

MEMORANDUM

Amended
Substitute
Agenda Item No. 5(D)

TO: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

DATE: November 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance pertaining to zoning in
the unincorporated area;
amending sections 33-1, 33-22,
33-28, and 8CC-10 of the Code;
permitting accessory dwelling
units and guesthouses in certain
residential zoning districts under
certain circumstances;
prohibiting the use of accessory
dwelling units and guesthouses
as vacation rentals; providing
definitions; making technical
changes; providing for
enforcement by civil penalty

Ordinance No. 22-146

This substitute differs from the original version as stated in the Mayor’s memorandum.

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado and Co-Sponsor Commissioner Eileen Higgins.



Geri Bonzon-Keenan
County Attorney


GBK/uw

Memorandum



Date: November 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Ordinance Regarding Regulations for Accessory Units (AUs) in Single-Family Zoning Districts

This substitute differs from the original in that the ordinance provides: (1) in paragraph 33-22(2)(e), that the same parking requirements for an accessory dwelling unit (ADU) shall also apply to a guesthouse; and (2) in subsection 33-22(6), that a guesthouse need only obtain a one-time certificate of use (CU) rather than an annually renewable CU as is required for an ADU, and that a property owner may switch between these two accessory unit types, subject to the CU requirement applicable to each unit type.

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

Executive Summary

The proposed ordinance creates additional housing options that address affordability, generational living, and urban sprawl, providing for accessory dwelling units (ADU) in single-family zoned neighborhoods while maintaining the character and architectural features of single-family communities. The proposed regulations are intended to enable homeowners to create ADUs while protecting the single-family character of the surrounding neighborhoods and avoiding overburdensome review processes and restrictions. The use of accessory units, as authorized by the proposed ordinance, may be an important tool in providing additional single-family housing options in Miami-Dade County and meeting the demands for alternative housing types during the ongoing housing crisis.

Recommendation

It is recommended that the Board of County Commissioners (BCC) adopt the proposed ordinance creating regulations for accessory units, including authorization of accessory dwelling units (ADU) and revising regulations for guesthouses, amending the associated civil violation penalties, and amending the County’s vacation rental regulations to address accessory units.

Scope

Areas located in unincorporated Miami-Dade County.

Delegation of Authority

The proposed ordinance delegates authority to the Director, of the Department of Regulatory and Economic Resources, to approve certain administrative adjustments and otherwise administer the accessory unit regulations.

Fiscal Impact/Funding Source

Implementation of the proposed ordinance is anticipated to be fiscally neutral. Any expenses associated with implementation of the proposed changes will be covered by fees generated from certificate of use (CU) applications and inspection fees that are already contained within the County’s fee schedule.

Social Equity Statement

The proposed ordinance is anticipated to increase available housing opportunities for older adults, empty nesters, young adults, and others by providing additional non-transient dwelling units in existing single-family neighborhoods. Authorizing ADUs as provided in this ordinance, would promote multi-generational living and efficiently use existing transportation and unincorporated municipal service area (UMSA) services. ADUs may also create opportunities for homeowners to reduce their housing costs by providing an opportunity to generate rental revenue from existing space on their lots or in their principal dwellings by renting an ADU to another household. This may also allow those on fixed incomes to keep their properties and remain living in communities in which they are already a part. The proposed ordinance also helps reduce urban sprawl by creating additional housing opportunities within existing neighborhoods, thereby reducing demand for housing in undeveloped areas.

The proposed ordinance provides for the addition of an ADU or guesthouse in a single-family zoned district either as a newly detached or attached dwelling, including the conversion of a portion of an existing single-family dwelling. It provides some restrictions to ensure surrounding area compatibility and design compatibility and to manage parking needs.

Due to the ADU being an accessory structure located on an existing single-family lot, the additional dwelling unit is not burdened with land cost separate from the principal dwelling. Accordingly, ADUs have the potential to provide an affordable housing option for the region.

The proposed ordinance creates additional opportunities for non-transient housing options in the community. The ordinance also includes measures to prevent ADUs from instead creating transient lodging, which does not meaningfully increase the housing supply available to serve County residents.

Track Record/Monitor

Nathan Kogon, Assistant Director, Development Services Division, Department of Regulatory and Economic Resources (RER).

