

ORDINANCE NO. 1466

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, PROVIDING FOR A TEXT AMENDMENT TO CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES BY AMENDING ARTICLE 4, DIVISION 2, ENTITLED “ZONING DISTRICTS”, SPECIFICALLY AT SECTION 4-203 MODIFYING DWELLING UNIT SIZES FOR MIXED USE PROJECTS, AND ESTABLISHING MAXIMUM UNIT SIZE FOR DETACHED ACCESSORY DWELLING UNITS; ARTICLE 5, DIVISION 1, ENTITLED “ACCESSORY USES AND STRUCTURES”, SPECIFICALLY AT SECTION 5-101, ENTITLED, “ACCESSORY USES AND STRUCTURES; PERMITS REQUIRED”, TO ALLOW DETACHED ACCESSORY DWELLING UNITS IN THE R-1 AND R-2 ZONING DISTRICTS, AND SECTION 5-102, “ENTITLED ACCESSORY DWELLING UNITS” TO ESTABLISH STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS; AND ARTICLE 7, ENTITLED “DEFINITIONS” AMENDING THE TERM “AFFORDABLE” TO REQUIRE IDENTIFICATION AND PUBLISHING OF SURPLUS PROPERTY SUITABLE FOR AFFORDABLE HOUSING; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER’S ERRORS, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the current Land Development Regulations (“LDRs”), Chapter 29 of the City Code of Ordinances, were adopted in July 2017 through Ordinance No. 1417 to establish zoning districts and regulations; and

WHEREAS, Article 3, Division 10, Sections 3-1003 through 3-1007 of the LDRs outlines the procedures for text amendments and zoning map changes to the LDRs initiated by either the City of North Miami (“City”) or one (1) or more owners of record for parcel(s) located within the jurisdictional boundary of the City; and

WHEREAS, Article 3, Division 3, Section 3-302 of the LDRs establishes a uniform notice and procedure in order to ensure due process and maintain citizen access to the local government decision-making forum relating to the approval LDR text changes within the jurisdictional boundary of the City; and

WHEREAS, while the issue of housing affordability is of great concern throughout Florida, it has become a critical socio-economic issue for the residents of south Florida; and

WHEREAS, Policy 3B.1.2 of the City of North Miami Comprehensive Plan requires the City to streamline the administrative approval and permitting process, and provide strategies to incentivize private sector development of affordable housing; and

WHEREAS, in December, 2019, the CRA released *The City of North Miami Workforce and Affordable Housing Needs Assessment and Housing Revitalization Area Strategy Study* (“Study”), prepared by the Metropolitan Center at Florida International University, which analyzed the demand for and availability of housing in the City, and proposed strategies to address the demand; and

WHEREAS, the Study established a need for the development of owner and renter housing choice and opportunities in the City with respect to affordability, location, and access to jobs to support the spectrum of income groups residing in the City; and

WHEREAS, Councilman Galvin desires to support private-sector development of affordable/workforce housing by employing a variety of regulatory and programmatic strategies; and

WHEREAS, reducing the minimum dwelling unit size is a no-cost way to improve the financial capacity of developers to deliver workforce priced housing; and

WHEREAS, Section 166.0451, Florida Statutes, requires that each municipality prepare and publish an inventory of all properties within its jurisdiction that is appropriate for affordable housing; and

WHEREAS, Section 163.31771, Florida Statutes, encourages communities to permit accessory dwelling units (“ADUs”) in single family zoning districts to increase the availability of affordable rentals. ADUs can also allow people the opportunity to age in place by providing a separate, more accessible home on the property; and

WHEREAS, pursuant to the requirements of Article 3, Division 10, Section 3-1006 of the City LDRs, at duly noticed public meeting held on March 2, 2021, the Planning Commission reviewed the proposed Amendment to the LDRs, the recommendation of City staff, testimony

provided at the public hearing (if any), and issued a recommendation to the Mayor and the City Council to take the appropriate action and adopt the proposed Amendment by passage of this ordinance; and

WHEREAS, pursuant to Article 3, Section 3-1007 of the LDRs, the Mayor and City Council have jurisdiction to adopt the proposed LDR text amendment and, after two (2) duly noticed public meetings (first reading and second reading), have determined that the amendments are in the best interest of City residents and in accordance with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. Recitals. The recitals to the preamble herein are incorporated by reference.

