

**ORDINANCE NO. 2023-XX**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY OF NORTH MIAMI BEACH CODE BY AMENDING CHAPTER XXIV, ENTITLED “ZONING AND LAND DEVELOPMENT,” ARTICLE XV “OTHER DEVELOPMENT REVIEW PROCEDURES,” SECTION 24-172 “SITE PLAN REVIEW,” TO DELETE SUBSECTION (K) ENTITLED “LIMITED ADMINISTRATIVE AUTHORITY FOR SITE PLAN AMENDMENTS” AND CREATE A NEW SUBSECTION 24-172.1 ENTITLED “ADMINISTRATIVE SITE PLAN PROCESSES”; PROVIDING FOR CONFLICTS, SEVERABILITY, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Zoning and Land Development Code (ZLDC) of the City of North Miami Beach (“City”) Code of Ordinances (“code”) provides authority to the City Commission to amend, change, supplement, or repeal sections of the code from time to time; and

**WHEREAS**, a proposed amendment to Section 24-172 of the code entitled “Site Plan Review,” clarifies and updates the process for administrative site plan reviews and lists the eligible criteria and applicability; and

**WHEREAS**, the amendment to create subsection 24-172.1 entitled “Administrative Site Plan Processes,” allows the Community Development Department Planning & Zoning Division to administratively approve minor site plan modifications and to reduce the time it takes to process applications and increase redevelopment and renovation activity which will improve economic and aesthetics of the City; and

**WHEREAS**, creation of subsection 24-172.1, also provides criteria for reviewing public entity owned parcels which may be exempt from some or all local zoning regulations, and for City owned and operated public properties; and

**WHEREAS**, pursuant to Florida Statute section 163.3174 (4)(c), the Planning and Zoning Board of the City of North Miami Beach, sitting as the Local Planning Authority, considered this item at a public meeting on \_\_\_\_\_, and voted \_ to \_ recommending \_\_\_\_\_ of the proposed text amendment, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the ZLDC; and

**WHEREAS**, the Mayor and City Commission of the City of North Miami Beach find that it is in the best interests of its citizens to adopt this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**Section 1.** That the recitals and finding contained in the foregoing “whereas” clauses are adopted by reference and incorporated as if fully set forth in this section.

**Section 2.** That Chapter XXIV, entitled “Zoning and Land Development,” Article XV, entitled “Other Development Review Procedures,” Section 24-172 entitled “Site Plan Review,” subsection (K), entitled “Limited Administrative Authority for Site Plan Amendments,” shall be amended as follows (deletions and additions are identified using a ~~strike through~~ and underline format, respectively):

**Sec. 24-172 – Site Plan Review.**

**(A)-(J) (These subsections shall remain in full force and effect as adopted.)**

~~(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.~~

**Section 3.** That Chapter XXIV, entitled “Zoning and Land Development,” Article XV, entitled “Other Development Review Procedures,” Section 24-172 entitled “Site Plan Review,” is hereby amended by CREATING Section 24-172.1, entitled “Administrative Site Plan Processes” as follows (deletions and additions are identified using a ~~strike through~~ and underline format, respectively):

Sec. 24-172.1 Administrative Site Plan Processes.

**A. Requirements.** The Community Development Department shall evaluate the site plan as it relates to conformance to the Zoning and Land Development Regulations and Comprehensive Plan, and shall consider internal site vehicular circulation, ingress and egress, conformance with the character of the surrounding area, the general layout of the site, architectural design of the structures, and whether the development as presented will enhance the quality of life in the City of North Miami Beach and promote the health, safety, and welfare of its citizens.

**B. Definitions.**

*Administrative site plan modification:* minor changes to site plans, architectural plans, or a combination thereof that were approved by the City Commission and can be approved administratively by the Community Development Director upon submission of a letter of intent, complete application, and fees paid. If at any time the Community Development Director has determined that the scope of the administrative site plan application is beyond minor, the request can be denied, and a regular site plan application would need to be applied for by the applicant. 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.

*Administrative site plan approval:* an administrative approval in accordance with Sec. 24-172.1 (F) by the Community Development Director of a minor site plan modification, or a new site plan application from a public entity or the City of North Miami Beach for a city owned and operated public property.

*Major Modification:* any modification that is not deemed minor.

*Minor modification:* minor internal or external modifications to floor plans, architectural elevations, landscape plans, or site plans with no increase in density, which are insubstantial and do not change the intent of the City Commission approved site plan or resolution conditions.

*Minor internal modification:* includes, but is not limited to, minor changes to a floor plan such as moving walls, adding furniture, painting, adding finishes (i.e.

flooring, lighting, etc.), addition of mezzanines (below the square foot threshold of a story), subdividing of tenant spaces, or increases of internal square footage not to exceed 10% of the current square footage.