Background

Miami-Dade County is one of the highest housing-cost-burdened metropolitan areas in the nation, where an unusually high percentage of households pay more than 30 percent of their income for housing. The demand for smaller, more affordable dwelling units by older adult households wishing to age in place, and single-person households that require less space, has increased. Expanding the use of accessory dwelling units will help to address those demands. Authorizing more ADUs can help tenants find more affordable, smaller non-transient dwellings and can help homeowners build wealth in their existing single-family residences or, in some instances, make the purchase or maintenance of a home feasible by reducing the homeowner’s financial burden.

ADUs are a traditional, time-tested land use type. Cities around the nation have adopted land use policy and zoning amendments permitting ADUs in single-family-zoned neighborhoods with generally positive outcomes. In this region, cities such as Miami, Miami Beach, North Miami, Pompano Beach, Miramar, and Tamarac have joined cities such as Los Angeles, Minneapolis, Washington, Portland, and Seattle in adopting new regulations permitting ADUs as a method to provide additional housing in established or new neighborhoods. Research on ADU creation has generally shown favorable results for their cities and immediate neighborhoods. Generally, restrictions that are not overburdensome for the ADU-creating homeowner have yielded the most units, and studies have found that negative impacts from parking or unruly ADU tenants are very rare. ADUs have existed in many cities for decades and are a common feature of single-family neighborhoods, especially those developed before World War II with traditional neighborhood design layouts such as grid streets, walkable access to businesses, and compact lots.

This proposed ordinance is intended to increase non-transient housing options by adding capacity for additional dwelling units on existing single-family lots within UMMA while maintaining the single-family character of neighborhoods. In doing so, the community, extended families, and property owners may benefit from previously unavailable revenue sources and additional room to house extended family members in private living quarters.

ADUs can play a significant role in providing a solution to housing affordability and housing supply challenges. ADUs can create an income stream for existing homeowners. When larger homes are priced out of range for many potential homebuyers and homeowners, investing in and improving one’s own property with an ADU may present a viable solution. ADUs may also help renters by potentially increasing supply and lowering prices.

Pursuant to the Miami-Dade County Comprehensive Development Master Plan (CDMP), ADUs “ranging from 400 to 800 square feet of habitable area are authorized on single-family lots with a minimum area of 7,500 square feet that are located inside the Urban Development Boundary.” The CDMP requires ADUs to “maintain an appearance consistent with the character of the neighborhood,” and provides that detached ADUs over 1-story and attached ADUs maintain the same setbacks and lot coverage as the principal structure and detached ADUs less than one story maintain the same setbacks for accessory structures. This protects the overutilization of the site aesthetically, but also maintains appropriate areas for stormwater

runoff and infiltration. Additionally, ADUs in compliance with these requirements “shall not be counted toward the Land Use Plan (LUP) map residential density maximum which governs the subject property.”

The proposed ordinance will implement the current CDMP authorization to develop ADUs on lots with a minimum area of 7,500 square feet for ADUs ranging from 400 to 800 square feet. It will also support a proposed amendment, under current analysis, to the above-referenced CDMP requirements, which will be presented in a forthcoming staff application to amend the CDMP by reducing the minimum amount of habitable area to 220 square feet (accommodating garage conversions) and reducing the minimum lot area to 5,000 square feet and authorizing further adjustments to those minimum requirements for ADUs that are located inside the Urban Development Boundary.

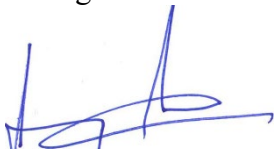
Based on analyses of single-family properties in UMSA, after the adoption of the proposed CDMP amendment, 171,683 single-family properties would be eligible to either construct an ADU on their lot or to create an ADU as part of their existing dwelling structure.

The proposed ordinance seeks to balance the need to facilitate the production of additional, smaller housing types throughout the unincorporated area with the need to maintain design compatibility and the single-family character and appearance for properties containing an ADU. Specifically, this proposed ordinance:

- Defines an ADU and sets unit size limits based on CDMP policies.
- Allows an ADU to be rented separately from the principal dwelling, but not as a vacation or short-term rental, unless rented together with the principal dwelling as a single vacation rental property.
- Continues to prohibit guesthouse from being rented separately from the principal dwelling.
- Creates the term accessory unit to refer to either an ADU or a guesthouse in certain circumstances.
- Prohibits the sale of an accessory unit separately from the sale of the principal dwelling unit.
- Limits one accessory unit per lot, as a secondary unit to the developed principal single-family dwelling, inside of the Urban Development Boundary in all AU, EU, and RU zoning districts, as well as in the GU zoning district for properties that are zoned to AU, EU, and RU.
- Requires compliance with primary building setbacks for attached ADUs or for ADUs with more than one story.
- Requires compliance with accessory building setback requirements for detached one-story ADUs.
- Limits the location of a detached ADU on a lot to the rear or side of the principal dwelling structure and limits its height to be no taller than the principal dwelling unit structure.