Section 2. Amendment to Chapter 29, North Miami Code of Ordinances. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 4, entitled "Zoning Districts", Article 5, entitled "Development Standards", and Article 7, entitled "Definitions", as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 4: ZONING DISTRICTS

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DIVISION 2. – ZONING DISTRICTS

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Sec. 4-203. - Minimum standards of development.

A. Residential districts.

Uses permitted in the residential districts shall be developed in accordance with the following standards and other applicable development standards in article 5 of these LDRs:

Residential District	Max. Density ¹ DU/ac*****	Lot Dimensions			Setbacks (ft.) ^{2,3}			Max. Height(ft.)***	Min. Floor Area (s.f.)*	Required ² Open Space
		Area (s.f.)	Width (ft.)	Depth (ft.)	Front	Side	Rear****			
R-1	5.1	9,200	80	115	25	7.5 or 10%**	25	35	1,500	
R-2	5.1	6,000	60	100	25	7.5 or 10%**	25	35	1,000	
R-4	12.0				25	7.5 or 10%**	25	35		20%
R-5	16.3				25	7.5 or 10%**	25	75		20%
R-6	25.0				25	7.5 or 10%**	25	110		20%
BZ	100.0				25	7.5 or 10%**	25	115		15%

* The minimum floor area of a dwelling unit in the R-1 district is one thousand five hundred (1,500) square feet, and in the R-2 district it is one thousand (1,000) square feet for the principal dwelling unit. Except for college/university dormitories as per the approved campus master plan, the minimum size for a dwelling unit in multi-family and mixed-use districts is seven hundred fifty (750) square feet, except that up to 20% of units within for mixed-use projects within the NRO, and PCD may be five hundred, fifty (550) square feet, and for projects within the, PD, SDTOD and the NMTSOD, units may be five hundred square feet. For detached accessory dwelling units (ADUs) in the R-1 and R-2 zoning districts, such units shall be a minimum of 500 sq. ft., up to a maximum of 25% of the size of the principal residence.

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ARTICLE 5: DEVELOPMENT STANDARDS

DIVISION 1. – ACCESSORY USES AND STRUCTURES

Sec. 5-101. - Accessory uses and structures; permits required.

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C. Applicability of principal use and building regulations. Any accessory use and building or structure shall be subject to the same regulations that apply to the principal use, building and structure in each district, except as otherwise provided herein.

* * * * *

E. The following accessory use table shall be used to determine the required zoning district in which a use may be established. Unless otherwise stated herein, setback and spacing regulations shall adhere to the minimum requirements of this division and the applicable zoning district.

Additional standards shall be complied with for the establishment of the accessory use.

Accessory Use Generalized Table by Zoning District																
Zoning District/Accessory Use and Structures	R-1	R-2	R-4	R-5	R-6	C-1	C-2BE	C-2BW	C-3	M-1	P-U	R-O	B-Z	P-D	AO-D	NR-O
Awnings, canopies, carports, roof overhangs, balconies, architectural structures	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Detached accessory dwelling unit	P*	P*														
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Legend: P indicates permitted P* indicates permitted through Admin. Site Plan approval P** indicates permitted through the underlying zoning district Blank indicates not permitted
Note: See additional standards and requirements and criteria for specific accessory uses set forth in this division and the master permitted uses list in section 4-202.

Sec. 5-102. - Accessory dwellings units.

A. Purpose. The purpose of this section is to promote and encourage the creation of legal detached accessory dwelling units (ADUs) in a manner that enhances residential neighborhoods and helps residents meet their housing needs and realize the benefits of ADUs.

A. B. With the exception of those ADUs permitted as of the date of these LDRs, new ~~No~~ accessory dwelling units ~~are permitted only within the R-1 and R-2 districts, in the city, except as permitted~~ accordance with the criteria established in subsections C D and E in this section.

