

ORDINANCE NO. 2008-22

AN ORDINANCE AMENDING CHAPTER 24 LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA; MODIFYING LANDSCAPE REQUIREMENTS FOR TALLER BUILDINGS; MODIFYING SITE PLAN REVIEW STANDARDS AND PUBLIC NOTICE PROCEEDINGS; MODIFYING SUBDIVISION PLAT REVIEW STANDARDS; CREATING SECTION 24-181 URBAN DESIGN PLAN, TO INCORPORATE RECOMMENDATIONS OF THE GLATTING JACKSON REPORT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE.

WHEREAS, the City of North Miami Beach Planning and Zoning Board, as the local planning agency, held on November 10, 2008 a duly noticed public hearing at which time it reviewed code amendments proposed by staff, made certain changes thereto, and recommended the following amendments to Chapter 24, Zoning and Land Development Code, of the Code of Ordinances of the City of North Miami Beach, Florida, in order to update and amend various aspects of the Code regarding land use, development and regulation in the City of North Miami Beach, Florida, as well as codifying recommendations of the Glattting Jackson City of North Miami Beach Urban Design Plan; and

WHEREAS, the Mayor and City Council of the City of North Miami Beach, Florida, after review and discussion, have determined that it is in the best interest of the residents, citizens, and business community of the City of North Miami Beach to amend the City Code of Ordinances to update and amend Chapter 24, Zoning and Land Development Code, of the Code of Ordinances of the City of North Miami Beach, Florida; and

WHEREAS, the Mayor and City Council of the City of North Miami Beach, after review and discussion and extensive public input, have determined it is in the best interest of the City to codify and adopt the recommendations of the Glattting Jackson North Miami Beach Urban Design Plan.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Sec. 24-119 Minimum Landscaping Requirements for All Zoning Districts of the Code of Ordinances of the City of North Miami Beach, Florida is hereby amended as follows:

Chapter 24: Zoning & Land Development

**ARTICLE XI
LANDSCAPING**

Sec. 24-119 Minimum Landscaping Requirements For All Zoning Districts

(A) Tree Specifications

- (1) Required trees shall be of a species, which normally grow to a minimum height of twenty-five (25) feet and have a mature crown spread of not less than twenty (20) feet with trunks, which can be maintained, with over six (6) feet of clear wood. The Director shall maintain a list of acceptable trees.
- (2) All required trees shall be field grown and have a minimum caliper or diameter at breast height (D.B.H) of three (3) inches and be a minimum of twelve (12) feet in height and five (5) feet in spread at time of planting. A list of approved required trees is available from the Director of the Community Development Department.
- (3) Required palms shall be field grown and have a minimum of sixteen (16) feet in height and six (6) feet of clear wood.
- (4) At least twenty-five (25) percent of all required trees shall be of a palm species.
- (5) Three (3) palm trees shall be clustered to equal one (1) required tree: the three palm trees in the cluster shall be of differing heights, with a minimum two (2) foot stagger between adjacent palms, but, in no case smaller than sixteen (16) feet in height.
- (6) It is prohibited to paint the trunks of trees or palms.
- (7) It is prohibited to attach any structure, including, but not limited to, newspaper racks, bicycle racks or signs to any tree or palm by nailing, chaining, cable or any other means.
- (78) Modification of specifications:
The specific requirements relating to landscape materials, including but not limited to, type, size, quantity and spacing, may be adjusted or modified by the City Manager to reflect existing field conditions, so long as the general spirit and intent of this chapter is upheld. Field conditions, which may require modifications to the planting requirements, include, but are not limited to, overhead or underground utilities, (including septic tanks), proximity to adjacent buildings and visibility issues.
- (89) As part of the site plan review for proposed projects, additions and renovations, the proposed landscaping shall be reviewed to determine if the proposed locations of any of the trees is in proximity to overhead or underground electric facilities. This section of the code shall also be used when selecting the replacement planting for replacement of dead, diseased, destroyed or otherwise removed vegetation from a site.
 - (a) No tree shall be planted where at mature height it may conflict with overhead electric facilities. Large trees (trees with a mature height of 30 feet or more) shall be planted no closer than a horizontal distance of 30 feet from any overhead electric facility. Medium size trees (trees with a mature height of 20 to 30 feet) shall be planted no closer than a horizontal distance of 20 feet from any overhead electric facility. Small trees and shrubs, with a mature height of less than 20 feet, may be planted adjacent to electric power facilities.
 - (b) Palm trees shall be planted at a distance from overhead electric facilities not less than the mature maximum frond length plus three feet.
 - (c) Existing trees that are in violation of this section of the code shall be maintained annually by the property owner, such that there are no branches of the tree closer than ten feet to overhead electrical facilities.
 - (d) The replacement of dead, diseased, destroyed or otherwise removed vegetation shall conform to the requirements of this section of the code.

- (e) Those plants considered nuisance or problem trees due to their brittleness, early decay and non-suitability for planting near electric facilities or elsewhere, shall not be planted. These trees are listed as follows:

Common Name	Botanical Name
Earleaf Acacia	Acacia auriculiformis
Australian Pine	Casuarina spp.
Melaleuca	Melaleuca quinquenervia
Brazilian Pepper	Schinus terebinthifolius
Woman's Tongue Tree	Albizia lebbeck
Norfolk Island Pine	Araucaria heterophylla
Tree Bamboo	Bambusa vulgaris
Bischofia	Bischofia javanica
Schefflera	Brassaia actinophylla
Ear Tree	Enterolobium cyclocarpum
Eucalyptus	Eucalyptus spp.
Non-native Ficus	Ficus spp.
Silk Oak	Grevillea robusta
Mahoe	Hibiscus tiliaceus
Chinese Tallow Tree	Sapium sebiferum
Java Plum	Syzygium cumini
Cork Tree	Thespesia populanea

- (f) Landscaping shall conform to the recommendations contained in the latest edition of the document entitled: "Plant the Right Tree in the Right Place" South Florida as distributed by FPL (Florida Power and Light).

(10) Additional Minimum Tree Specifications For Properties With Buildings of Three (3) Stories or Taller:

- (a) All required trees shall be field grown and have a minimum caliper or diameter at breast height (D.B.H) of five (5) inches and be a minimum of eighteen (18) feet in height and eight (8) to ten (10) feet in spread at time of planting.
- (b) Required palms shall be field grown and have a minimum of twenty-five (25) feet in height and ten (10) feet of clear wood.
- (c) Three (3) palm trees shall be clustered to equal one (1) required tree: the three palm trees in the cluster shall be of differing heights, with a minimum three (3) foot stagger between adjacent palms, but, in no case smaller than twenty-five (25) feet in height.

Section 3. Section 24-172 Site Plan Review of the Code of Ordinances of the City of North Miami Beach, Florida is hereby amended as follows:

Chapter 24: Zoning and Land Development

**ARTICLE XV
OTHER DEVELOPMENT REVIEW PROCEDURES**

Sec. 24-172 Site Plan Review

(E) Preliminary Site Plan Application

A preliminary site plan shall be submitted following the pre-application conference. The purpose of this phase shall be to review the basic site design characteristics of the proposed development. The following plans and exhibits shall be submitted in sixteen (16) collated sets to the Director for review; and approval or denial by the Planning and Zoning Board and City Council:

- (1) Existing site characteristics map:

- (a) Certified property survey, showing the centerline height of the adjacent road relative to National Geodetic Vertical Datum of 1929 (NGVD) at all locations where a property line extension would cross said adjacent road;
- (b) Existing natural features, including, but not limited to soils, topography, water areas, trees and other vegetation;
- (c) Existing structures and uses;
- (d) Existing utility lines.

