

AGENDA DATE: July 28, 2020

TO: The Honorable Mayor and City Council of the City of North Miami

FROM: Tanya S. Wilson AICP, Planning, Zoning and Development Director

**RE: AN AMENDMENT TO THE LAND DEVELOPMENT
REGULATIONS TO ESTABLISH TEMPORARY USES AND
STRUCTURES IN RESPONSE TO A DISASTER DECLARATION –
(SECOND READING)**

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 7, "DEFINITIONS" AND ARTICLE 5, DIVISION 19, ENTITLED "TEMPORARY USES" TO MODIFY GENERAL LIMITATIONS FOR TEMPORARY USES AND STRUCTURES AND ESTABLISH THE CRITERIA FOR SPECIFIC TEMPORARY USES AND STRUCTURES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER'S ERRORS, CODIFICATION AND FOR AN EFFECTIVE DATE.

RECOMMENDATION

That, pursuant to the requirements of Article 3, Division 10, Section 3-1007 of the City's Land Development Regulations (LDRs), the Mayor and City Council adopt said amendment by passage of the attached ordinance.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, at a regularly scheduled virtual public hearing held on GotoMeeting.com on June 2, 2020, considered the proposed Ordinance, under PC Item 05-20. In attendance were Chair Charles Ernst, and Vice-Chair Michael McDearmaid, Commissioner Bob Pechon, Commissioner Melton Goodwin, Commissioner Howard Tonkin and outside Legal Counsel Gary M. Held, Esq, for the Planning Commission; Debbie Love, AICP, City Planner, Jennifer L. Warren, Deputy City Attorney and Marline Monestime, Board Secretary, for the City administration. City staff presented the item to the Planning Commission in the form of a PowerPoint presentation. After the presentation, the Chair opened up the meeting for public comment; no member of the public spoke.

Commissioner Goodwin made a motion to approve the item and Vice Chair McDearmaid seconded; the item passed 5-0.

CITY COUNCIL ACTION – FIRST READING

The proposed Amendment, under Tab G, was reviewed and discussed by the Mayor and City Council at a regularly scheduled virtual public hearing held on GotoMeeting.com on June 23, 2020. In attendance were Mayor Philippe Bien-Aime, Vice Mayor Alix Desulme, Councilwoman Carol Keys, Councilwoman Mary Estime-Irvin, and Councilman Scott Galvin. Planning, Zoning and Development Director, Tanya Wilson presented the Amendment. The item was opened for public hearing; no public comments were received. A motion was made by Commissioner Estime-Irvin, seconded by Councilman Galvin to approve the item; the motion passed by a vote of 5-0.

BACKGROUND

In the aftermath of a declared disaster, the ability to be agile, flexible and quickly responsive to the needs of our community as they arise is critical to effectively mitigate the various societal and economic disruptions such as has occurred from the COVID-19 pandemic. During this disaster, the city has received requests for unusual uses such as clinics and test centers in churches, a drive-in movie theater, and emergency housing for homeless residents in community residential homes. While these uses were clearly driven by the current disaster, and thus temporary in nature, the LDRs do not provide the necessary flexibility or accommodation to quickly and affirmatively allow for these uses.

Additionally, results of a survey conducted by the Community Redevelopment Agency of business owners in the City indicates that almost 80% of respondents have seen a decreased demand for their goods and services during this disaster. Just as we have seen businesses re-tool to make personal protective equipment, and others shift to a fully e-commerce platform, this amendment will also allow local businesses the opportunity to temporarily adjust their business model quickly in response to new customer and community needs resulting from the disaster. For example, in response to the social distancing and safety concerns surrounding the COVID-19 virus, Dezerland has redesigned their business site to safely accommodate a drive-in movie theater.

During a recent interview, Michael Berkowitz, former executive director of 100 Resilient Cities, affirmed the need for communities to find, “... *opportunities to strengthen resilience now in the face of social and economic disruption. The key is to think about linking various objectives together...How can one particular intervention succeed in strengthening a city across a lot of different areas?*”¹

By allowing the City to expeditiously grant a temporary use permit to non-public organizations and businesses allowing temporary uses and non-permanent structures uniquely necessitated due to the disaster, this Amendment will assure that the disaster-driven needs of the community can be quickly and effectively addressed. Additionally, it will provide alternative economic opportunities during a disaster that can strengthen the resiliency of our local businesses.

PURPOSE OF THE PROPOSED LDR UPDATE

The City seeks to support business enterprise and provide the necessary flexibility to help them successfully sustain operations despite the declared disaster. This proposed amendment seeks to clarify the definition of certain temporary uses and facilitate the establishment of temporary uses and structures directly related to needs arising from a disaster declaration.