1. Prima facie evidence of an illegal accessory dwelling unit in connection. It shall be presumed that an accessory dwelling unit has been established when one or more of the following conditions are observed:

- a. There are two or more electrical, water gas or other types of utility meters, or mailboxes on the premises.
- b. There is evidence of a liquid propane (LP) gas tank installed in an unauthorized detached structure on the premises.
- c. There is more than one cooking area in the primary structure, not exclusively for servant use or religious purposes.
- d. All living areas within the dwelling are not logically interconnected.
- e. Rooms with separate outside entrance that can be logically partitioned to be exclusive of all other living areas of the residence.
- f. Multiple paved numbered parking spaces.
- g. An unauthorized detached building with air conditioning, or interior cooking areas or utility meters.
- h. There is more than one different house address unit number posted on the premises.
- i. An advertisement indicating the availability of more than one living unit on the premises, where only one living unit is permitted.
- j. An unpermitted exterior door.
- k. A second kitchen or facilities for cooking provided not exclusively for servant use or religious purposes.

2. The presumption may be rebutted by the property owner with the submission of

- a. a valid building permit of record; and
- b. a current floor plan prepared by an engineer or architect, depicting the residence and accessory structures and showing all rooms in the primary residence are interconnected as a single-family dwelling; and
- c. a notarized affidavit from the property owner attesting that the residence or accessory structure is being maintained for single-family occupancy; and/or

- d. substantiated by an interior inspection of the dwelling by a compliance officer.
- 3. If the compliance officer is able to enter the interior of the property and verify its use as a single-family dwelling, and property is constructed in accordance with building permit of record, the property owner is exempt from the submission of a current plan.
 - a. If it is found that adequate evidence of an illegal accessory dwelling unit has occurred, it shall be considered a violation of this chapter.
 - b. Nothing contained in this section shall prevent the enforcement actions authorized by the LDRs independent of this subsection.

B.C. In addition to the general standards and requirements for accessory structures, ~~the non-conforming accessory dwelling units ADUs~~ existing on the date of adoption of these LDRs, as evidenced by the list maintained by the city manager's office, may continue to be located on the same lot as a single-family detached home provided that the following requirements are met:

- 1. The accessory dwelling unit shall contain no more than one (1) full bath and kitchen facilities.
- 2. The accessory dwelling unit shall use the same street address as the principal dwelling.
- 3. An application for a certificate of re-occupancy for an existing nonconforming accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely low income, very low income, low income or moderate-income person. ~~or persons meeting the definition of family, as such terms are defined in the Miami-Dade County Code, chapter 17, article VIII, Affordable Housing Trust Fund of Miami-Dade County, Florida.~~

E. D. Notwithstanding the provisions in article 6 regarding nonconforming uses and structures, nonconforming ~~accessory dwelling units~~ ADUs existing on the date of adoption of these LDRs may be rebuilt if destroyed more than fifty (50) percent of its replacement cost at the time of the damage and may be repaired if otherwise damaged; provided however that while the dwelling may be rebuilt at the same height and with the same setbacks, the repair or reconstruction must be in accordance with the Florida Building Code. Any rebuilding of a nonconforming ~~accessory dwelling~~ ADU shall require a vested rights application and approval in accordance with the provisions of article III, division 12.

E. One (1) detached ADU per principal dwelling unit may be allowed within the R-1 and R-2 residential zoning districts through the DRC site plan review process, subject to the following conditions:

- 1. Lot size: 12,500 minimum lot size for the total parcel.
- 2. Unit size: Shall be a minimum of 500 sq. ft., up to a maximum of 25% of the size of the principal residence.
- 3. Design requirements: To ensure compatibility and maintain the aesthetic character of the neighborhood, the ADU must be similar in design and color as the principal dwelling unit.
- 4. Stormwater: Construction of the ADU shall assure sufficient pervious land is available to prevent stormwater runoff from the site.

