

ORDINANCE NO. 1482

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED “LAND DEVELOPMENT REGULATIONS”, AT ARTICLE 5, ENTITLED “DEVELOPMENT STANDARDS” BY AMENDING DIVISIONS 1 AND 16, SPECIFICALLY AT SECTION 5-101, ENTITLED, “ACCESSORY USES AND STRUCTURES”, AND SECTION 5-1611, ENTITLED “MOBILE FOOD DISPENSING VEHICLES” TO MODIFY THE LOCATION WHERE MOBILE FOOD DISPENSING VEHICLES MAY OPERATE IN THE CITY, IN ACCORDANCE WITH SECTION 509.102(2), FLORIDA STATUTES (2021), AND SECTION 3-302, AND SECTIONS 3-1004 THROUGH 3-1007 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, CHAPTER 29, ENTITLED “LAND DEVELOPMENT REGULATIONS”; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on September 28, 2021, the City of North Miami (“City”) adopted Ordinance No. 1469 establishing uniform regulations to allow the operation of mobile food dispensing vehicles (“MFDVs”) within the City consistent with the preemption provided in Section 509.102, Florida Statutes; and

WHEREAS, Councilwoman Kassandra Timothe desires to support additional entrepreneurial opportunities within the City, and requests that the Mayor and City Council expand the locations where MFDVs may operate to include certain commercial districts as an accessory use to a permitted mechanical car wash; and

WHEREAS, pursuant to the requirements of Article 3, Division 10, Section 3-1006 of the City LDRs, the Planning Commission has reviewed the proposed Amendment to the LDRs and issued a recommendation of approval, with certain modifications, to the Mayor and the City Council; 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.

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

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of North Miami.

Section 2. Mobile Food Dispensing Vehicles. 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” as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES
CHAPTER 29. LAND DEVELOPMENT REGULATIONS

* * * * *

ARTICLE 5. – DEVELOPMENT STANDARDS

DIVISION 1. - ACCESSORY USES AND STRUCTURES

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

A. Except as explicitly provided herein, no use designated as an accessory use in this division shall be established until after the person proposing such use has applied for and received all required development permits which may include; a building permit, zoning improvement permit (ZIP), certificate of use, and a certificate of occupancy all pursuant to the requirements of this division. No permit shall be issued for an accessory building for any use unless the principal building and established use exists on the property, or unless a permit is obtained simultaneously for both buildings and construction progress concurrently.

B. Prohibited uses. Any accessory use not specifically listed as permitted, or listed as a related use, and which the administrative official cannot categorize as similar to a permitted use or related use, shall be considered expressly prohibited.

C. Applicability of principal use and building regulations. An 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.

D. Location. All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal or main use.

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, setback and spacing regulations shall adhere to the minimum requirements of this division. Additional standards shall be complied with for the establishment of the accessory use.

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	BZ	PD	AOD	NRO
Management office, sales office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Mobile food dispensing vehicles ^{1, & 2}						P* ³				P*							
Mobile medical, professional unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Multifamily recyclable material storage areas			P	P	P								P	P	P	P**	
News kiosk						P	P	P	P	P	P		P		P	P	P
Off-street parking structures						P	P	P	P	P	P		P		P	P	P

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, requirements, and criteria for specific accessory uses set forth in this division and the master permitted uses list in section 4-202.

¹ Subject to the standards in section 5-1611.

² This use may be accommodated in other zoning districts as a special event through the temporary use permit process as provided in section 5-1903.

³ In this district, MFDVs shall only be associated with a permitted primary use of a mechanical car wash.

DIVISION 16. - STANDARDS FOR SPECIFIC USES

Section. 5-1611. – Mobile food dispensing vehicles.

A. Purpose and intent. The purpose and intent of this section is to establish land use and zoning regulations for real property upon which a mobile food-dispensing vehicle (“MFDV”), e.g., “food truck” is authorized to operate within the jurisdictional limits of the city. Unless authorized by this section, or allowed under a temporary use permit, MFDVs on other real property are prohibited

and unlawful. This section is intended to neither prohibit MFDVs from operating within the entirety of the city, nor regulate the licensing, registration, permitting and fees of MFDVs, preempted by the state under section 509.102, Florida Statutes.

B. Authorized locations. Subject to the terms and conditions set forth in this section, long-term MFDVs shall be allowed to operate within the jurisdictional limits of the city as an accessory use as follows:

1. On property zoned C-1, accessory to only a permitted primary use of a mechanical car wash, providing it is separated by a minimum of five hundred (500) linear feet from another MFDV. Notwithstanding the foregoing, MFDVs approved under a temporary use permit shall not be included for the purposes of calculating the required distance separation.
2. On property zoned M-1, and the on the city's official zoning map.
3. MFDVs, as part of a special event, may be accommodated in other districts through the temporary use permit as outlined in section 5-1903.