(2) *Proposed site development plan:*

- (a) Proposed structures and any existing structures which are to be retained, including, but not limited to their location, use, finished floor elevation of lowest floor relative to NGVD, height, size, dimensions and setbacks;
- (b) Proposed trees, plants and other landscape features and any existing trees and vegetation to be retained, including but not limited to their location, height, size and type by common and botanical name plus an irrigation plan and landscaping plan for the median if applicable; conformity to Article XI shall be demonstrated;
- (c) Proposed off-street parking and loading areas, and overall vehicular and pedestrian circulation patterns; conformity to Article IX shall be demonstrated.

(3) *Tabular summary:*

- (a) Total gross project acreage and net buildable land area;
- (b) Total number of proposed residential units (if any), including their characteristics by number of bedrooms and total gross square footage, including a listing of the number of each size of residential unit proposed;
- (c) Proposed residential densities, including both net and gross acre calculations;
- (d) Proposed nonresidential floor area by type of use and total gross square footage;
- (e) Percentages of total gross project area proposed for pervious and impervious areas and building coverage;
- (f) Number, size and ratio of off-street parking and loading spaces, including ADA required parking spaces; see Article IX.

(F) *Final Site Plan Application*

Upon recommendation of approval or denial of the preliminary site plan by the Director, based upon his report and recommendation, the applicant shall have up to six (6) months to submit a final site plan for approval. If the applicant fails to submit said final site plan within said period, all preliminary approvals shall be void and the applicant shall be required to reinstate the site plan review process. The following refined or revised plans and exhibits shall be submitted in sixteen (16) complete collated sets to the Director for final plan review during the technical review of applications for development (TRAD); and sixteen (16) revised complete collated sets for final plan review approval by the Planning and Zoning Board and sixteen (16) additional revised complete collated sets for final plan review by the City Council:

(1) Existing site characteristics map:

- (a) Certified property survey, showing the centerline height of the adjacent road relative to NGVD at all locations where a property line extension would cross said adjacent road;

- (b) Existing natural features, including, but not limited to soils, topography, water areas, trees and other vegetation;
- (c) Existing structures and uses;
- (d) Existing utility lines, including pipe sizes where applicable.

(2)(4) *Site development plan:*

- (a) Proposed structures, including their location, use, ~~height~~, size, dimensions, cross-sections through the site showing the existing and proposed buildings and setbacks, including the Finished Floor Elevation (FFE) relative to NGVD datum for the lowest floor, the building height to each story FFE for multi story buildings, the building height to the top of the roof, and the building height to the top of all attachments above the roof;
- (b) Proposed off-street parking and loading areas, driveways, and sidewalks, including their location, size, shape, construction material, dimensions and setbacks;
- (c) Proposed fences, walls and signs, including their location, dimensions and setbacks;
- (d) Garbage, trash and recycling enclosure and its screening;
- (e) Proposed utility lines-, proposed location of all light poles for parking lots and all other site locations;
- (f) (4) *Revised tabular summary formatted to show required v. proposed, where applicable:*

1. Total gross project acreage and net buildable land area;
2. Property width and depth;
3. Setbacks;
4. Building height;
5. Lot coverage;
6. Total number of proposed residential units (if any), including their characteristics by number of bedrooms and total gross square footage, including a listing of the number of each size of residential unit proposed;
7. Proposed residential densities, including both net and gross acre calculations;
8. Proposed nonresidential floor area by type of use and total gross square footage;
9. Percentages of total gross project area proposed for pervious and impervious surfaces and building coverage;
10. Number, size and ratio of off-street parking and loading spaces, including ADA required parking spaces.

(2 3) *Landscape plan:*

- (a) Proposed trees, plants, grass and other vegetative landscape features, including their location, height, size and type by common and botanical name, location of plant materials and light poles shall be coordinated to prevent diminished illumination from light fixtures due to the installation or future growth of plant materials;
- (b) Proposed berms, watercourses and other topographic landscape features, including their location, height, size and shape.

(3 4) *Architectural plan(s):*

- (a) Proposed floor plans and elevations, including their size, shape, dimension, texture and exterior color, roof plans, sections through the building(s), typical dwelling unit floor plans;

- (b) Proposed elevations of fences, light poles, site furnishings, walls and signs, including their size, shape, dimension, texture, construction material, color and message content.

(5) Site lighting plan:

- (a) A site lighting plan shall be provided as part of the application process. This plan shall show the photometrics of the site's lighting for vehicular use areas, outside building areas, signs and streets. The plan shall be prepared by and signed and sealed by a registered professional engineer. The plan shall incorporate all existing and proposed sources of artificial light used on the site, including that from adjoining parcels. The site lighting plan shall be prepared at the same scale as the site plan in the application package. The site lighting plan must be certified for compliance with the codes of the City.

(G) *Review Standards*

The following standards shall be utilized by all applicable individuals and departments involved in the review and evaluation of required plans and exhibits:

- (1) *Natural environment:* All proposed development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, and to conceal unattractive areas and uses. Special attention shall be devoted to natural vegetation along waterfronts. See also Articles VII, XI and XII where applicable.
- (2) *Open space:* Adequate open space shall be provided which meets the particular needs and demands of the proposed development and all specific zoning requirements. The type and distribution of all open space shall be determined by the character, intensity and anticipated residential or user composition of the proposed development.
 - (a) Passive open spaces (those areas not planned for intensive activity) shall be arranged as to enhance internal spatial relationships between proposed structures, to provide buffers between the project and adjacent less intensive uses, to facilitate pedestrian movements within the development, and to improve the overall visual quality of the site.
 - (b) Active open spaces (those areas containing activities such as playgrounds, tennis courts, swimming pools and other active recreational facilities) shall be located so as to permit easy access for all residents or users within a development. Private recreational facilities within specific projects shall, wherever possible, complement rather than duplicate nearby public recreational facilities.
- (3) *Circulation and parking:* All circulation systems and parking facilities shall be designed and located in such a manner as to comply with the following:
 - (a) A clearly defined vehicular circulation system shall be provided which allows free movement within the proposed development while discouraging excessive speeds. Said system shall be separated insofar as practicable from pedestrian circulation systems. Pavement widths and access points to peripheral streets shall be provided which adequately serve the proposed development and which are compatible and functional with circulation systems outside the development.
 - (b) Whenever possible in proposed residential developments, living units should be located on residential streets or courts which are designed to discourage nonlocal through traffic.
 - (c) Off-street parking areas shall be located and designed in such a manner so as to not create any incompatible visual relationships.