5. Height and setbacks: Height and setback requirements are the same as the principal dwelling. Notwithstanding the foregoing, ADUs located in the rear of the property that are not visible from the street may, with screening, have a setback of ten feet (10') from the rear property line; however, no window, except for the bath may face the rear property line. For properties whereby, the existing principal dwelling unit does not meet the district setback requirements, no portion of any window of the ADU that faces the lot line where the setback for the principal dwelling unit is not met shall be higher than ten feet (10') from the ground.
6. Parking: The entire property must meet the parking requirements established in Article 5, Division 14, including the required number of parking spaces pursuant to Section 5-1402.
7. Utilities: The property shall not be served by a septic system, and must have sufficient water and wastewater capacity as certified by the department of public works. Separate water and sanitary sewer connections between the ADU and the city utility mains are not required, provided that the existing on-site utilities can be extended from the existing principal dwelling unit to the ADU. If the property owner requests separate utility connections for the ADU, then all connection improvements and associated connection fees shall be required.
8. Occupancy restrictions:
 - a. A lot or parcel of land containing an ADU shall be occupied by the owner of the premises. The owner may live in either the ADU or the principal dwelling unit.
 - b. Within thirty (30) days of obtaining a building permit for the construction of an ADU, the owner shall record against the deed to the subject property, a deed restriction running in favor of the City limiting occupancy of either the principal dwelling unit or the ADU to the owner of the property; that occupancy of the ADU is further limited to seniors (55 and over years of age) or to those qualifying as extremely-low-income, very-low-income, low-income, or moderate-income person or persons; and, that the ADU shall not be sold separately from the principal dwelling unit. Proof that such restriction has been recorded in the Miami-Dade County records shall be provided prior to the issuance of a certificate of occupancy for the ADU.
 - c. The occupants of the ADU shall not exceed two (2) persons.
 - d. If the ADU is rented, the unit shall comply with all minimum housing standards established in Chapter 5, Article IV. of the City's Code of Ordinances.
 - e. The ADU shall not be rented or leased for a period of less than six (6) months.
9. Noticing and consent. Within five (5) days after receiving a complete application for approval of an ADU, the zoning manager, or designee, shall provide written mailed notice to the abutting property owners proposed for an ADU. Abutting owners for this ordinance shall include owners of those properties sharing a lot line, and across the street unless the public right-of-way measures seventy (70) feet or greater, nor shall consent be required when a body of water completely separates the subject parcel from another parcel.
10. Monitoring: The owner must file an annual affidavit or other means for monitoring with the community planning director to ensure that the ADU continues to be used in accordance with the requirements of the LDRs. At a minimum, proof of income, e.g., social security, annuities,

retirement funds, pensions, disability or death benefits, and/or Federal Income Tax returns with W-2 forms for all adults residing in the household must be provided as proof of compliance.

11. Certificate of Use: If the ADU will be rented, prior to occupancy, the Applicant must obtain, and annually maintain, a Certificate of Use (CU). At the time of application for a CU, the Applicant must submit an affidavit of occupancy. Such affidavit shall assert that occupants of the ADU will be limited to the property owner, or seniors (55 and over years old), or to those qualifying as extremely-low-income, very-low-income, low-income, or moderate-income person or persons.
12. Business Tax Receipt: If the ADU will be rented, prior to occupancy, the Applicant must obtain, and annually maintain a Business Tax Receipt.

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ARTICLE 7: DEFINITIONS

Affordable means that the annual cost of housing (not including utilities) does not exceed thirty (30) percent of the adjusted gross income of a workforce household. To facilitate the development of affordable housing, in consultation with the community planning and development department, the City's Purchasing Department shall annually publish a list of surplus properties of underutilized sites suitable for affordable housing pursuant to §166.0451 F.S.

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Section 3. Repeal. All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Conflicts. All Ordinances or parts of ordinances in conflict herewith the provisions of this Ordinance are repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, phrase, clause or word of this Ordinance shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, phrases, clause or words of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall notwithstanding the invalidity of any part.

Section 6. Scrivener's Errors. The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

Section 7. Codification. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or any other appropriate word.

Section 8. Effective Date. This Ordinance shall become effective ten (10) days after adoption on second reading.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 24th day of August, 2021.



Philippe Bien-Aime
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: VICE MAYOR GALVIN

Moved by: Galvin

Seconded by: Estimé-Irvin

Vote:

Mayor Philippe Bien-Aime	<input checked="" type="checkbox"/> (Yes) _____ (No) _____
Vice Mayor Scott Galvin	<input checked="" type="checkbox"/> (Yes) _____ (No) _____
Councilwoman Kassandra Timothe, MPA	<input checked="" type="checkbox"/> (Yes) _____ (No) _____
Councilwoman Mary Estimé-Irvin	<input checked="" type="checkbox"/> (Yes) _____ (No) _____
Councilman Alix Desulme, Ed.D.	<input checked="" type="checkbox"/> (Yes) _____ (No) _____