Accessory Dwelling Units (ADU) Update – Palm View Historic District

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," SECTION 7.5.4.13, ENTITLED "ACCESSORY USES," AT SUBSECTION D. ENTITLED "PERMITTED ACCESSORY USES IN SINGLE-FAMILY DISTRICTS," TO PERMIT THE RENTAL OF ACCESSSORY DWELLING UNITS TO A FAMILY UNRELATED TO THE FAMILY OCCUPYING THE PRIMARY DWELLING UNIT WITHIN THE PALM VIEW HISTORIC DISTRICT UNDER IF SPECIFIC CRITERIA IS MET; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Land Use and Housing Elements of the Miami Beach Comprehensive Plan include policies to incentivize the development and retention of workforce and affordable housing; and

WHEREAS, the City of Miami Beach (the "City") finds that there is a shortage of affordable rentals within the City limits; and

WHEREAS, an "accessory dwelling unit" is an independent living quarter that is accessory to a single-family detached dwelling; and

WHEREAS, the City of Miami Beach finds that allowing accessory dwelling units in single-family residential areas, subject to certain specified conditions, provides additional housing opportunities, including workforce and affordable housing, while providing an extra source of income to homeowners; and

WHEREAS, the Palm View Neighborhood Study that was prepared in 2020 recommends allowing accessory dwelling units within the Palm View Neighborhood; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 7 of the Miami Beach Resiliency Code, entitled "Zoning Districts and Regulations," section 7.5.4.13, entitled "Accessory Uses," at subsection d. entitled "Permitted accessory uses in single-family districts," is hereby amended as follows:

d. Permitted accessory uses in single-family districts.

i. Generally. Permitted accessory uses in single-family districts are those uses which are customarily associated with single-family houses and limited to the occupants of the home. Such uses include, but are not limited to, marine structures and decks for the storage of watercraft, swimming pools, spas, tennis courts and, where permitted, accessory dwelling units.

ii. Permitted accessory uses. The following are permitted accessory uses in single-family districts:

* * *

3. An accessory dwelling unit (ADU) is permitted pursuant to the following requirements:

I. *Maximum number*. No more than one ADU shall be permitted per single-family lot.

II. *Maximum area*. The area of an ADU shall be included in the overall unit size calculation for the site. In no instance shall the total size of the ADU exceed ten percent (10%) of the size of the main home on the subject site, or 1,500 square feet, whichever is less.

III. *Minimum area*. An ADU shall be a minimum of 200 square feet. However, this minimum standard shall not authorize an ADU to exceed the maximum area identified in subsection 7.5.4.13.d.ii.3.II, above. If the minimum area requirement of 200 feet exceeds the maximum area requirement pursuant to 7.5.4.13.d.ii.3, an ADU shall be prohibited on the site.

IV. *Existing accessory structures*. For existing accessory structures, built prior to January 1, 2019, the aforementioned maximum and minimum areas shall not be applicable to an ADU, unless the unit is expanded in size.

V. *Location*. An ADU may be attached to the primary residence with a separate entrance that is not visible from public rights-of-way, subject to the any limitations on the primary structure as set forth in the land development regulations. Additionally, the entire site shall maintain the external appearance of a single-family home. Alternatively, an ADU may be located in an accessory building, subject to the requirements and limitations for accessory buildings in single-family districts identified in Section 7.2.2.3.b.xi.1.

VI. *Kitchens*. An ADU may contain a full kitchen facility.

VII. *Utilities*. A separate electric meter may be provided for an ADU. VIII.

VIII. *Lease*. Any lease of an ADU shall be subject to the following requirements:

[i] Unless otherwise provided herein, the use of an ADU shall be limited to the use of the family occupying the primary dwelling, temporary guests, or servants of the occupants of the primary dwelling, and shall not be rented or leased.

[ii] The lease of an ADU to a family unrelated to the family occupying the primary dwelling unit shall only be permitted as follows:

[1] ~~w~~Within an ADU that was issued a certificate of occupancy on or before October 26, 2019, and ~~shall only be permitted~~ on properties that are owner-occupied and located between Dade Boulevard on the south and Pine Tree Drive Circle on the north.

[2] Within an ADU located on properties that are owner-occupied and located in the Palm View Historic District.

[3] Each year, evidence of a property's homestead exemption shall be provided to the planning director, subject to the director's approval, in order to confirm the property's eligibility for the rental of an ADU. If a property ceases to be owner-occupied, the renewal of a lease for an ADU shall be prohibited, and residents of the ADU shall vacate the premises upon termination of the lease. It shall be the responsibility of the applicant to notify the city of any change to the status of the property's homestead exemption.

[iii] The lease of an ADU to a family (as defined in Section 1.2.2) unrelated to the family occupying the primary dwelling unit for a period less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under Section 7.5.4.13.d.ii.3.II. to original leaseholders, shall be prohibited.

[iv] Property owners seeking to allow for the lease of an ADU unit to a family unrelated to the family occupying the primary dwelling unit must obtain all applicable fire and building permits, and a certificate of use, as applicable, permitting the lease of the ADU, subject to the requirements listed above. The application shall provide proof of compliance with the requirements of this Section 7.5.4.13.d.ii.3. Additionally, the applicant shall provide an affidavit agreeing to and affirming the applicant's understanding of the requirements in this Section 7.5.4.13.d.ii.3.

[v] A violation of these requirements shall be subject to the enforcement and enhanced penalty provisions for leases of single-family homes set forth in subsection 7.5.4.13.d.ii.5.

[vi] Tracking. The planning director shall maintain a database of all approved ADUs in the city, including statistics relating to the number of certificates of use issued, and any violations issued pursuant to this Section 7.5.4.13.d.ii.3.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2023.

ATTEST:

_____
Dan Gelber, Mayor

_____
Rafael E. Granado, City Clerk

First Reading: _____
Second Reading: _____

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

[Sponsor: Commissioner Ricky Arriola]

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