- (d) Safe and efficient access to all areas of the proposed development shall be provided for emergency and service vehicles.
- (4) *Community services and utilities:* All proposed developments shall be designed and located in such a manner as to insure the adequate provision, use and compatibility of necessary community services and utilities.
- (a) An adequate waste water collection system, including all necessary extensions and connections, shall be provided in accordance with city standards for location and design. Where necessitated by the size of the development, the public sanitary sewer connection is required; see Section 24-133. On-site wastewater systems must be provided in accordance with County standards and regulations.
- (b) An efficient solid waste collection system including the provision of an adequate number of local receptacles in locations which afford maximum use and collection convenience, shall be provided in accordance with all applicable city standards.
- (c) A well-designed internal system for fire protection, including the provision of properly located fire hydrants, adequate water pressure, and an efficient access arrangement for emergency fire vehicles, shall be provided to insure the safety of all persons within the project.
- (5) *Buildings and structures:* All buildings and structures proposed to be located within a development shall be oriented and designed in such a manner as to enhance, rather than detract, from the overall quality of the environment. The following guidelines shall be followed in the review and evaluation of all buildings and structures:
- (a) Proposed buildings and structures should be related harmoniously to the terrain, other buildings, and the surrounding neighborhood, and should not create through their location, scale, style, color or texture incompatible physical or visual relationships.
- (b) Maximum privacy should be incorporated into the design of any individual residential units and related outdoor patio and living areas.
- (c) Building location and other site features shall be reviewed in the context of any proposed road widenings, particularly the Biscayne Boulevard frontage.
- (d) Proposed buildings located in Special Flood Hazard Areas as identified on flood insurance rate maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA) shall have the lowest floor elevated no lower than the level of the base flood elevation.
- (e) Proposed buildings and site shall be compliant with the Americans with Disabilities Act (ADA) and Miami-Dade County Code of Ordinances.
- (f) Proposed buildings shall be compliant with the Fair Housing Act as required.
- (6) *Signs:* Shall be reviewed in the context of Article XIII.
- (7) *Crime Prevention Through Environmental Design:* All proposed development shall be designed to discourage and reduce the possibility of nuisance and criminal activity. Towards that goal, all applications for site plan approval shall be reviewed by the Police Department to assess areas or elements which may encourage crime and to insure opportunities for police surveillance. The Police Department shall analyze and make recommendations regarding all factors that affect crime prevention including, but not limited to, the following: Location, traffic, visibility, windows and doors, security lighting, parking lot lighting, and address numbers. In making recommendations, the Police Department shall apply generally accepted standards of environmental design calculated to promote crime prevention. (Ord. No. 91-22, § 2, 8-6-91)

(8) Landscaping: All locations of plant materials shall be coordinated with the location of other elements of the site plan, particularly lighting fixtures and light poles. Landscaping and lighting shall not be placed in such a way as to cause the diminishment of illumination due to the placement of the lighting poles and plant materials or the future growth of the plant materials.

(9) Lighting: Placement of the lighting fixtures shall be coordinated with the placement of landscape materials, as noted above.

(H) *Final Site Plan Approval*

All applications for final site plan approval shall be submitted and reviewed in the following manner:

(1) *Department:* The applicant shall submit his application site plan to the department of community development at least ~~four (4) weeks prior to the planning and zoning board~~ three (3) weeks prior to the technical review of applications for development (TRAD) meeting at which the application is to be reviewed.

(2) Technical Review of Applications for Development (TRAD): City staff from various departments related to land development shall, under the direction of the city planner discuss and make recommendations to the applicant regarding matters related to infrastructure, capacities, overall design and layout, zoning, comprehensive planning, engineering, landscaping and other relevant matters based upon the review standards in (G) above. The applicant shall change the plans for the application to the degree necessary to accommodate the comments from TRAD. Those topics discussed during TRAD shall form the basis of the staff report that will accompany the application to the Planning and Zoning Board and the City Council.

(23) Planning and Zoning Board: After a public hearing, the planning and zoning board shall vote to recommend approval or denial of the application to City Council, based upon the review standards in (G) above.

(34) City Council: The city council may, by majority vote, either approve or overrule the recommendation of the Planning and Zoning Board, based upon the review standards in (G) above.

(45) Ordinance change: Any change of ordinance or regulatory control occurring after any site plan approval has been granted, but prior to the issuance of a building permit, shall render such approval void to the extent of conflict with such change of ordinance or regulatory control.

(I) *Expiration*

A The master building permit from the City must be obtained within six (6) months of site plan approval. All extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City Council for good cause.

Section 4. Section 24-180 Denials, Notices and Fees of the Code of Ordinances of the City of North Miami Beach, Florida, is hereby amended as follows:

Chapter 24: Zoning & Land Development

**ARTICLE XV
OTHER DEVELOPMENT REVIEW PROCEDURES**

Sec. 24-180 **Denials, Notices and Fees**

(A) *Denials and Withdrawals.*

(1) Upon the denial of an application for either a rezoning or variance, a period of twelve (12) months must run prior to the filing of a subsequent application relating to the subject property. Such limitation shall not apply to applications filed by the Director. However, applications may be denied without prejudice and, in such event, there shall be no prohibition of the filing of a subsequent application.

(2) An application may be withdrawn without prejudice by the applicant as a matter of right; provided, the request for withdrawal is in writing and filed with the Director prior to a formal final decision. The applicant shall not be entitled to the return of any application fee.

(B) *Notices.*

(1) *Newspaper publication:* Notice of all pending rezoning or land use variance applications before the City Council shall be advertised in a newspaper of general circulation within the City of North Miami Beach in accordance with statutory requirements.

(2) *Courtesy Letters:*

(a) All property owners within five hundred (500) feet of property which is the subject of a rezoning or land use variance request and within five hundred (500) feet of property which is the subject of a variance request and within five hundred (500) feet of commercial or multifamily property which is the subject of a site plan approval request shall be transmitted a courtesy notice by mail stating the following: (Ord. No. 98-13 § 1, 11/17/98)

1. Date, time and place of hearing;
2. Type of petition to be considered; and
3. Place and times the petition may be reviewed.

(b) The names of the property owners shall be as listed in the most current edition of the Miami-Dade County Tax Rolls. Failure of a property owner to receive such courtesy notice shall not void any decision reached on the subject matter.

(c) When a multifamily residential structure, which contains a legally constituted homeowners' or condominium association, is located within the distances in (2) above, an individual notice shall be sent to each fee simple property owner. Additionally, a single notice transmitted to the current president or officer in charge shall be posted in a public common area such as lobby, elevator, clubhouse or meeting room. (Ord. No. 98-13 § 1, 11/17/98)

(3) *Large area rezonings:* With respect to rezoning applications on property consisting of five (5%) percent or more of the total land area of the City, the requirements of Section 166.041, Florida Statutes, as the same may be amended from time to time shall be applicable in lieu of subsections (1) and (2) hereof.

(4) *Sign(s) posted on property:* All properties that are the subject of a pending zoning or other land use application and scheduled for public hearing shall be posted by the owner/applicant at his/her expense with a sign(s) having the following criteria:

(a) Sign(s) shall have dimensions of 48" x 48". Applications containing excessive text shall be 48" wide x 60" high. Signs pertaining to single family residences shall be 24" x 24".

(b) Bottom of sign shall be placed thirty-six (36) inches above grade, if ground mounted.

(c) Sign shall be located as close to the front property line(s) as possible, or in other location approved by the Community Development Department Director in order to maximize visibility.

(d) Corner properties shall require (2) such signs, one each facing both streets.

(e) Sign shall include the date and time and place of public hearing, applicant name, and the specific request(s).

(f) Sign shall be posted ten (10) days prior to the Planning and Zoning Board public hearing, and be removed within forty-eight (48) hours after City Council action.

(g) Sign shall be placed on the property prior to both the Planning and Zoning Board meeting and the City Council meeting. (Ord. No. 98-13 § 2, 11/17/98)

(5) Comprehensive Plan changes or amendments, notice and schedule requirements.

RECEIVED

(a) Comprehensive Plan changes or amendments to text (“Text Changes”) which would increase the height and/or density for any land or of any existing future land use category or which would create one or more new future land use categories that would exceed the density and/or height of the existing future land use categories.

