS, on January 10, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions that address tree canopy protection throughout the Town, and providing such regulation adopt the Town's Beautification Master Plan; and

WHEREAS, on December 19, 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 January 15, 2019, at a duly noticed public hearing, the Town Council moved the item on First Reading; and

WHEREAS, on February_____, 2019, at a duly advertised public hearing, the Town Council considered the ordinance; and

Additions to the text are shown in underlined; deletions from the text are shown in strikethrough.
Omitted portions of this ordinance are shown as "* * *."

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 13-1701, Required Landscaping, 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 All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.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 Nelson Rodriguez	_____
Councilmember Carlos O. Alvarez	_____
Councilmember Luis Collazo	_____
Councilmember Joshua Dieguez	_____
Councilmember Jeffrey Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of January, 2019.

[THIS SPACE INTENTIALLY LEFT BLANK]

Additions to the text are shown in underlined; deletions from the text are shown in strikethrough.
Omitted portions of this ordinance are shown as "*   *   *."

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 Carlos O. Alvarez _____

Councilmember Luis Collazo _____

Councilmember Joshua Dieguez _____

Councilmember Jeffrey Rodriguez _____

Councilmember Marilyn Ruano _____

Passed and adopted on second reading this _____ day of _____, 2019.

_____

Manny Cid
MAYOR

Attest:

_____

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

_____

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

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Omitted portions of this ordinance are shown as "*   *   *."

EXHIBIT A

ORDINANCE

Sec. 13-1701. - Landscape requirements.

(a)   All development within the Town shall comply with Chapter 18A of the Miami-Dade County Code of Ordinances at the time of its original construction, except as may be otherwise required by the Town's Code of Ordinances.

    (1)   All plantings installed as of <EFFECTIVE DATE> shall be consistent with the "Beautification Master Plan", the "Tree Management Plan", and as provided below, and follow ANSI 300 (Part 6), Planting and Transplanting Standards and ANSI Z60.1 as a Florida Grade no. 1 standard. Pursuant to this section, replanting will be required of any tree that is deemed unacceptable by the Town ~~or has died within a three (3) year period of its planting~~.

    (2)   No building permit for development and/or exterior construction shall be approved unless it is found to comply with the planting of official, approved street trees within the adjacent swale and median in conformity with the Town's adopted "Beautification Master Plan" and "Tree Management Plan" and under the Town's supervision.

    2a.   *Exterior Construction*, for purposes of this section shall mean any new construction, addition or substantial improvement to the existing structure, as defined by Florida Building Code.

    2b.   All requests for permits, as defined above, shall require a tree disposition survey prepared by a professional surveyor, or, if unfeasible, an initial inspection of the existing plant material both within the property and adjacent swales and medians with corresponding fees associated.

    2c.   Relief from this section may be provided through the public hearing variance process, as provided in Article III.

    (3)   All tree removals shall comply with Chapter 42 of the Town of Miami Lakes Code of Ordinances, as may be amended from time to time.

(b)   All single-family and two-family residences shall comply with Chapter 18A, Landscape Ordinance (see Section 13-1), and the following minimum standards.

    (1)   Trees. Each lot shall have a minimum of three (3) yard trees in addition to those planted in swale areas, one of which shall be planted within the front yard area and comply with the criteria listed below. ~~They shall be native (native plant species)~~ Shade trees ~~with~~ shall have ~~either~~ a minimum diameter at breast height of two (2) ~~1½~~ inches and ~~or~~ a minimum height of ~~eight~~ twelve (12) feet measured at time of planting.

a. Two ~~native~~ palms of <u>twelve (12)</u> ~~ten~~ foot overall height or of a minimum <u>caliper</u> ~~diameter at breast height~~ of three inches at time of planting may be substituted for <u>only</u> one of the three <u>required</u> shade trees. ~~One tree or two native palms shall be in the front yard.~~

b. <u>For new development, front yard trees shall comply with the species list provided at Section 13-1701 (h), and a minimum of at least one (1) front yard tree shall be a hardwood.</u>

c. <u>Existing nonconforming properties which have legally permitted improvements that prevent them from complying with the minimum landscape standards shall be allowed to remain as is. However, where planting is possible within the front yard, it shall be required that the tree be chosen from Sections, 13-1701(h) or Section 13-17(h). The existing landscape area of nonconforming properties shall not be reduced any further. Relief from this section may be provided through an Administrative Variance.</u>

* * *

(b) ~~Existing nonconforming properties which have legally permitted improvements that do not allow the property to meet the minimum landscape standards shall be allowed to remain as is. The existing landscape area of these nonconforming properties shall not be reduced any further.~~

(d) <u>All other existing</u> ~~Existing~~ conforming properties ~~that comply with these regulations~~ shall not be permitted to construct any improvement which would reduce the existing landscaped area below the minimum required by these regulations unless a variance to these regulations is granted.

* * *

(g) The swale areas shall be maintained by the abutting property owner. No structures or improvements of any kind, with the exception of mailboxes approved by the United States Postal Service, sod, annuals or perennials, driveway approaches and shade trees approved by the Town, shall be permitted within the swale areas.

(1) <u>Trees planted in the swale area are the property of the Town and may not be removed or trimmed by the abutting property owner without approval of the Town.</u>

(2) <u>Requests for tree removal within the swale area shall be made pursuant to Article 42 of the Town's Code of Ordinances, as may be amended from time to time.</u>

* * *

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(h)   List of approved shade trees. Trees denoted with "*" are native species.
    (1)   Hardwood Canopy Trees.
        a.   *Live Oak / Quercus virginiana
        b.   Japanese Fern tree / Filicium decipiens
        c.   *Gumbo Limbo / Bursera simaruba
        d.   *Green Buttonwood / Conocarpus erectus
        e.   Golden Shower / Cassia fistula
        f.   Floss Silk / Chorisia speciosa
        g.   Beauty Leaf / Calophyllum brasilliense
        h.   *East Palakta Holly / Ilex Attenuata
        i.   *Ironwood / Krugiiodendron ferreum
        j.   *Pigeon Plum / Cocoloba diversifolia
        k.   * Wild Tamarind / Lysiloma latisliqua
        l.   * Satin Leaf / Chrysophyllum oliveforme
        m.   * Paradise tree / Simarouba glauca
        n.   *Allspice tree / Pimenta dioica
        o.   Golden Rain tree / Koelreuteria paniculate
        p.   Pink Trumpet / Tabebuia heterophylla
        q.   Jacaranda / Jacaranda mimosifolia
        r.   Japanese blueberry / Elaeocarpus decipiens

    (2)   Palm Trees
        a.   Alexander Palm / Ptychosperma elegans
        b.   Bismark Palm / Bismarkia nobilis
        c.   Canary Island Date / Phoenix canariensis
        d.   Hurricane Palm / Dictyosperma album
        e.   *Paurotis Palm / Acoelorrhaphe wrightii
        f.   * Sabal Palm / Sabal palmetto
        g.   Senegal Island Date / Phoenix reclinata
        h.   Red or Blue Latan / latania lontaroides
        i.   Sylvestris Palm / Phoenix sylvestris