

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: Geri Bonzon-Keenan
County Attorney


SUBJECT: Ordinance relating to zoning in the unincorporated area; amending section 33-20 of the Code; revising regulations pertaining to the size of utility sheds permitted on residential lots; making technical changes

At the October 11, 2023 meeting, the County Infrastructure, Operations and Innovations Committee amended this substitute item to add a new subparagraph (1)(3) to section 33-20 requiring the property owner, prior to the issuance of a building permit for a utility shed, to furnish the County with a fully executed declaration of use, or other legal instrument acceptable to the Director, promising that the utility shed will not be used for living quarters or other habitable purposes. The remaining subparagraphs that follow in that section have been renumbered accordingly. This committee amendment was in addition to the changes included in the substitute as described in the following substitute statement:

This substitute differs from the original item in that the maximum rear yard area table set forth in section 33-20(b)(3) has been revised to include a reference to additional RU-1-type residential zoning districts that were not in existence at the time that the table was originally codified. This technical amendment codifies an administrative interpretation that the maximum rear yard area applicable to the RU-1 zoning district also applies to these additional RU-1-type zoning districts.

Rules 5.06(h) and (i) of the Board's Rules of Procedure provide that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute or amended item, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute and amended item is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairman Anthony Rodríguez.

 For

Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001

Memorandum



Date: November 7, 2023

To: Honorable Chairman Oliver G. Gilbert III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Amend Shed Size Requirement Allowed in RU1


The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to be "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

Date: November 7, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Zoning- Revising Regulations Pertaining to the Size of Utility Sheds Permitted on Residential Lots

The proposed ordinance amends Section 33-20 of the Code of Miami-Dade County (Code) pertaining to the calculation of the maximum allowable size of utility sheds on residential lots.

In 2018, the Board of County Commissioners adopted Ordinance No. 18-123, which limited the size of a utility shed to a maximum of 20 percent of the square footage of the principal building, up to a maximum of 400 square feet, subject to certain set-back and lot coverage requirements. Before the 2018 amendment, the code did not have a specific limitation in size. Rather, the maximum size was only controlled through setback requirements and rear lot coverage maximums for the particular zoning district (the maximum rear lot coverage is the maximum area accessory structures can cover the backyard area).

Specifically, this ordinance removes the comparable size control of 20 percent of the principal structure, but maintains the more recent maximum size of 400 square feet. The proposed amendment provides for greater flexibility for property owners while maintaining appropriate massing and scaling of utility sheds in residential neighborhoods.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".

Jimmy Morales
Chief Operations Officer

231521



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: November 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
11-7-23

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTION 33-20 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING REGULATIONS PERTAINING TO THE SIZE OF UTILITY SHEDS PERMITTED ON RESIDENTIAL LOTS; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 33-1 of the Code of Miami-Dade County (“Code”) defines “utility shed” as “[a] single-story, non-habitable detached storage building that is accessory to the primary or principal building and designed and used primarily for storing tools, mechanical equipment, lawn and garden equipment, home accessories, personal belongings, and other similar objects”; and

WHEREAS, the County’s zoning code regulates such structures as a type of accessory building subject to certain set-back and lot-coverage requirements; and

WHEREAS, on October 2, 2018, this Board adopted Ordinance No. 18-123, which amended section 33-20(1) of the Code to, among other provisions, limit the size of utility sheds on residential lots to a maximum of 20 percent of the square footage of the primary or principal building on the property, up to a maximum of 400 square feet, subject to certain set-back and lot coverage requirements; and

WHEREAS, in some neighborhoods of Miami-Dade County, residential lots are relatively large, with smaller sized principal dwelling units; and

WHEREAS, this Board now wishes to permit residential lots to have a utility shed of up to 400 square feet, regardless of the size of the principal dwelling, provided that the rear lot coverage allowance is not exceeded; and

WHEREAS, this size restriction together with rear lot coverage limitations will ensure that utility sheds are appropriately scaled in residential neighborhoods, while giving property owners additional flexibility not currently enjoyed under the existing code,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-20 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-20. Accessory buildings; utility sheds and pergolas; swimming pools; fallout shelters; boat storage; portable mini-storage units; cargo container storage units.