(b) Written notice of Text Changes or map changes which would increase the height and/or density for any land (“Map Change Increases”) shall be provided to individuals and groups which register with the City Clerk. The applicant shall bear the cost of providing written notice. This written notice shall be provided within fifteen (15) days after the filing of any application seeking Text Change or Map Change Increase. A further notice pursuant to this policy shall be provided not less than ninety (90) nor more than one hundred twenty (120) days prior to the first hearing of the Local Planning Agency (LPA) pertaining to a Text Change or Map Change Increase and not more than forty-five (45) days nor less than thirty (30) days prior to final City Council action upon such a proposed change or amendment.

(c) No final City Council action shall take place less than nine (9) months from the filing of an application for a Text Change or Map Change Increase. This policy shall apply to applications of the City as well as to all other applications for change or amendment described in this policy.

Section 5. Section 24-178 Subdivision Plats of the Code of Ordinances of the City of North Miami Beach, Florida is hereby amended as follows:

Chapter 24: Zoning & Land Development

ARTICLE XV OTHER DEVELOPMENT REVIEW PROCEDURES

Sec. 24-178 Subdivision Plats

(C) *Final Plat.*

(4) *Mandatory dedication of open space areas:*

(a) *Requirement:* With regard to lands comprising at least ten (10) acres total acreage to be developed and/or subdivided, the developer and owner shall dedicate or set out five (5%) percent of same for parks, playgrounds and/or recreational purposes, in a location with suitable public access within the said acreage, as selected and determined by the Planning and Zoning Board, after considering the recommendation of the developer.

(b) *Access, use and ownership:* All such lands may be retained in private ownership for public use, and shall be subject to such conditions as the City may establish concerning access, use, and maintenance of such lands, as deemed necessary to assure the preservation of such lands in perpetuity for their intended purposes and that the developer shall execute any and all documents necessary to effectuate the intended purposes.

(c) *Compliance:* The City shall not issue any permit nor any certificate of occupancy until the developer and/or owner complies fully with this subsection.

(d) *Conveyance to City:* Such lands may be offered to the City of North Miami Beach as a gift, and at the discretion of the City Council may be accepted upon recommendation by the Planning and Zoning Board.

(e) *Density bonus:* In the event there is an actual direct conveyance by the owner and/or developer to the City of North Miami Beach by deed or other lawful conveyance, then in that event the developer and/or owner, at its option, may construct on the remaining portion of the said land and acreage, a ten (10%) percent increase in density as may be permitted by this chapter the Zoning and Land Development Code and the Comprehensive Plan of the City of North Miami Beach, and that as to the open space requirements, same may be reduced by five (5%) percent in order to compensate for dedication of part of its lands for public use.

(f) *Payment by developer in lieu of dedication of property:* The owner and/or developer shall have the further option to contribute and pay in cash to the City the

market value of five (5%) percent of the total acreage to be developed and/or subdivided in lieu of dedicating or setting aside said amount of acreage for parks. Said payment shall be placed in a special trust account of the City and earmarked specifically for use for the development of parks, playgrounds, and/or recreational area or areas, which shall be used within a radius not exceeding three (3) miles from the lands being developed, and which shall be developed within five (5) years from the date of last payment into said fund; a tentative plan as to specific locations and the time-frames of development of such areas shall be prepared by the City Manager and submitted to the City Council for approval and/or modification within a period not exceeding ninety (90) days from the date of the developer's last payment to the City.

Section 6. Chapter 24, Zoning & Land Development of the Code of Ordinances of the City of North Miami Beach, Florida, shall hereby be amended by the creation and adoption of Article XVI, North Miami Beach Urban Design Plan, which shall read as follows:

Chapter 24: Zoning & Land Development

ARTICLE XVI
NORTH MIAMI BEACH URBAN DESIGN PLAN

Section 24-181 Urban Design Plan

The City of North Miami Beach has adopted portions of the North Miami Beach Urban Design Plan as prepared by Glatting Jackson Kercher Anglin dated May 2007 as enumerated below.

- (A) The Line. The Line is established within the city limits of the City of North Miami Beach to protect existing neighborhoods from redevelopment that could negatively impact low density residential use.
- (1) Map No. "UDP-The Line" is attached showing the location of the The Line.
 - (a) The Line will be located along the property line of adjacent properties where this condition exists.
 - (b) Where there is a street, alley or canal where The Line is shown on the map, The Line will be located in the center of the street, alley or canal.
 - (2) Development and redevelopment on the neighborhood side of The Line shall not exceed a density of eight (8) dwelling units per net acre.
 - (3) Development and redevelopment on the urban side of The Line will need to provide a transition to the neighborhood side of The Line.
 - (a) There shall be a minimum setback from The Line of thirty (30) feet.
 - (b) The pervious portions of the setback area shall be heavily landscaped to provide screening of the urban side of The Line, which may include sidewalks, bike paths and other amenities.
 - (c) If surface parking is proposed on the urban side of The Line there shall be constructed a six (6) foot tall opaque wall set back five (5) feet from The Line. Said wall shall be heavily landscaped on both sides.
 - (4) Building height adjacent to The Line.
 - (a) Development or redevelopment on the urban side of The Line across from single family zoning districts shall not exceed three (3) stories in height within the first one hundred (100) feet of The Line.
- (B) Building Height Overlay Zone. A Building Height Overlay Zone is established to set maximum building height in portions of the City to provide guidance for development and redevelopment.
- (1) Map. No. "UDP-Building Height Overlay Zone" is attached showing the locations of the maximum building heights allowed under this section.
 - (2) In those portions of the City where the Building Height Overlay Zone allows for taller building heights than the underlying zoning, there shall be additional requirements necessary before the additional building heights may be used.

RECEIVED

- (a) There shall be required an increase in pervious area in the amount of ten percent (10%) of the required pervious area of the underlying district for each additional floor requested above that allowed in the underlying zoning district.
 - (b) There shall be an increase in the on-site parking provided in the amount of ten percent (10%) of the required parking of the City Code for each additional floor requested above that allowed in the underlying zoning district.
 - (c) There shall be required an increase in the off-site improvements in the amount of ten percent (10%) of the required adjacent off-site improvements required by the City Code.
- (3) In those portions of the City where the Building Height Overlay Zone requires shorter building heights than the underlying zoning, there shall be additional incentives for development or redevelopment, which if utilized, will bind the development or redevelopment to be limited to the building height as set forth in the Building Height Overlay Zone.
- (a) Building setbacks may be decreased by up to twenty-five percent (25%) of those required in the underlying zoning district.
 - (b) Pervious area may be decreased by up to twenty-five percent (25%) of that required in the underlying zoning district.

Section 7. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

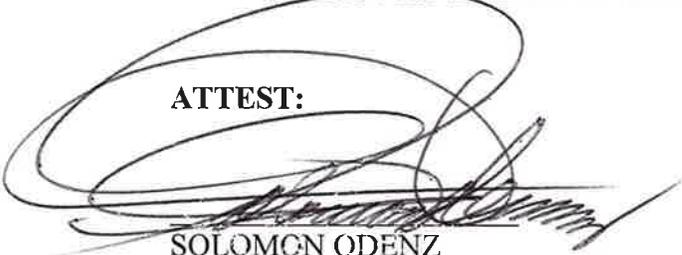
Section 8. If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 9. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article", or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 2nd day of December, 2008.

APPROVED AND ADOPTED on second reading this 16th day of December, 2008.