- Provides for an administrative process or public hearing to adjust setback, lot coverage, lot size, and height requirements for extenuating circumstances.
- Requires an annually renewable CU for accessory units.
- Requires proof of notification to a homeowner’s association, if applicable, for a certificate of use (CU) application for an ADU.
- Provides a simpler review process for on-site guesthouses, which may have the same physical features as ADUs but are not rented separately from the principal dwelling.
- Prohibits the issuance of a certificate of occupancy for an ADU before issuance of the certificate of occupancy for the site’s principal dwelling unit when they are developed concurrently.
- Prohibits the use of a recreation vehicle (RV) or travel trailer as an accessory unit.
- Restricts the proliferation of vehicle storage by limiting the number of parked vehicles associated with ADUs to no more than two.
- Provides clear methods to demonstrate compliance with the accessory unit regulations and also provides rebuttable presumptions to facilitate enforcement against unlawful accessory units.
- Provides escalated civil penalties for second and third offenses.
- Provides for the revocation of an accessory unit CU for any property that has three or more fully adjudicated violations committed within a consecutive 12-month period, pursuant to this section. Any such property shall not be eligible to obtain another accessory unit CU for a period of three years following the CU revocation with the exception of verifiable arm’s length changes in ownership.

These proposed regulations are intended to enable homeowners to create ADUs while providing regulations protecting the single-family character of the surrounding neighborhoods and avoiding overburdensome review processes and restrictions.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

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

DATE: November 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Substitute
Agenda Item No. 5(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 _____

Amended
Substitute
Agenda Item No. 5(D)
11-1-22

ORDINANCE NO. **O-22-146**

ORDINANCE PERTAINING TO ZONING IN THE UNINCORPORATED AREA; AMENDING SECTIONS 33-1, 33-22, 33-28, AND 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PERMITTING ACCESSORY DWELLING UNITS AND GUESTHOUSES IN CERTAIN RESIDENTIAL ZONING DISTRICTS UNDER CERTAIN CIRCUMSTANCES; PROHIBITING THE USE OF ACCESSORY DWELLING UNITS AND GUESTHOUSES AS VACATION RENTALS; PROVIDING DEFINITIONS; MAKING TECHNICAL CHANGES; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. The memorandum referenced in the above recital is incorporated in this ordinance and is approved.

Section 2. Section 33-1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

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.

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

(1) *Accessory building* >>shall mean an “accessory structure,” as defined in the Florida Building Code, Residential Volume<<. ~~[[A secondary residence, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building. An accessory building may include servant's quarters unless prohibited by existing deed restrictions.]]~~ Also see *Guesthouse* and *Servants' quarters*.

>>(1.05) *Accessory dwelling unit (ADU)*. An attached or detached accessory building, or portion thereof, that is used as an ancillary residential unit and: is located on the same lot as the principal single-family dwelling; has a separate kitchen, bathroom, and sleeping area; and is intended for use by a separate family of occupants. Charging a fee to use an ADU separately from the principal dwelling shall not constitute an unlawful duplex or multiple family use.

(1.06) *Accessory unit*. An accessory dwelling unit or guesthouse, or both collectively.<<

* * *

(5.1.2) *Ancillary* means that a use or structure is subordinate or subsidiary to the primary use on the same lot or parcel. An ancillary structure shall be smaller than the primary structure on the same lot or parcel. An ancillary use shall not exceed the size of the primary use, unless specifically authorized in this chapter.

* * *

>>(30.3) *Comprehensive Development Master Plan (CDMP)* means the Comprehensive Development Master Plan adopted by the Miami-Dade County Board of County Commissioners, as provided in article XV of chapter 2 of this Code and chapter 163 of the Florida Statutes, as may be amended from time to time.<<

* * *

- (44) *Family*. A natural person living in a dwelling unit; or two or more natural persons related by blood, marriage, adoption, domestic partnership, or other analogous union or relation, but excluding fraternities, sororities, and other similar clubs or organizations, and up to two gratuitous guests, domestic staff, or roomers, all living together as a single housekeeping unit in a dwelling unit; or no more than five unrelated natural persons, and up to two gratuitous guests or domestic staff, all living together as a single housekeeping unit in a dwelling unit.