C. Land use conditions for MFVDs. With the exception of MFVDs operating as part of a special event approved under a temporary use permit, the following shall apply to all MFDVs operating within the city:

1. The property owner must obtain specific administrative site plan approval from the community planning and development department.
2. As required for all businesses operating in the City, the property owner shall assure that each MFDV obtain, and maintain a business tax license from the city, and a certificate of use, if determined necessary by the community planning and development department.
3. The subject property shall be developed with a legally operating permanent business. MFDVs shall operate only during such business' normal hours of operation.

D. Operational standards. The following operational standards shall apply to all MFDVs operating within the city, whether long-term or as part of a special event approved under a temporary use permit:

1. Unless otherwise approved under a temporary use permit, no portion of the MFDV shall extend onto an adjacent property or into any right-of-way.
2. The MFDV shall not interfere with vehicular and pedestrian movement or visibility, block access to loading/service areas, emergency access and fire lanes, driveways, sidewalks, or damage landscaped areas.

3. MFDVs must be located on a paved surface.
4. MFDVs that occupy any site parking space(s) shall only utilize those parking space(s) that are not required for the host business location, or any business-required parking space on the site. .
5. The food vendor shall provide receptacles, adjacent to the MFDV, for litter associated with the sales activity, and shall remove all litter, debris and other waste attributable to the vendor and/or customers on a daily basis.
6. The MFDV must not discharge waste, fat, oil, grease or such other similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when the vehicle leaves the subject property.
7. No food shall be sold, prepared or displayed outside of the MFDV while in operation on the subject site.
8. Adequate sanitary facilities must be provided to serve employees and patrons.
9. Vendors shall not use any flashing, blinking, or strobe lights or similar effects to draw attention to the MFDV.
10. Vendors shall not use loud music, amplification devices, bullhorns, crying out, or any other audible methods to gain attention.
11. With the exception of one (1) A-frame sign located directly next to the MFDV's customer service area, there shall be no signage used by vendors except for what is allowed on the MFDV itself.
12. With the exception of dining furniture approved through the administrative site plan, vendors are prohibited from locating, placing or putting personal property outside of the MFDV, including but not limited, to fixtures, and equipment. All allowable dining furniture shall be removed at the end of daily operations.
13. Vendors shall comply with all applicable city laws, regulations, and ordinances, including those regulating noise, signage, and loitering.
14. With the exception of ancillary sales of branded items consistent with the food or vendor, such as a cup or tee shirt that bears the name of the company, restaurant or organization engaged in MFDV vending, the sale of products other than food and beverages under the permit authorized in this section is prohibited.

15. Unless otherwise approved as part of a temporary use permit issued under article 5, division 19, no more than two (2) MFDVs are allowed to operate simultaneously per site.
16. No overnight parking of the MFDV allowed on-site.
17. A MFDV shall not be located on private property upon which there are unpaid liens or open code violations.
18. MFDVs selling or dispensing of food to customers in a moving vehicle or otherwise engaging in drive-up sales is prohibited.

D. Additional permits and licenses. A copy of the appropriate license(s) issued from the Florida Department of Business & Professional Regulation (Division of Hotels and Restaurants) shall be maintained on the MFDV at all times when the vehicle is in operation on real property located within the city, and shall be made available for inspection upon request by the city's law or code compliance officers.

E. Penalties and appeals.

1. Owners and operators of MFDVs, property owners on which such vehicles operate, and the temporary use permittee, shall be jointly and severally liable for any violations of this section. The code compliance department shall revoke the property owners' MFVD site plan or the temporary use permit if any MFDV vendor ceases to meet any requirement of this section; or, who violates any other federal, state or local law, ordinance or regulation; or conducts activity in a manner that is adverse to the protection of the public health, safety, and welfare.
2. If the MFDV site plan approval is denied or revoked, the property owner may appeal the decision to the zoning appeals board pursuant to article 2, division 5, "Zoning Appeals Board".

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Section 3. Repeal. All Ordinances and parts 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 4-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 24th day of May, 2022.

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 June, 2022.



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: COUNCILWOMAN TIMOTHE

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

Mayor Philippe Bien-Aime	<u>X</u> (Yes) _____ (No)
Vice Mayor Alix Desulme, Ed.D.	<u>X</u> (Yes) _____ (No)
Councilman Scott Galvin	<u>X</u> (Yes) _____ (No)
Councilwoman Kassandra Timothe, MPA	<u>X</u> (Yes) _____ (No)
Councilwoman Mary Estimé-Irvin	<u>X</u> (Yes) _____ (No)