ATTEST:



SOLOMON ODENZ
CITY CLERK

(CITY SEAL)



RAYMOND F. MARIN
MAYOR

APPROVED AS TO FORM



HOWARD B. LENARD
CITY ATTORNEY

08 DEC 23 11 10 AM

ORDINANCE NO. 2012-11

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, ARTICLE 15 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "OTHER DEVELOPMENT REVIEW PROCEDURES" BY EXTENDING THE EXPIRATION DATE FOR SITE PLAN REVIEW; ADDING AN EXPIRATION DATE FOR CONDITIONAL USE APPROVALS; EXTENDING THE EXPIRATION TIME FOR VARIANCES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, even though an applicant receives approval from the City Council for a development project, current City Code renders said approval void if it conflicts with any ordinance passed after the approval but prior to the issuance of a building permit for the project; and

WHEREAS, while applicants often expend many dollars in professional services and public hearing fees, the current City Code adversely affects those applicants who have already received City Council approval, but prior to obtaining a building permit, the Code is changed; and

WHEREAS, the Mayor and City Council believe that applicants have a right to rely on Council's approval and continue to do so even though a building permit has yet to be obtained; and

WHEREAS, while some applicants are able to obtain a building permit within six months as required by current City Code, others are experiencing delays in obtaining permits within that time period due to the backlog at various County departments; and

ORDINANCE NO. 2012-11

WHEREAS, while the current City Code provides for no expiration time-frame for projects granted conditional use approval, the City Council believes that such is warranted in order to put applicants on notice; and

WHEREAS, once applicants receive conditional use approval on a project, under current City Code that approval has no expiration time-frame; and

WHEREAS, the Mayor and City Council is desirous to establish a time-frame for a conditional use to be uniform and consistent with the time-frame for site plan review and approval of variances; and

WHEREAS, on October 17, 2011, the Planning and Zoning Board heard this item at a publicly advertised meeting where it was favorably approved by a vote of 6-0; and

WHEREAS, in order to assist, promote, and entice more development in North Miami Beach, the Mayor and City Council believe that the current Code giving applicants only six (6) months to obtain a building permit for development projects needs to be amended and should be extended to a one-year period.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Sec. 24-172 Site Plan Review of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-172 Site Plan Review

(H) *Final Site Plan Approval.* All applications for final site plan approval shall be submitted and reviewed in the following manner:

~~(5) Ordinance change: Any change of ordinance or regulatory control occurring after any site plan approval has been granted, but prior to the issuance of a building permit, shall render such approval void to the extent of conflict with such change of ordinance or regulatory control.~~

(Ord. No. 2008-22 § 3, 12/16/08)

(I) *Expiration.* The master building permit from the City must be ~~obtained~~ applied for within ~~six (6) months~~ one (1) year of site plan approval. All extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City Council for good cause. (Ord. No. 2008-22 § 3, 12/16/08)

Section 3. Sec. 24-175 Conditional Uses of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-175 Conditional Uses

(C) *Expiration.* A Business Tax Receipt must be obtained within one (1) year of the issuance of a certificate of occupancy or within one (1) year of conditional use approval, whichever is longer. This may be extended administratively for good cause for one six (6) month period by the City Manager or designee. This period may be extended by the Mayor and City Council for good cause.

Section 4. Sec. 24-176 Variances of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Sec. 24-176 Variance

(C) *Variance Review Standards.*

(4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

(a) If a permit has not been ~~issued~~ applied for within ~~six (6) months~~ one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or

(b) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire. (Ord. No. 94-14, § 2, 6-21-94)

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 7. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part

of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 3rd day of July, 2012.

APPROVED AND ADOPTED on second reading this 7th day of August, 2012.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM

DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor & City Council

ORDINANCE NO. 2019-06

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER XXIV "ZONING AND LAND DEVELOPMENT," SPECIFICALLY SECTION 24-22, "DEFINITIONS" TO ADD ADDITIONAL DEFINITIONS, SECTION 24-44.2, "MH-1 MOBILE HOME SUBDIVISION DISTRICT (PREVIOUSLY RS-6)" TO UPDATE THE CITY CODE TO REFLECT THE AMENDED SECTIONS, SECTION 24-172, "SITE PLAN REVIEW" TO CHANGE REFERENCES FROM COUNCIL TO COMMISSION AND RELOCATE THE ADMINISTRATIVE AUTHORITY FOR SITE PLAN AMENDMENTS, SECTION 24-176, "VARIANCE" TO REMOVE THE ADMINISTRATIVE AUTHORITY FOR SITE PLAN AMENDMENTS, SECTION 24-176.1, "ADMINISTRATIVE CODE VARIANCE AND WAIVER PROCESS" TO DELETE THE FORMER SECTION 24-176.1, "ADMINISTRATIVE CODE VARIANCE AND WAIVER PROCESS" AND REPLACE THE PROVISION WITH REGULATIONS THAT PROVIDE BETTER GUIDELINES AND ENSURES DUE PROCESS IS MET, SECTION 24-177, "SPECIAL LIMITED CONDITIONAL USES" TO CHANGE REFERENCES FROM COUNCIL TO COMMISSION, AND SECTION 24-179, "PLANNING AND ZONING BOARD" TO UPDATE THE CITY CODE TO REFLECT THE AMENDED SECTIONS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provide municipalities the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the Mayor and City Commission of the City of North Miami Beach finds it periodically necessary to amend its Code of Ordinances and Land Development Code ("Code") in order to update regulations and procedures to implement municipal goals and objectives; and

WHEREAS, City staff recommends approval of the proposed changes; and

WHEREAS, the Planning and Zoning Board, sitting as the City's Local Planning Agency, has reviewed this Ordinance on August 12, 2019, and has recommended approval by a vote of 6 to 0 finding that it is consistent with the City's Comprehensive Plan; and

WHEREAS, pursuant to Section 166.041 (c)(2), Florida Statutes, notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of the time and dates of the public hearings; and

ORDINANCE NO. 2019-06

WHEREAS, two (2) public hearings were held before the City Commission pursuant to the published notice described above; and

WHEREAS, the Mayor and City Commission finds that adoption of this Ordinance through its police powers will protect the public health, safety, and welfare of the residents of the City, and furthers the purpose, goals, objectives, and policies of the City’s Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Commission of the City of North Miami Beach, Florida¹:

Section 1. The foregoing recitals are true and correct.

Section 2. Chapter 24, entitled “Zoning and Land Development” is amended as follows:

CHAPTER XXIV - ZONING AND LAND DEVELOPMENT

* * *

ARTICLE II. – DEFINITIONS

* * *

Sec. 24-22 - Definitions.

* * *

~~Variance: A relaxation of the dimensional regulations of the Code where such action will not be contrary to the public interest and is consistent with the standards established in Section 24-176(C).~~

Variance: The grant of a modification to all or part of the literal requirements of these regulations, which permits construction in a manner otherwise prohibited by these regulations.

* * *

Waiver: A decision not to apply all or part of the literal requirements of these regulations, when certain standards, described in these regulations, are met.

* * *

ARTICLE V. – ZONING AND USE DISTRICTS

* * *

Sec. 24-44.2 - MH-1 Mobile Home Subdivision District (previously RS-6).

* * *

(E) *Prohibited Uses.* The permissible uses enumerated in (B) above shall not be construed to include, either as a principal or accessory use, any of the following which are listed for emphasis:

¹ Additions to the text are shown in underline. Deletions to the text are shown in ~~strikethrough~~.

