

**ORDINANCE NO. 1476**

**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", ARTICLE 5, DIVISION 9, ENTITLED "ALCOHOLIC BEVERAGES", AND ARTICLE 7, ENTITLED "DEFINITIONS", TO ALLOW ONLINE ALCOHOLIC BEVERAGE RETAIL SALES IN THE M-1 DISTRICT, AND DEFINE DISTRIBUTION CENTERS; 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, was adopted in July 2017 through Ordinance No. 1417 to establish zoning districts and regulations that implement the adopted 2007 Future Land Use Map ("FLUM") designations; 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 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 warehousing of beer, wine and liquor is currently allowed in the M-1 district, alcoholic beverage package stores are not a permitted use in that district; and

**WHEREAS**, the Applicant, 1998 150<sup>th</sup> Street, LLC, through their Agent, Joshua J. Remedios, Esq., of Greenspoon Marder, LLP, has applied for a text amendment to the LDRs to allow online retail alcoholic beverage sales in the M-1 district that will provide only off-site delivery to customers; and

**WHEREAS**, while distribution centers are an allowable use in the C-1 and M-1 districts, staff seeks to establish a definition to better clarify this type of use; and

**WHEREAS**, pursuant to the requirements of Article 3, Division 10, Section 3-1006 of the City LDRs, at a duly noticed public meeting held on September 9, 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 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. 4-202. – Types of uses.**

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Zoning Districts	R-1	R-2	R-4	R-5	R-6	C-1	C-2BE	C-2BWC	C-3	M-1	PURO	BZ	AOD
Commercial Type of Uses													
Convenience Store**						P	P	P	P	P****			
Drug Store/Pharmacy						P	P	P	P	P****			
Food Specialty Store						P	P	P	P	P****			
Grocery Store**						P	P	P	P	P****			
Liquor Package Store**						SE	SE	SE					
Online Alcoholic Beverage Retailer										P			
Plant Nursery, Retail/Wholesale										P****			
Retail—Wholesale, Department						P*	P	P	P	P****			
Retail—General, Single-Use						P	P	P	P	P****			P
Retail—Home Improvement						P*	P	P	P	P****			
Secondhand Store/Consignment Store						P*	P*	P*	P*				

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**ARTICLE 5: DEVELOPMENT STANDARDS**

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**DIVISION 9. – ALCOHOLIC BEVERAGES**

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**Sec. 5-902. – Definitions.**

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**Liquor** shall include all spirituous beverages created by distillation and the blending of distilled beverages into a mixture.

**Nightclub** shall mean a restaurant, dining room or other establishment, which operates after 11:00 p.m., where food and/or alcoholic beverages are licensed to be sold and consumed on the premises, and where music, dance, floor shows or other forms of entertainment are provided for guests and patrons with or without an admission fee.

**Online alcoholic beverage retailer** means a state licensed vendor selling alcoholic beverages online, in sealed containers only, for delivery and consumption off the premises, subject to the limitations provided in the city's Code, without any on premise purchases or pickup by customers.

**Package store** shall mean a vendor selling alcoholic beverages in sealed containers only for consumption off the premises.

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#### **Sec. 5-904. - Licensing compliance.**

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H. Package stores and online alcoholic beverage retailers. Licensee and vendors shall only sell, offer, or expose for sale alcoholic beverages in compliance with its city certificate of use, business tax receipt and state license, and such places of business shall be devoted exclusively to such sales; provided, however, that such vendors shall be permitted to sell bitters, grenadine, nonalcoholic mixer-type beverages fruit juices, home bar, and party supplies and equipment (including but not limited to glassware and party-type foods), miniatures of no alcoholic content, and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a cigar display room, or private office or storage room of the place of business from which patrons are excluded.

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#### **Sec. 5-907. - Location of premises.**

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D. Exceptions to spacing and distance requirements. The restrictions and spacing requirements set forth in subsections A. through C. of this section shall not apply to the following:

1. Restaurants, bar/lounges accessory to restaurants.

2. Caterers.
3. Food stores/grocery stores/retail drug stores. With sale of beer and wine only as a grocery item for consumption off the premises.
4. Golf course clubhouses and refreshment stands located on the golf course.
5. Hotels and motels, which contain 100 or more guest rooms.
6. Private clubs.
7. Sport facilities, tennis clubs, racquetball clubs, and fitness clubs.
8. Bars/lounges/nightclubs/discotheques/clubs approved as accessory to a racetrack or casino gaming facility.
9. Wholesaler, distributors, manufacturers of alcoholic products.