Minor external modification: includes but not is not limited to exterior color changes, minor façade additions that do not exceed 25% (i.e., adding new windows, doors, columns, façade articulations, parapets etc.), or adding, relocating, or replacing landscaping, roof color, awning, canopies, handrails, guard rails, exterior furniture, and door and window replacements. An increase in building footprint not to exceed ten percent (10%) of the approved building footprint so long as there is not an increase in density or creation of a non-conformity. Movement of the Building(s) footprint shall not to exceed ten (10) feet in any horizontal direction.

Public Entity and City Owned Site Plan review: site plans provided by public entities such as utility providers, federal agencies, and other government entities, etc., which may be exempt from some or all local zoning regulations as indicated in the Florida Statutes or federal regulations. They may be reviewed and approved administratively upon adequate proof provided by the applicant that the site plan is exempt. Administrative site plan review may also be used for City owned and operated public properties. These plans are subject to TRAD review and City Commission presentation if requested by the City Commission. Administrative site plan applications shall not include variances which are processed under Sec. 24-176.

Site Plan approval: a site plan application which has been approved by the City Commission with a resolution or ordinance.

- C. **Application required.** Applications for administrative site plan review shall be submitted to the Community Development Department by the property owner or authorized representative with the required application fee(s). Additional fees may be added after submission for cost recovery in accordance with Section 24-170 if outside consulting services are required.

**D. Administrative site plan application requirements:**

(1) The following plans, forms, and documents shall be required for administrative site plan applications. The Community Development Director or designee shall have the authority to add, replace, or waive any of the submittal requirements below depending on the scope of the request.

- a. Letter of intent
- b. Warranty Deed
- c. Property survey
- d. Site Plans
- e. Landscape plan (if required)
- f. Tree disposition plan
- g. Architectural Elevations
- h. Microfilm
- i. Civil plans (if required)
- j. Utility provider form
- k. Concurrency form
- l. Traffic Impact Statement (if required)
- m. Drainage Calculations

(2) Administrative site plan applications shall not include any variances which are separately granted in accordance with Sec 24-176 but may include administrative waivers in accordance with Sec. 24-176.-1.

**E. Administrative Site Plan Review criteria.**

(1) Administrative site plan applications are subject to full or partial TRAD review depending on scope.

(2) City staff shall review administrative site plan applications for:

- a. Compliance with the City of North Miami Beach Zoning and Land Development Code (ZLDC), Code of Ordinances, and Comprehensive Plan.
- b. Compliance with the site plan approval resolution, certified plans of record, and any other applicable easements or covenants that may run with the project.
- c. Compatible with the existing environment, adjacent properties, and harmony neighborhood.
- d. Complies with parking regulations.
- e. Internal site vehicular circulation.
- f. No increase in non-conformities.

- g. Adequate setbacks, buffering, drainage, and general amenities in order to control any adverse effects of noise, light, dust, and other nuisance.
- (3) Conditions may be imposed by the Community Development Director, City Manager, or designee to improve a project or property to further the code's compliance and intent.
- (4) Upon review, the Community Development Director, may, at any time, convert the administrative site plan modification to a standard application accordance with 24-172 if the scope is determined to be a major modification instead of a minor modification.

**F. Administrative site plan approval and conditions.**

- (1) Upon review of a complete application submittal and demonstrating compliance with review criteria listed in Sec. 24-172.1 (E), the Community Development Director may approve the administrative site plan application.
- (2) The Community Development Director shall provide notification of all administrative approvals to the City Manager or City Manager's designee.
- (3) The approval shall be valid for 12 months for minor site plan modifications and 18 months for public entity and city owned site plan applications, or until a master building permit application has been applied for the scope of work, whichever is less. An administrative site plan approval may be extended in accordance with Sec. 24-172 (I) but shall not conflict with the expiration date of any previously approved resolutions, development agreements, or executive order extension.
- (4) The Community Development Department shall keep a copy of the certified approved plans on file and provide a digital copy to the applicant.

**Section 4.** All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 5.** If any clause, section, other part or application of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Ordinance.

**Section 6.** It is the intention of the City Commission 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 re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codified may deem appropriate.

**Section 7. Effective Date.** This Ordinance shall become effective ten (10) days after adoption on second reading.

[SIGNATURE PAGE TO FOLLOW]

APPROVED on this first reading this \_\_\_\_ day of \_\_\_\_\_ 2023.

APPROVED AND ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

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ANDRISE BERNARD, MMC  
CITY CLERK

(CITY SEAL)

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ANTHONY F. DEFILLIPO  
MAYOR

APPROVED AS TO FORM, LANGUAGE  
AND FOR EXECUTION

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HANS OTTINOT  
CITY ATTORNEY