- (1) Display or sale of used mobile homes, travel trailers, except an occupied mobile home or an unoccupied mobile home previously occupied on the same site, may be sold on that site by its owner or licensed dealer.
- (2) No secondhand or used merchandise shall be offered for sale, displayed or stored on the premises except as incidental to the bona fide sale of a mobile home.
- (3) No reptiles, insects, poultry or fowl, or other undomesticated animals shall be raised or kept on any premises.
- (4) Occupancy of camping trailers, travel trailer, truck campers, motor homes as living units shall not be permitted.
- (5) No mobile home or travel trailer, except those already in existence at the time of adoption of this section, shall be permitted to extend into more than one lot unless the owner/occupant obtains a variance ~~from the Planning and Zoning Board and City Council, pursuant to Section 24-176.~~ as provided herein.
- (6) No camping trailers, truck campers, or motor homes as previously defined above, shall be permitted to be used as residential living units within this zoning district.
- (7) No outside storage shall be permitted, except lawn furniture, unless storage facilities are erected under permit, conforming to Code requirements, of metal construction after obtaining any necessary variances.
- (8) No parcel, site or residence used as mobile home or travel trailer may be used for commercial purposes and no signs of any kind, other than signs identifying owner/occupants, i.e. name and address, shall be permitted.
- (9) No major repairs or overhaul work on mobile homes or travel trailer shall be made or performed on the site (or any other work performed thereon which would constitute a nuisance).
- (10) It shall be unlawful for the owner/occupant of any lot or parcel of land, unoccupied as well as occupied, to maintain or permit to remain thereon any mobile homes, travel trailers, auxiliary buildings, accessory buildings, or like structures which are not secured adequately to the ground.

* * *

ARTICLE XV. - OTHER DEVELOPMENT REVIEW PROCEDURES

* * *

Sec. 24-172 - Site Plan Review.

* * *

(E) *Preliminary Site Plan Application.* A preliminary site plan shall be submitted following the pre-application conference. The purpose of this phase shall be to review the basic site design characteristics of the proposed development. The following plans and exhibits shall be submitted in sixteen (16) collated sets to the Director for review; and approval or denial by the Planning and Zoning Board and City ~~Council~~Commission:

- (1) *Existing site characteristics map:*

- (a) Certified property survey, showing the centerline height of the adjacent road relative to National Geodetic Vertical Datum of 1929 (NGVD) at all locations where a property line extension would cross said adjacent road;
- (b) Existing natural features, including, but not limited to soils, topography, water areas, trees and other vegetation;
- (c) Existing structures and uses;
- (d) Existing utility lines.

* * *

(F) *Final Site Plan Application.* Upon recommendation of approval or denial of the preliminary site plan by the Director, based upon his report and recommendation, the applicant shall have up to six (6) months to submit a final site plan for approval. If the applicant fails to submit said final site plan within said period, all preliminary approvals shall be void and the applicant shall be required to reinstate the site plan review process. The following refined or revised plans and exhibits shall be submitted in sixteen (16) complete collated sets to the Director for final plan review during the technical review of applications for development (TRAD); and sixteen (16) revised complete collated sets for final plan review by the Planning and Zoning Board and sixteen (16) additional revised complete collated sets for final plan review by the City Council Commission:

(1) *Existing site characteristics map:*

- (a) Certified property survey, showing the centerline height of the adjacent road relative to NGVD at all locations where a property line extension would cross said adjacent road;
- (b) Existing natural features, including, but not limited to soils, topography, water areas, trees and other vegetation;
- (c) Existing structures and uses;
- (d) Existing utility lines, including pipe sizes where applicable.

* * *

(H) *Final Site Plan Approval.* All applications for final site plan approval shall be submitted and reviewed in the following manner:

- (1) *Department:* The applicant shall submit his application site plan to the Department of Community Development at least three (3) weeks prior to the technical review of applications for development (TRAD) at which the application is to be reviewed.
- (2) *Technical Review of Applications for Development (TRAD):* City staff from various departments related to land development shall, under the direction of the City Planner discuss and make recommendations to the applicant regarding matters related to infrastructure, capacities, overall design and layout, zoning, comprehensive planning, engineering, landscaping and other relevant matters based upon the review standards in paragraph (G) above. The applicant shall change the plans for the application to the degree necessary to accommodate the comments from TRAD. Those topics discussed during TRAD shall form the basis of the staff report that will accompany the application to the Planning and Zoning Board and the City Council Commission.

ORDINANCE NO. 2019-06

- (3) *Planning and Zoning Board*: After a public hearing, the Planning and Zoning Board shall vote to recommend approval or denial of the application to City ~~Council~~ Commission, based upon the review standards in paragraph (G) above.
- (4) *City Council Commission*: The City ~~Council~~ Commission may, by majority vote, either approve or overrule the recommendation of the Planning and Zoning Board, based upon the review standards in paragraph (G) above.
- (5) *Reserved*.
- (I) *Expiration*. The master building permit from the City must be applied for within one (1) year of site plan approval. All extension requests may be extended administratively for good cause for one six (6) month period by the City Manager or designee upon the payment of the appropriate fee, otherwise reapplication is necessary. Such extension must be administratively documented and filed with the appropriate department. This period may be extended by the Mayor and City ~~Council~~ Commission for good cause.
- (J) *Variance*. No approval shall be given for a site plan containing features in conflict with this Code or any other current City ordinance. Any such conflict must be resolved through proper variance procedures, and no building permit shall be issued unless all necessary variances are so obtained.
- (K) Limited Administrative Authority for Site Plan Amendments. The City Manager and/or the Community Development Director and/or their designees shall not substantially alter, amend, or dilute the legislative intent and/or approved plans or site plans as passed by Ordinance or Resolution by the Mayor and City Commission.

At times, subsequent to the approval of plans or site plans by the Mayor and Commission, insubstantial changes are made and approved by the City Manager and/or the Community Development Director and/or their designees.

Any insubstantial or minor changes to plans or site plans are within the discretion of the City Manager. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered greater than five (5%) percent, but in no event greater than five hundred (500) square feet.

Any de minimis amendments to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Commission for a formal review. Failure of the City Manager and/or the Community Development Director and/or their designees to observe and comply with this section may constitute misfeasance in office and may result in removal of office.

* * *

Sec. 24-176 - Variance.

- (A) *Variance* (Note: See separate variance procedure for signs in Article XIII). Applications for variances shall include the following information:
- (1) Address and location of the subject property;
 - (2) Existing zoning of the property;

- (3) An accurate legal description of the subject property, and a computation of the total area of the property in square feet and to the nearest tenth (1/10) of an acre;
- (4) A statement of the applicant's interest in the property, including verification that he is the legal owner or a prospective owner having a bona fide purchase contract;
- (5) A statement as to the reasons for the requested variance;
- (6) A statement as to how the requested variance adheres to the review standards and guidelines set forth below.

~~(B) *Limited Administrative Authority.* The City Manager and/or the Community Development Director and/or their designees shall not substantially alter, amend, or dilute the legislative intent and/or approved plans or site plans as passed by Ordinance or Resolution by the Mayor and City Council.~~

~~At times, subsequent to the approval of plans or site plans by the Mayor and Council, insubstantial changes are made and approved by the City Manager and/or the Community Development Director and/or their designees.~~

~~Any insubstantial or minor changes to plans or site plans are within the discretion of the City Manager. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered greater than five (5%) percent, but in no event greater than five hundred (500) square feet.~~

~~Any de minimis amendments to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Council for a formal review.~~

~~Failure of the City Manager and/or the Community Development Director and/or their designees to observe and comply with this section may constitute misfeasance in office and may result in removal of office.~~

~~(C) (B) *Variance Review Standards.*~~

- (1) A non-use variance to the terms of this Code that will not be contrary to the public interest may be recommended by the Planning and Zoning Board, and except as provided in Section 24-176.1, granted by the City Council Commission in compliance with the requirements of the City Charter in this Code, upon a showing by the applicant that the nonuse variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.
- (2) Appropriate conditions and safeguards, in conformity with the Code, may be prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this Code.
- (3) The nonconforming use of adjacent lands, structures, or buildings shall not be considered grounds for the authorization of a variance.
- (4) A variance granted under the provisions of this Code shall automatically expire under the following conditions:

- (a) If a permit has not been applied for within one (1) year from the date of granting of a variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted, or
- (b) If a permit issued within the required time period shall expire or be revoked pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire.