ANALYSIS

This Amendment has been reviewed pursuant to the standards for approval set forth in Article 3, Division 10, Section 3-1004 of the City's LDRs as follows:

A. Whether the amendment promotes the public health, safety and welfare;

As noted above, this Amendment to the LDRs will provide for greater flexibility in allowing temporary uses such as temporary housing, health clinics, field hospitals and medical testing sites during a declared disaster.

B. Whether the amendment permits uses the comprehensive land use plan prohibits in the area affected by the zoning map change or text amendment;

This Amendment to the LDRs does not conflict with an allowable land use; rather, it further expands the temporary uses and structures to include those that may be allowable through a special exception.

C. Whether the amendment allows densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;

This Amendment to the LDRs does not affect the allowable densities or intensities.

D. Whether the amendment causes a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the comprehensive land use plan;

This Amendment has no impact upon the level of service for public infrastructure.

E. Whether the amendment directly conflicts with a goal, objective or policy of the comprehensive land use plan; and

This Amendment does not conflict with the comprehensive plan. Rather, it is consistent with several goals, objectives and policies regarding public health, safety and economic development, including Objective 9.3 of the Economic Element that states the City will, “Retain and expand existing businesses and industry...”

F. Whether the amendment furthers the orderly development of the City of North Miami.

As noted earlier, this LDR Amendment does not impact the normal and orderly development of the City, instead, it only allows temporary uses and structures specific to need arising from a declared disaster. Such uses and structures are not permanent but are necessitated due to the disaster and shall expire or cease upon expiration of the disaster declaration.

CONCLUSION

Staff is requesting that, pursuant to the requirements of Article 3, Division 10, Section 3-1007 of the City’s LDRs, the Mayor and City Council review the proposed Amendment to Article 5 and Article 7 of the LDRs, consider Planning Commission recommendations, City staff’s recommendation and any testimony at the public hearing, and **adopt the proposed Amendment by passage of the attached ordinance.**

TW/dl

Attachments: 1. Proposed Ordinance
2. Newspaper Advertisement

ⁱ <https://www.citylab.com/environment/2020/03/coronavirus-urban-resilience-community-economies-covid-19/608422/>, Accessed 5-21-20

ORDINANCE NO. _____

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 7, “DEFINITIONS” AND ARTICLE 5, DIVISION 19, ENTITLED “TEMPORARY USES” TO MODIFY GENERAL LIMITATIONS FOR TEMPORARY USES AND STRUCTURES AND ESTABLISH THE CRITERIA FOR SPECIFIC TEMPORARY USES AND STRUCTURES; 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, the City desires to rapidly facilitate the establishment of temporary uses and structures that are in response to needs directly arising from a declared disaster; 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 June 2, 2020, 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

* * * * *

ARTICLE 5: DEVELOPMENT STANDARDS

DIVISION 19. – TEMPORARY USES

Sec. 5-1901. - General.

The temporary uses set out in this division are permitted subject to the approval of the city manager or designee, and shall be subject to such conditions as may be imposed by the city manager or designee.

Sec. 5-1902. - Permitted temporary uses

A. Contractors offices.

- B. Temporary recreational or entertainment related events or activities such as fairs, concerts, festivals.
- C. Block and neighborhood parties.
- D. Outdoor bazaars, special fund-raising sales and/or similar activities.
- E. Farmer's markets.
- F. Yard sales.
- G. Temporary filming.
- H. Tents for grand opening and special events.
- I. Temporary parking for development purposes.
- J. Temporary emergency housing structures.
- K. Temporary medical facilities and clinics.
- L. Other uses, as determined by the city manager or designee, that are in direct response to a need created by a declared disaster.

Sec. 5-1903. - Permit and Standards.

No temporary use shall be established on private or public property without obtaining a temporary use permit from the city manager or designee, establishing compliance with the following standards:

- A. The temporary use will not create hazardous vehicular or pedestrian traffic conditions.
- B. The design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion.
- C. Adequate sanitary facilities, utility, drainage, refuse management, emergency services and access, and similar necessary facilities and services will be available to serve employees, patrons or participants.
- D. Where a tent or similar structure is to be used, such structure shall:
 - 1. Comply with the requirements of the fire marshal.
 - 2. Provide the city with a certificate of insurance to cover the liability of the applicant or sponsor.
 - 3. Demonstrate that the tent is flame resistant by providing a certificate of flame resistance or other assurance that the structure has been properly treated with flame retarder and has been maintained as such.
- E. Signage, pursuant to 5-1501, related to the temporary use, including signs attached to vehicles associated with the use, shall not exceed twenty-four (24) square feet of sign face area and no more than one (1) sign face per street frontage shall be permitted. During the period of a declared disaster, additional allowances for banners and other removable signage may be considered.