* * *

- (54) *Guesthouse*. >>An attached or detached accessory building, or portion thereof, that is used as an ancillary residential unit, is located on the same lot as the principal single-family dwelling, is intended for use by only the occupants of the principal dwelling and their family, as defined in this section, and is not rented for a fee separately from the principal dwelling.<< ~~[[An accessory building of a residence, which accessory building is not occupied year around, but which is used as temporary residence, only.]]~~ Such >>residential unit<< ~~[[a building]]~~ shall conform to the requirements for accessory buildings, except that a >>separate kitchen and bathroom<< ~~[[sink, bathtub and cooking facilities]]~~ may be provided. ~~[[Only nonpaying and personal guests of the occupant of the principal residence shall occupy a guesthouse. Year around occupancy shall not be permitted by the same guest, nor shall the owner occupy the guesthouse and rent the principal residence.]]~~ Use of a guesthouse in violation of these provisions constitutes an unlawful duplex or multiple family use.

* * *

- (61) *Lot*. Parcel of land shown on a recorded plat or on the official County zoning maps or any piece of land described by a legally recorded deed.

* * *

Section 3. Section 33-22 of the Code of Miami-Dade County, Florida is hereby created

to read as follows:

Sec. 33-22. >>**Accessory units.**

- (1) Subject to the conditions, requirements, and procedures set forth in this section, one accessory unit per lot shall be permitted in the following zoning districts located inside of the Urban Development Boundary: AU, EU, and RU, as well as GU for properties that are zoned to AU, EU, or RU.

- (2) General requirements.
 - (a) Maximum number of accessory units. One accessory unit is allowed on a lot developed with a principal single-family dwelling.

 - (b) Certificate of occupancy requirements. If developed concurrently, a certificate of occupancy for the accessory unit shall not be issued until a certificate of occupancy has been issued for the principal dwelling.

 - (c) Overnight occupancy. Overnight occupancy for an accessory unit shall be up to a maximum of two persons per bedroom, excluding children under three years of age.
 - (i) If the accessory unit consists of a single room without a separate bedroom, the maximum overnight occupancy shall be two persons, excluding children under three.
 - (ii) For purposes of this paragraph (c), “overnight” shall mean from 10:00 p.m. until 7:00 a.m. the following day.
 - (iii) Notwithstanding the foregoing, at no time shall the occupancy of an accessory unit exceed the maximum occupant load for the property under the Florida Building Code.

 - (d) Guesthouses. The occupancy of a guesthouse is limited to the family, as defined in section 33-1, that occupies the principal dwelling.
 - (i) The applicant for a guesthouse shall file a declaration of use with the Department acknowledging this occupancy requirement.

- (ii) A guesthouse may be converted to an accessory dwelling unit (ADU) by filing an application with the Department and satisfying all applicable requirements.
 - (iii) The declaration of use for the guesthouse shall be extinguished upon approval of the application for ADU.
- (e) *Parking.* In addition to the off-street parking requirements for the principal dwelling, one parking space shall be provided to serve an accessory unit in accordance with the following:
- (i) Parking for the accessory unit shall be located:

 - a. within a driveway or in a designated parking area on the same property as the principal dwelling; or
 - b. on the street or swale directly in front of such property if there is no driveway or designated parking area on the subject property and on-street parking is permitted in such areas.
 - (ii) Where on-street parking is authorized, parking shall be located directly in front of the property.
 - (iii) Notwithstanding any requirement to the contrary, properties located within 660 feet of a CDMP-designated major corridor served by transit, CDMP-designated mixed-use corridor, or rapid transit activity corridor shall be exempt from this off-street parking provision.
 - (iv) No more than two vehicles shall be parked at any one time during the occupancy period of the accessory unit on the same property as the principal dwelling or, where on-street parking is authorized in such areas, on the street or swale directly in front of such property.
- (f) *Sale and rental.* The accessory unit shall not be sold separately from the principal dwelling and shall only be rented for a fee in accordance with the following:
- (i) An ADU may be rented for a fee, provided that the rental period is not less than one month.