Sec. 24-176.1 - Administrative Code Variance and Waiver Process.

~~A. Membership; Meetings; Approvals and Sunset Provision. An Administrative Code Waiver Process shall be created by the City Manager appointing three (3) City employees representing the Building Department, the Community Development Department and the Code Enforcement Department, who shall meet at least once per month. Meetings shall be open to the public and recorded. Approval of an Administrative Code Waiver shall require a majority vote of the members. The Administrative Code Waiver Process shall be temporary and shall end on December 31, 2016.~~

~~B. Procedure: Application Criteria; Fees and Appeals. Any owner of a single family residential property may apply for an Administrative Code Waiver for violations existing prior to January 1, 2013. Property owners who have received courtesy notices of code violations, will have sixty (60) days from the date of the notice to apply for an Administrative Code Waiver. Failure to apply for an Administrative Code Waiver will result in the property owner having to remove the violation or follow the regular variance procedure outlined in the Code.~~

~~Property owners who have not been issued a Code violation may apply for an Administrative Code Waiver at any time up until the process is discontinued. Prior to applying for an Administrative Code Waiver, the property owner must submit an application along with a twenty five dollar (\$25.00) application fee to the City.~~

~~The application shall identify what the waiver is for and should include:~~

- ~~1. The reason for the waiver request.~~
- ~~2. Photos.~~
- ~~3. Copies of any notices of violation issued by the City.~~
- ~~4. How long the violation has existed.~~
- ~~5. Any other documentation the property owner believes is important.~~

~~Once the application is received, notice will be sent to all properties within one hundred fifty (150) feet of the subject property, allowing those property owners fifteen (15) days to respond with any objections. The costs associated with notification is the obligation of the applicant. Once the fifteen (15) days have expired, the matter will be scheduled.~~

~~C. Conduct of Hearing.~~

- ~~1. The application will be reviewed and the applicant and the public will be allowed to present anything necessary to assist in the requested waiver. A decision at the meeting will be rendered or if additional information is needed, the matter will be continued to the next meeting.~~
- ~~2. If the Administrative Code Waiver is denied, the applicant shall have the right to apply for a variance through the normal variance procedure or directly appeal the panel's decision to the City Council. Any Administrative Code Waiver which is approved shall~~

be filed and recorded by the applicant in the public records of Miami-Dade County with a copy sent to the City for its records.

~~D. — Enforcement.~~

- ~~1. — Once a violation is identified, courtesy notices will be issued to the property owner allowing them sixty (60) days to cure the violation or apply for an administrative code waiver.~~
- ~~2. — If no action is taken by the property owner within sixty (60) days, a Notice of Violation will be issued and the normal enforcement process will begin. The property will also lose the opportunity to apply for an administrative code waiver.~~
- ~~3. — Property owners who apply for an administrative code waiver and are denied will have sixty (60) days to obtain a permit to bring the violation into compliance, appeal the denial to the City Council, or apply for a variance through normal channels. Failure to take any action will result in a Notice of Violation being issued and the normal enforcement process will begin.~~

~~E. — Types of Violations Eligible for Administrative Code Waivers. The following types of code violations eligible for Administrative Code Waivers shall include but not be limited to:~~

- ~~1. — Storage/Tool Sheds;~~
- ~~2. — Setback Requirements;~~
- ~~3. — Carports;~~
- ~~4. — Fence Heights;~~
- ~~5. — Driveways;~~
- ~~6. — Pervious Area Requirements;~~
- ~~7. — Lot Coverage Requirements;~~
- ~~8. — Fences and Walls;~~
- ~~9. — Gazebos and Pergolas.~~

~~F. — Evaluation of Administrative Code Waivers Requests. When evaluating requests for Administrative Code Waivers mitigating factors shall include, but not be limited to the following:~~

- ~~1. — Impact on adjacent and nearby properties.~~
- ~~2. — Impact on drainage to City right of way.~~
- ~~3. — Quality of construction and workmanship.~~
- ~~4. — Compatibility with primary structure.~~
- ~~5. — Condition and maintenance of property.~~
- ~~6. — Evidence that the violation(s) existed prior to the applicant's purchase of the property.~~
- ~~7. — Evidence the structure, as it now exists, was permitted and approved by the City.~~

(A) Purpose and intent. The purpose of this section is to provide a procedure for property owners of existing developments to obtain minor administrative “non-use waivers” of regulations pertaining to dimensional development standards such as setback lines, frontage requirements, height limitations, lot size restrictions, and other minor waivers, provided that the specified standards of this section are met. These standards provide for substantially the same patterns of site development as the underlying regulations.

Variations from subdivision and floodplain standards, as well as sign regulations, shall solely be governed by the variance procedures set forth in Article X and Article XIII, respectively.

(B) Authorized administrative waivers. Notwithstanding any other provisions of this chapter to the contrary, the Director of the Department of Community Development or designee shall have the authority to, by administrative decision, approve, approve with conditions, or deny applications for the following administrative waivers:

(1) A decrease or increase of any numerical requirements for not more than 25 percent.

(C) Exceptions. The following are exceptions where administrative waivers shall not be authorized:

(1) New development that is subject to the site plan approval process provided in Section 24-172.

(2) Allow the continuation or expansion of a nonconforming or illegal use or structure on the property.

(3) Variation of setbacks for more than two sides of a building or structure.

(4) Minimum required parking spaces

(5) Variances or waivers of density.

(6) Where an administrative waiver, if granted, would expand or otherwise increase a previously approved variance or waiver.

(7) Where an administrative waiver would result in creating a nonconformity of regulations and/or create an additional noncompliance with this chapter.

(D) Applications, and signed consent of neighboring property owners, mailed notices.

(1) The applicant must file a request to the Department of Community Development in a form approved by the Director or designee containing all the information necessary for the Director or designee to make an administrative decision, which shall include, but is not limited to, identification of the specific provisions of this chapter from which an administrative waiver is sought; the nature and extent of the waiver; and the grounds relied upon to justify the approval of the waiver.

(2) Such application shall be accompanied by the required submittal documents and fee as determined by the Director or designee, which may include, but shall not be limited to, one of the following:

(a) Signed consent of neighboring property owners.

1. The signed consent of all abutting property owners, including those located across the street from the subject site, shall be submitted by the applicant on a form prescribed by the Director or designee, and on the site plan submitted for consideration.

2. Said consent shall not be required when a separating public right-of-way measures 70 feet or greater, nor shall consents be required when a body of water completely separates the subject parcel from another parcel.

3. If the applicant for an administrative adjustment is unable to obtain the signed consent of a neighboring property owner or, a neighboring property owner

objects, the signature of that neighboring property owner shall not be required upon the applicant demonstrating compliance with this section.

(b) Mailed notices. The applicant shall follow the procedures promulgated by Department of Community Development governing written mailed notice to the abutting property owners. Such notice shall be deemed sufficient if it complies with the following:

1. accurately describes the adjustment requested;
2. informs the abutting property owners of the consequences of a failure to respond within a specified time; and
3. sent certified mail, return receipt requested.

