

## ARTICLE 1. - GENERAL PROVISIONS

### Sec. 1-101. - Title.

This code shall be known as and referred to as the "Land Development Regulations (LDRs) of the City of North Miami, Florida."

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

### Sec. 1-102. - Authority.

These LDRs are enacted pursuant to the requirements and authority of F.S. § 163.3161 et seq. (Community Planning Act), the Charter of the City of North Miami ("the City"), and the powers and authority in F.S. chs. 60, 162, 166, 171, 177, 286 and 823.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

### Sec. 1-103. - Purpose of LDRs.

The purpose of these LDRs is to implement the comprehensive land use plan of the City; to establish comprehensive controls for the use of land in the City of North Miami; to protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare and quality of life in the City of North Miami; to establish rules of procedure for land development approvals; to enhance the character of the City and the preservation of neighborhoods.

It is the further purpose of these LDRs to provide for efficient and appropriate use of land; for preservation, protection, development and conservation of the natural resources of land, water and air; for convenient circulation of traffic, people and goods; the proper use and occupancy of buildings; for healthful distribution of the population; for adequate public facilities and utilities; for promotion of civic amenities of beauty and visual interest.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

### Sec. 1-104. - Jurisdiction and applicability.

These LDRs shall govern the development and use of land and structures within the corporate limits of the City. No building, structure, water or land shall be used or occupied, and no building, structure, or land shall be developed unless in conformity with all of the provisions of the land use district in which it is located, all applicable regulations, and all development approvals.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

### Sec. 1-105. - Comprehensive plan and future land use map.

The comprehensive plan of the City of North Miami along with the future land use map, which is part of the plan is the official statement of policy of the City in regard to the use of land, and all

use or development of land undertaken pursuant to these LDRs shall be consistent with the comprehensive plan.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-106. - Official zoning map.

- A. Map established. The official zoning map is established and incorporated into the LDRs by this reference. The official zoning map shows the boundaries of all zoning districts as adopted by the city council pursuant to the procedures of these LDRs. The official zoning map, as amended from time to time, shall be kept on file and made available for public reference in the community planning and development department.
- B. Interpretation of boundaries.
  1. Designation of zoning district boundaries. The district boundary lines are intended generally to follow the centerlines of streets, the centerlines of railroad rights-of-way, existing lot lines, the mean water level of streams and other waterways, or municipal boundary lines, all as shown on the official zoning map. Where a district boundary line does not follow such a line, its position is shown on said zoning map by a specific dimension expressing its distance in feet from a street centerline or other boundary line as indicated.
  2. Determination of locations of boundaries. In the case of uncertainty as to the true location of a district boundary line in a particular instance, the community planning and development department shall request the board of adjustment to render its determination with respect thereto; provided, however, that no boundary shall be changed by the board of adjustment. All boundary changes shall be made by the city council in accordance with the provisions of article 3, division 10.
  3. Annexed land, reclaimed lands or lands resulting from changed mean high water mark. All lands which come into existence as a result of reclaiming, or reestablishment of the mean high water mark or become part of the City of North Miami and under its jurisdiction through dissolution of other governmental units shall automatically be zoned R-1 until the properties' designation on the city's land use plan and zoning maps can be amended in accordance with the procedures in these LDRs. Said lands will, within thirty (30) days of such action, be reviewed by the city staff for designation of an appropriate zoning district and land use plan category, in accordance with the provisions of article 3, divisions 10 and 11.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

**Note**— Ordinances amending the official zoning map are as follows: Ord. No. 1297, § 1, 5-25-10; Ord. No. 1342, § 1, 10-23-12; Ord. No. 1351, § 1, 2-26-13; Ord. No. 1364, § 1, 12-10-13; Ord. No. 1366, § 1, 2-11-14

Sec. 1-107. - Transitional rules.

- A. Transition period. Where a complete application for development approval is pending on the date of adoption of these LDRs, or prior to amendment thereto, the provisions of the regulations in effect when the application was filed shall govern the review and approval of the application for development approval, provided that:
  - 1. The application is approved within nine (9) months of the date of adoption of or amendment to these LDRs; and
  - 2. Construction begins within eighteen (18) months of the issuance of such approval and the building permits remain in effect without lapse through completion.
- B. Existing unlawful uses and structures. A structure or use not lawfully existing at the time of the adoption of these LDRs is deemed lawful only if it conforms to all of the requirements of these LDRs.
- C. Existing approved uses. An existing use, which is lawful on the date of adoption of these LDRs, whether permitted as a “permitted use,” a “conditional use permit,” or a “special exception” in the zoning district in which it is located, shall not be deemed nonconforming solely because the procedure for approval has been changed through the adoption of these LDRs and shall hereafter be deemed permitted as of right, as a conditional use permit, or as a special exception use in the district in which it is located. In the event the use was approved subject to one (1) or more conditions, those conditions shall continue in full force and effect unless a new approval is obtained, which otherwise nullifies those conditions. If the existing use is nonconforming under either the prior zoning code or these LDRs, then such use shall come into conformance with these LDRs if required by the provisions of article 6.
- D. Previously granted variances.
  - 1. All variances granted subject to a time frame for construction, which are still in effect on the adoption of these LDRs shall remain in full force and effect, including any conditions attached thereto, and the recipient of the variance may proceed to develop the property in accordance with the plans previously approved. However, if the recipient of the variance has failed to apply for a building permit before the variance expires, the provisions of these LDRs shall govern and the variance shall have no further force and effect, subject to claims of equitable estoppel and good faith reliance as established under Florida law, as determined by the city manager and city attorney.
  - 2. Any variance granted, which is not subject to a time frame for construction, where the development proposal approved under the related variance has not been commenced prior to the adoption of these LDRs, shall remain in full force and effect, including any conditions attached thereto, and the recipient of the variance may proceed to develop the property in accordance with the plans previously approved. However, if the recipient of the variance fails to apply for a building permit within six (6) months of the adoption of these LDRs, the provisions of these LDRs shall govern and the variance shall have no further force and effect, subject to claims of equitable estoppel and good faith reliance as established under Florida law, as determined by the city manager and city attorney.
- E. Previously approved planned unit development/conditional uses. All planned unit development/conditional uses approved prior to the adoption of these LDRs, and any

