

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)

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 _____, 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____, 2019, the Town Council at a duly noticed public hearing, moved the item on First Reading; and

WHEREAS, on February_____, 2019, the Town Council considered the ordinance at a duly advertised public hearing; 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 All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.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 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 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

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 <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 modification alteration of the existing and detached structure. For purposes of this ordinance, repair and replacement permits for windows, paint, roof and doors shall be excluded from this definition.
- 2b Administrative Official, or his appointment may waive the requirements of this ordinance for exigent circumstances.
- (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 twelve (12) ~~ten~~-foot overall height or of a minimum caliper diameter at breast height of three inches at time of planting may be substituted for only one of the three required shade trees. ~~One tree or two native palms shall be in the front yard.~~

- b. 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.
- c. 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.

* * *

- ~~(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) All other existing ~~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) 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.
 - (2) 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.

* * *

- (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 brasiliense
- h. *East Palakta Holly / Ilex Attenuata
- i. *Ironwood / Krugiodendron 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



Department of Community Development
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Staff Analysis and Recommendation

To: Honorable Chair and Members of the Local Planning Agency
From: Susana Alonso, AICP, Principal Planner
Subject: Tree Canopy Protection
Date: December 19, 2018

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. (Ceaser Mestre)

A. BACKGROUND

On January 10, 2017, Town Council directed the Town Manager to explore the possibility of an ordinance to provide for provisions that address tree canopy protection throughout the Town, and to adopt the Town's Beautification Master Plan. The desire was to ensure the integrity of the Town signature appeal, its tree canopy, is properly maintained, restored in areas where it has diminished, and (re)planted with the appropriate materials (right tree right place). This effort is a reflection of a continuum of efforts to protect and reinforce the Town's image. The proposed ordinance builds upon the Town's Chapter 42 which seeks to preserve existing canopy, and it serves as the regulatory arm for the Town's more recently adopted Beautification Master Plan and Tree Management Plan. The provisions are intended to supplement existing landscape code requirements provided at Section 18A of Miami-Dade County's¹ code and to provide greater clarity of planting requirements within Section 13-1701 of the Town's code. The attached ordinance has been reviewed by Miami-Dade County and was found to be acceptable.

¹ Section 18A of the Miami-Dade County code requires all municipalities within Miami-Dade to conform to the minimum landscape requirements therein. Miami-Dade County does permit its municipalities to adopt more stringent standards. The Town has adopted by reference Miami-Dade County Code Section 18A and the provisions at section 13-1701 and Chapter 42 reflect a higher standard than that provided by the County.

B. PROPOSED CHANGES

The following described elements are presented in the same order that they appear in the proposed ordinance.

13-1701(a) – Compliance with “Beautification Master Plan” and “Tree Management Plan.” This section provides regulatory support to the two plans by requiring compliance with any future plantings.” The provision also reaffirms compliance with Miami-Dade Code at Section 18A.

13-1701(b) – Tree Plantings for single family and two-family homes. The provision requires that of the three required trees, one (1) must be planted in the front yard area of the home. For new construction, that tree must be a hardwood. For existing construction, where possible a list of permitted trees is provided to choose from.

13-1701(c) – Existing Conforming Properties. No improvement shall be permitted which reduces landscape area below the minimum requirement.

13-1701(g) – Reference to Article 42. The provision points to Article 42 regarding tree removal regulations.

13-1701(h) – Desired Trees. The provision lists those trees that are most desired for planting within the Town.

C. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending Section 13-1701 as it relates to tree plantings within the Town.

E. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The provision provides for ensuring minimum canopy is provided within the Town and that the Town’s essential character is maintained. As proposed, and presented in Section “A”, and “B”, above, the amendment conforms to the following policy of CDMP below.

Policy 1.3.1: Implement the Beautification Master Plan to enhance landscaping in public rights-of-way and neighborhoods, and make the overall natural aesthetic appeal of the Town even better.

Policy 1.5.4: Protect and enhance the lush flora and fauna of the Town through strong community landscaping guidelines, land development regulations and code enforcement.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The amendment attempts to prevent loss of tree canopy while also providing for standards for future development. The provision implements the Beautification Master Plan and the Tree Management Plan by incorporation. The provisions were reviewed by Miami-Dade County and found to be consistent with their provisions at Section 18A. The proposed amendment does not conflict with any of the Town’s provisions.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis See Sections “A”, Background; and “B”, Proposed Changes, of this report. Over the years, the Town has lost some of its valued tree canopy. The reason for the loss is due in part to a number of issues including, disease, accidents, acts of nature, and illegal removals. Post Development improvements in some areas have also resulted in loss of pervious area needed to support a healthy tree growth. Further, some initial plantings were never appropriately sited within the original development plan. This provision tries to remedy these challenges by requiring a minimum of one (1) front yard tree, halting loss of minimum required landscape area, and providing a list of acceptable trees that may be considered for future plantings.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The proposed amendment does not change the list of permitted uses within any zoning district.

Finding: Complies.

5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The proposed ordinance does not impact the above systems.

Finding: Complies.

6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The intent of the ordinance is to protect the Town’s tree canopy and provide a mechanism to ensure replanting in areas where it is diminished. In so doing, the ordinance will have a net positive affect on the Town’s natural environment.

Finding: Complies.

7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes, of this report. The Town’s tree canopy is at the very essence of the Town’s character. It is what draws so many people to want to invest in this community. It is that investment that creates value within the Town of Miami Lakes. As such, the proposed ordinance is in the interest of the general welfare of the Town and its residents.

Finding: Complies.

8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes; and Criteria 1, 2, and 4, of this report.

Finding: Complies.

9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.

Analysis: See Sections “A”, Background; and “B”, Proposed Changes; and Criteria 1, 2, 4, 6, and 7 of this report.

Finding: Complies.

10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.

Analysis: See all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed amendment is appropriate and consistent with the public interest.

Finding: As determined by the Town Council.