(c) Exceptions. The Director or designee may, after completing an inspection as provided in subsection (E), deem that mailed notice is not appropriate, and may waive the requirements of signed consent of neighboring property owners and of mailed notices set forth in this section, after a finding that the requested adjustment is so de minimis in nature, that it will not materially affect the abutting property owners' property rights or value.

(E) Inspection. Upon receipt of the application for an administrative adjustment, the Director or designee, prior to making a decision, may inspect the site of the subject property and the surrounding properties to determine what impact, if any, the proposed administrative waiver will have on the adjoining lots.

(F) Criteria for granting an administrative waiver. The Director or designee shall review for the following standards when considering granting an administrative waiver:

- (1) The strict application of the code requirements would cause undue and unnecessary hardship to the property owner;
- (2) The waiver, if granted, shall be aesthetically harmonious with that of other existing or proposed structures or buildings on the property;
- (3) The plan shall clearly illustrate water runoff solutions for the encroaching construction area;
- (4) The property owner shall certify in writing that any and all easement areas as shown on the recorded plat or signed and sealed survey remain unencumbered by the encroaching construction, unless a release of interest by the easement holders is obtained and submitted prior to permit issuance;
- (5) The applicant provides written certification from a registered architect or engineer that the existing condition for which the administrative waiver is sought complies, or can be made to comply with, all applicable codes, including but not limited to the Florida Building Code, and the applicable Fire Prevention Code;
- (6) Any reduction in the spacing requirement between a principal building and an accessory building or structure on the same lot shall not result in a situation that causes maintenance difficulty or an unsightly appearance;

(7) The proposed accessory building or structure is a normal and customary accessory residential use;

(8) Notwithstanding the foregoing, no proposed administrative waiver shall be approved where the Director or designee determines that the proposed waiver:

(a) Will not be in harmony with the general appearance and character of the subject block face or the block face across the street from the subject property or will result in a significant diminution of value of the adjacent property;

(b) Will be detrimental to the public welfare in that it will have substantial negative impact on public safety due to unsafe traffic movements, heightened pedestrian-vehicular conflicts, or heightened risk of fire;

(c) Creates materially greater adverse privacy impacts on adjacent residences than that permitted by the underlying district regulations; or

(d) Will not be inconsistent or in conflict with the express purpose and intent of the regulations being waived.

(G) Conditions and safeguards. In granting an administrative waiver, the Director or designee may prescribe conditions and safeguards deemed necessary to protect the interests served by the underlying zoning district regulations, including, but not limited to:

(1) Landscape materials, walls, and fences as required buffering.

(2) Modification of the orientation or deletion of any openings.

(3) Modification of site arrangements.

(4) Modification of plans.

(5) Declaration of restrictive covenants limiting the use of the property.

(6) Limitations on time or duration of approval of said waiver, or for compliance.

(H) Decision by Director of the Department of Community Development or designee. Upon receipt of all necessary information, the Director or designee shall review the information and render a decision, approving, approving with conditions, or denying the administrative waiver request. Decisions by the Director or designee pursuant to this section are discretionary and may not be appealed. If a request for an administrative waiver is denied, or the applicant disapproves of the conditions imposed, the applicant may seek a variance pursuant to Section 24-176.

* * *

Sec. 24-177 - Special Limited Conditional Uses.

(A) Due to unique or special circumstances, in addition, but not limited to the standards contained in Sections 24-175(B) and 24-176(C)(B), all of which shall also apply hereto, a Special Limited Conditional Use application may be made and considered for a land utilization not specifically enumerated for the B-1, B-2, B-3, B-4, MU/TC, MU/EC, MU/NC, MU/C, MU/NWF, MU/SWF, and MU/EWF zoning districts.

(B) Notice of all pending Special Limited Conditional Use Applications before the City Council Commission shall be provided by newspaper publication and by mail to all property owners (and to residents and tenants, where possible) within five hundred (500) feet of the subject property, said notice to be at applicant's expense.

* * *

Sec. 24-179 - Planning and Zoning Board.

- (A) *Board Responsibilities.* The Board shall review and make advisory recommendations to the City Council Commission on all applications for the following:
- (1) Rezoning;
 - (2) Conditional uses;
 - (3) Plats of subdivisions;
 - (4) Changes to the Comprehensive Plan;
 - (5) Changes to the Zoning and Land Development Code;
 - (6) Variance, unless otherwise provided for herein;
 - (7) Site plan;
 - (8) Special Limited Conditional use.
- (B) *Board Procedures.*
- (1) All board meetings shall be open to the public and a public hearing shall be held on all cases listed in (A) above. Where applicable, State-mandated advertising requirements shall be met.
 - (2) The Director or his representative shall be in attendance at all meetings to serve as secretary, to serve as an advisor, give evidence and make recommendations.
 - (3) No action shall be taken on any application unless a quorum is present. No member shall be permitted to abstain from voting unless he has a conflict of interest as defined in accordance with Chapter 112, Florida Statutes as may be amended from time to time.
 - (4) Minutes shall be kept of all meetings and procedures and shall include the vote of each member on each question, and the motion shall state the reason or reasons being based upon the prescribed guides and standards of good zoning and planning principles. If a member is absent or obtains from voting, the minutes shall so indicate.
 - (5) The Board shall keep accurate record of its minutes which shall be filed, together with all resolutions, with the City Clerk and the same shall be open for public inspection at reasonable times and hours.
 - (6) All applications before the Board or City Council Commission shall be represented by the legal owner, the prospective owner having a bona fide purchase contract or a duly qualified attorney retained by said owner or prospective owner.
 - (7) All board recommendations shall be by motion.
- (C) *Special Procedures for Variances.*
- (1) *Board vote:* An affirmative vote of two-thirds (2/3) of the members present is required to approve a variance.
 - (2) *City Council Commission vote:* A majority vote of the members present can approve a variance. However, a two-thirds (2/3) affirmative vote of the City Council Commission is required to overrule a board recommendation for denial of a variance. The City

Council Commission may attach conditions to a variance approval. See also Section 106 of the City Charter.

Sec. 24-180 - Denials, Notices and Fees.

(A) *Denials and Withdrawals.*

- (1) Upon the denial of an application for either a rezoning or variance, except for those provided pursuant to Section 24-176.1, a period of twelve (12) months must run prior to the filing of a subsequent application relating to the subject property. Such limitation shall not apply to applications filed by the Director. However, applications may be denied without prejudice and, in such event, there shall be no prohibition of the filing of a subsequent application.
- (2) An application may be withdrawn without prejudice by the applicant as a matter of right; provided, the request for withdrawal is in writing and filed with the Director prior to a formal final decision. The applicant shall not be entitled to the return of any application fee.

* * *

Section 3. All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

Section 4. If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other appropriate word as the Codifier may deem fit.

Section 6. This Ordinance shall be effective ten (10) days after adoption on second reading.

APPROVED on first reading this 15th day of **October, 2019.**

APPROVED AND ADOPTED on second reading this 19th day of **November, 2019.**

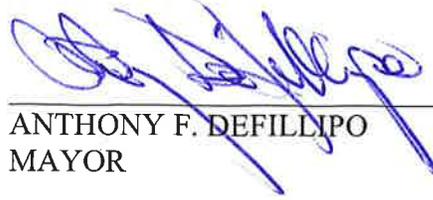
[SIGNATURE PAGE TO FOLLOW]

ATTEST:



ANDRIESE BERNARD, CMC
CITY CLERK

(CITY SEAL)



ANTHONY F. DEFILLIPO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION


SARAH L. JOHNSTON
CITY ATTORNEY

Sponsored by: Commissioner McKenzie Fleurimond