conditions attached thereto, shall remain in full force and effect, and the recipient of the approved planned unit development/conditional use may proceed to develop the property in accordance with the previous approval and shall hereafter be deemed a planned development/conditional use in the district in which it is located. However, if the recipient of the approved planned unit development/conditional use has failed to apply for a building permit before the approval expires or if the approval is abandoned, the provisions of these LDRs shall govern. No planned unit development/conditional use approved prior to the adoption of these LDRs but where no certificate of occupancy had been granted shall be extended.

- F. Previously approved special exceptions. All special exceptions approved prior to the adoption of these LDRs, and any conditions attached thereto, shall remain in full force and effect, and the recipient of the approved special exception may proceed to develop the property in accordance with the previous approval. However, if the recipient of the approved special exception has failed to apply for a building permit or receive a business tax receipt before the approval expires or within six (6) months of the approval if the approval is abandoned, the provisions of these LDRs shall govern. No special exception approved prior to the adoption of these LDRs but not constructed shall be extended.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-108. - Construction rules.

For the purposes of these LDRs, the following rules of construction apply:

- A. In interpreting and applying the provisions of these LDRs, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, order, convenience and general welfare of the community.
- B. The provisions of these LDRs shall be construed to achieve the purposes and intent for which they are adopted.
- C. Nothing in these LDRs is intended to abrogate any easement, covenant, deed restriction or other private agreement; however, where the regulations of these LDRs are more restrictive or impose higher standards or requirements than such easement, covenant, deed restriction or other private agreement, the requirements of these LDRs shall govern.
- D. In the event of a conflict between the text of these LDRs and any caption, figure, illustration, table, or map, the text of these LDRs shall control. In the event of a conflict between a chart and an illustration, the chart shall control. All illustrations included in these LDRs are for illustrative purposes only.
- E. In the event of any conflict in limitations, restrictions, or standards applying to an individual use or structure, the more restrictive provisions shall apply.
- F. In the event of a conflict between these LDRs and any federal or state statute, which preempts local regulation, the federal or state statute shall apply.
- G. In the event of a conflict between these LDRs and the comprehensive plan, the comprehensive plan shall apply.

- H. The words “shall,” “must,” and “will,” are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- I. The word “or” is alternative in nature; the words “and/or” shall mean “all or any.”
- J. The word “may” is permissive in nature and distinguished from the word “shall.”
- K. Words used in the present tense include the future tense.
- L. The singular number includes the plural number and the plural, the singular.
- M. Words used in the masculine gender include the feminine gender.
- N. The words “used” and “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
- O. The word “lot” shall include the word “plot,” “parcel,” “site,” or “tract” of land.
- P. The word “herein” means “these LDRs.”
- Q. Any act authorized by these LDRs to be carried out by a specific official or agency of the city is impliedly authorized to be carried out by a designee of such official or agency.
- R. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded. The use of the word “day” shall mean a calendar day unless otherwise specified.
- S. Any words and terms not defined herein shall have the meaning indicated by common dictionary definition.
- T. Any reference to Federal, Florida Statutes, Florida Administrative Code, Comprehensive Plan, or any other official code shall be construed to be a reference to the most recent enactment of such statute or rule, and shall include any amendments as may from time to time be adopted.
- U. Titles. Wherever reference is made to officials, boards, departments or agencies of the city by title only, such as “mayor” or “city manager,” such title shall be construed as if the words “of the City of North Miami” followed it.
- V. For the purposes of these LDRs, the term “administrative official” means the community planning and development director. References to the “planning and zoning department” shall be construed to mean city’s “community planning and development department” unless the context refers to another authority. References to the “director” of community planning and development, or the community planning and development department, shall mean the director of that department, whatever his or her actual title.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

#### Sec. 1-109. - Severability.

Should any section or provision of these LDRs be declared to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of these LDRs as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)