**10. Online Alcoholic Beverage Retailers.**

**Sec. 5-908. - Generalized table of sale of alcoholic beverage regulations.**

Type of Establishment	Spacing From Other Uses (Feet)	Spacing From Religious institution (Feet)	Spacing From Schools (Feet)	Spacing From Parks and Residential (Feet)	Required License
Banquet hall or dancehall for hire	N/A	N/A	N/A	N/A	2-COP or 4-COP
Bar, lounge, tavern	1,500	2,500	2,500	1,500	2-COP or 4-COP
Accessory bar/lounge to restaurant	N/A	N/A	N/A	N/A	2-COP or 4-COP-SRX
Bar/lounge/nightclub/discotheque/club accessory to racetrack or casino gaming facility	1,500	2,500	2,500	1,500	2-COP or 4-COP-SRX
Caterer	1,500	2,500	2,500	1,500	2-COP or 4-COP-SRX or 4-COP
Coffee shop/ sandwich shop Cafeteria Outdoor Café	N/A	N/A	N/A	N/A	2-COP or 4-COP-SRX
Food stores/ grocery stores/retail drug stores	N/A	N/A	N/A	N/A	1-APS or 2-APS
Nightclub, Discotheque, Club	1,500	2,500	2,500	1,500	4-COP or 4-COP-SRX
Package store	1,500	2,500	2,500	1,500	3-PS
Online Alcoholic Beverage Retailer	N/A	N/A	N/A	N/A	3-PS

Restaurant	N/A	N/A	N/A	N/A	2-COP or 4-COP-SRX
Sport facilities, tennis clubs, racquetball clubs, fitness clubs, golf course clubhouses and refreshment stands	N/A	N/A	N/A	N/A	2-COP or 11-C

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## ARTICLE 7: DEFINITIONS

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*Distillery* means a facility designed for the distillation of agricultural products including grains, fruits, or vegetables into liquor or spirits. The facility may have related accessory uses, including uses that permit the sale and consumption of products that are manufactured on or off site, as allowed by applicable licenses from the State of Florida Division of Alcoholic Beverages and Tobacco.

*Distribution center* means a warehouse or other specialized building, which is stocked with goods, wares, merchandise, equipment, manufactured goods, wholesale products, retail products, and similar types of materials or finished products and commercial or industrial products or equipment of any type or nature, to be redistributed off-site to retailers, wholesalers, or delivered/shipped directly to consumers at remote locations.

*District or zoning district* means an area or areas of the city designated on the zoning map as being subject to the uniform regulations and requirements of a particular zoning category established in these land development regulations.

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*One-family or single-family dwelling* means a private residence building used or intended to be used as a home or residence in which all living rooms are accessible to each other from within the building and in which the use and management of all sleeping quarters, all appliances for sanitation, cooking, ventilating, heating or lighting are designated for the use of one (1) family only.

**Online Alcoholic Beverage Retailer** means a state licensed vendor selling alcoholic beverages online, in sealed containers only, for delivery and consumption off the premises, subject to the limitations provided in the city's Code, without any on premise purchases or pickup by customers.

**Opaque** means any nontranslucent, nontransparent material which provides a visual barrier from one (1) side to the other.

**Open space** means ground level areas on a lot which are landscaped or designed for pedestrian or recreational use, including covered arcades and plazas under buildings which are accessible to the public.

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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, on first reading this 26th day of October, 2021.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 14th day of December, 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: CITY ADMINISTRATION

Moved by: Estimé-Irvin

Seconded by: Galvin

**Vote:**

Mayor Philippe Bien-Aime

(Yes)  (No)

Vice Mayor Scott Galvin

(Yes)  (No)

Councilwoman Kassandra Timothe, MPA

(Yes)  (No)

Councilwoman Mary Estimé-Irvin

(Yes)  (No)

Councilman Alix Desulme, Ed.D.

(Yes)  (No)