* * *

(b) *Permanent.*

>>(1)<< Accessory buildings, structures>>₂<< or uses shall not be closer than >>75<< [~~seventy five (75)~~] feet to the front property line except where it is desired to place them closer than >>75<< [~~seventy five (75)~~] feet to the front property line; >>in that event,<< each side line offset distance required for such lot shall be increased by the number of feet less than >>75<< [~~seventy five (75)~~] feet above referred to, provided such setback from the front property line is at least >>15<< [~~fifteen (15)~~] feet greater than the setback for a principal building in the same block and said front line setback is not less than >>50<< [~~fifty (50)~~] feet.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(2)<< No permit shall be issued for an accessory building for any use unless the principal building exists on front of lot, or unless a permit is obtained simultaneously for both buildings and construction progress concurrently.

>>(3)<< Accessory buildings shall not occupy a greater percent of the rear yard area than the following:

<i>District</i>	<i>Percent</i>
EU-M	20
RU-1>>, <u>RU-1Z,</u> <u>RU-1M(a) &</u> <u>RU-1M(b)</u> <<	30
RU-2	30
EU-1	5
EU-2	2
BU & IU	30

>>(4)<< Where less than >>25<< [[~~twenty five (25)~~]] percent of the lot is available for rear yard the above percentage available for accessory buildings shall be correspondingly reduced.

>>(5)<< On lots occupied by apartments, hotels, stores, clubs or other buildings>>, << at least one and one-half (1½) square feet of open yard area shall be provided for each lineal foot of septic tank drain tile.

* * *

- (1) *Utility sheds and pergolas.* Utility sheds and pergolas shall be subject to the following conditions and limitations:

- (1) Notwithstanding any other provision of this section, there shall be no more than one utility shed per residential lot ~~[[and such structure shall not exceed 20 percent of the square footage of the primary or principal building on the property]],~~ up to a maximum of 400 square feet ~~>>~~in size, provided that the maximum rear lot coverage set forth in subsection (b) above is not exceeded~~<<~~.
- (2) Where applicable, all utility sheds shall be in compliance with the Florida Building Code or be approved by the State of Florida and shall be subject to easement restrictions pursuant to ~~>>~~sections~~<<~~ ~~[[Sections]]~~ 33-24 and 33-284.43(k).
- (3) ~~>>~~Prior to the issuance of a building permit for a utility shed, the property owner shall furnish the County with a fully executed declaration of use, or other legal instrument acceptable to the Director, stating that the utility shed will not be used for living quarters or other habitable purposes.
- ~~(4)~~~~<<~~ ~~[[3]]~~ Utility sheds and pergolas larger than 100 square feet shall comply with the accessory building setbacks contained in ~~>>~~section~~<<~~ ~~[[Section]]~~ 33-50.
- ~~>>~~~~(5)~~~~<<~~ ~~[[4]]~~ Utility sheds and pergolas not larger than 100 square feet, not exceeding 10 feet in height, and incidental to an existing single-family residential use shall be setback as follows:

Setback location	Feet
Front	55
Rear	5; or 2*
Interior side	5; or 2*
Spacing from house	10
Side street	10

* Rear and interior side setbacks may be reduced to two feet provided an affidavit is submitted indicating consent from the owner of the property that directly abuts the property boundary where the reduction is requested.

>>(6)<< Notwithstanding the foregoing, utility sheds and pergolas in townhouse developments shall be regulated by >>section<< [[Section]] 33-202.3(2)(q).

>>(7)<< Notwithstanding any other provision of the Code to the contrary, where it is finally adjudicated that a previously permitted utility shed is being used beyond the scope permitted, the shed shall be brought into compliance with >>this section<< [[the requirements of this ordinance (Ordinance No. 18-123)]] within 30 days from the date of such final adjudication. For purposes of this subsection, "final adjudication" shall mean the exhaustion of opportunity to appeal either a civil citation notice or order granting permanent injunction, whichever occurs first, at the discretion of the Department.

>>(8)<< In addition, notwithstanding any provisions of the Code pertaining to non-conforming uses, where a previously permitted utility shed must be or is replaced or rebuilt, the shed shall be brought into compliance with >>this section<< [[the requirements of this ordinance (Ordinance No. 18-123)]]].

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

James Eddie Kirtley
Dennis A. Kerbel

Prime Sponsor: Vice Chairman Anthony Rodríguez