No temporary use shall be permitted which allows the sale of Christmas trees or fireworks.

Section 5-1907. - Temporary medical facilities and clinics.

1. May be established upon a declaration of a disaster.
2. Shall meet the criteria established in Section 5-1903, and may be subject to other conditions to ensure compatibility with surrounding neighborhoods.
3. All temporary structures must be removed from the site no later than ten (10) days after the discontinuance of the use or within ten (10) days of the expiration of the disaster period, whichever occurs first.
4. Failure to remove the temporary structure shall authorize the city to remove it without further notice and at the expense of the permit holder or property owner.

Section 5-1908. - Other temporary uses.

1. Must be approved by the city manager or designee after demonstrating that such use will meet a specific need arising from the declared disaster.
2. Shall meet the criteria established in Section 5-1903, and may be subject to other conditions to ensure compatibility with surrounding neighborhoods.
3. Approval of the use terminates at the expiration of the disaster declaration.
4. Any approved temporary structures associated with the use must be removed from the site no later than ten (10) days after the discontinuance of the use or within ten (10) days of the expiration of the disaster period, whichever occurs first.
5. Failure to remove the temporary structure shall authorize the city to remove it without further notice and at the expense of the permit holder or property owner.

* * * * *

ARTICLE 7: DEFINITIONS

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Temporary emergency housing structures mean recreational vehicles, travel trailers, park models (or similar approved sheltering units) or commercial/industrial tent structures and other similar structures used for temporary occupancy in response to declared disasters.

Temporary medical facilities and clinics mean portable structures used for mobile medical response, e.g., emergency or operating rooms, trauma centers, portable hospital surge capacity, outpatient clinics or drive-through testing stations, established in response to a declared disaster.

* * * * *

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 _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2020.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2020.

PHILIPPE BIEN-AIME
MAYOR

ATTEST:

VANESSA JOSEPH, ESQ.
IWO #20-308 (JLW)

CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Philippe Bien-Aime
Vice Mayor Alix Desulme, Ph. Ed.
Councilwoman Carol Keys, Esq.
Councilwoman Mary Estimé-Irvin
Councilman Scott Galvin

_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)



NOTICE OF VIRTUAL PUBLIC HEARING

CITY OF NORTH MIAMI, FLORIDA

NOTICE IS HEREBY GIVEN that the City of North Miami, Florida proposes to adopt the following ordinance:

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 7, “DEFINITIONS” AND ARTICLE 5, DIVISION 19, ENTITLED “TEMPORARY USES” TO MODIFY GENERAL LIMITATIONS FOR TEMPORARY USES AND STRUCTURES AND ESTABLISH THE CRITERIA FOR SPECIFIC TEMPORARY USES AND STRUCTURES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CORRECTION OF SCRIVENER’S ERRORS, CODIFICATION AND FOR AN EFFECTIVE DATE.

The City Council will hold a Virtual Public Hearing for the second reading of this ordinance on **Tuesday, July 28, 2020 at 2:00 p.m. via GoToWebinar.** PLEASE NOTE: City Council Chambers is not open for public hearings.

To log onto the virtual public hearing, go to the following web address at the date and time indicated above:

<https://attendee.gotowebinar.com/register/1618160466833326095>

Webinar ID: 540-902-523

Members of the public are invited to attend the virtual Public Hearing and provide oral or written comments on the matter. Comments, which must include your full name and address, may be provided in advance of the hearing via telephone at 305-895-9803, or by sending an email to publiccomment@northmiamifl.gov. Comments received by 10 a.m., July 28, 2020, will be read into the record during the hearing. Comments received after the deadline will become part of the record, but will not be read during the hearing.

If you do not have internet access, you may call 305-893-6511, Ext. 19003 to ask questions about the item. A copy of the staff report containing the Community Planning and Development Department’s recommendation is available online at: www.northmiamifl.gov/ldra_07282020; and is available for public review from Monday to Friday between the hours of 8:15 a.m. and 12:30 p.m. in the City Clerk’s Office, City Hall.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 19005, FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE 711 OR YOU MAY CONTACT 1-800-955-8771 FOR THE FLORIDA RELAY SERVICE FOR ASSISTANCE.