- (ii) A guesthouse shall not be rented for a fee separately from the principal dwelling, nor shall a property owner live in the guesthouse and rent the principal dwelling.
 - (iii) Except as provided in section 33-28, the accessory unit shall not be utilized as a vacation rental.
 - (g) Utility meters and addresses.
 - (i) An ADU may have electrical, water, gas, and other types of utility meters, a house address or unit number, and a mailbox that are separate from the principal dwelling.
 - (ii) A guesthouse shall not have utility meters or an address, unit number, or mailbox separate from the principal dwelling.
 - (h) Recreational vehicles. Recreational vehicles and travel trailers shall not be used as accessory units.
 - (i) Homeowners' association. If the principal dwelling is part of a homeowners or condominium association (collectively, "HOA"), an applicant for an accessory unit shall provide advanced notice of the application to the HOA, attest to providing such notice at the time of application and, upon request, furnish proof of such notice to the Department with the application. The applicant shall be responsible for complying with all policies, rules, and regulations of the HOA pertaining to accessory structures.
 - (j) Occupancy classification. An accessory unit shall have an occupancy classification of "single family residence" pursuant to the Florida Building Code, Residential Volume.
- (3) Design.
- (a) Attachment. The accessory unit may be attached to or detached from the principal dwelling.
 - (i) Construction of an attached accessory unit shall be subject to review as a substantial improvement pursuant to chapter 11C.
 - (ii) Construction of a detached accessory unit shall be subject to review as new construction pursuant to chapter 11C.

- (b) Architectural features.
 - (i) The accessory unit must contain architectural characteristics and features that are compatible with the principal dwelling, including, but not limited to, similar exterior finish, window glazing and fenestration, and roof style.
 - (ii) The accessory unit shall be of a similar scale and height as the principal dwelling.
 - (iii) A detached accessory unit may not be located in whole or in part in front of the principal dwelling.
 - (c) Entrance. If attached to the principal dwelling, the accessory unit may include a separate exterior entrance that is not visible from a roadway or public right-of-way.
 - (d) Location. If detached from the principal dwelling, the accessory unit shall not be located closer to the front lot line than the principal dwelling.
- (4) Lot size, lot coverage, floor area, setbacks, and height.
- (a) Minimum lot size and minimum and maximum floor area requirements for accessory units shall be in accordance with the CDMP, except that guesthouses in the EU zoning districts shall not be subject to these requirements and shall be governed only by the requirements of the applicable EU district.
 - (b) Detached accessory units exceeding one story in height and attached accessory units shall be subject to the same minimum setbacks and maximum lot coverage applicable to the principal dwelling.
 - (c) Detached units not exceeding one story in height shall be subject to the minimum setbacks and maximum lot coverage applicable to accessory structures within the applicable zoning district.
 - (d) If detached from the principal dwelling, the height of the accessory unit shall not exceed the height of the principal dwelling.
 - (e) Adjustments to setback, height, and lot coverage for accessory dwelling units may be approved through the administrative adjustment procedure pursuant to section 33-

36.1. In addition, minimum lot size requirements may be adjusted administratively, but only to the extent authorized by the CDMP.

(5) Site Plan Review. Each accessory unit shall be subject to administrative site plan review in accordance with the following.

(a) At the time of application for building permit or certificate of use, each applicant for an accessory unit shall submit to the Department a schematic site plan at a scale of not less than one inch equals 100 feet prepared by a design professional and containing the following information:

(i) Location of the proposed accessory unit in relation to the principal dwelling and all other improvements on the site.

(ii) Identification of off-street parking used to serve the principal dwelling and the location of off-street parking spaces, if required, to serve the accessory unit.

(iii) Other information and plans that the Director deems necessary to evaluate compliance with this section.

(b) Procedures. The Department shall review plans for compliance in accordance with the procedures and timeframes applicable to the review and issuance of building permits or certificates of use, as applicable.

(6) Certificate of use.

(a) Notwithstanding anything in this chapter to the contrary, a certificate of use (CU) shall be required for each accessory unit.

(b) A CU for an accessory unit may only be obtained by the property owner of the principal dwelling.

(c) The CU shall specify the following:

(i) Type of accessory unit (guesthouse or ADU);

(ii) Size of the accessory unit;

(iii) Whether the accessory unit is attached to or detached from the principal dwelling;

(iv) Whether the accessory unit is occupied or vacant and, if occupied, the names of the occupants, with such information updated upon a change of occupant or when the CU is renewed, whichever occurs first;

- (v) Whether any vehicles are registered to, or used by, the accessory unit occupants and, if so, the vehicle plates associated with such vehicles, with such information updated upon a change in vehicles or when the CU is renewed, whichever occurs first; and
 - (vi) Maximum occupancy.
- (d) Providing false or misleading information in a CU application is grounds to deny or revoke the CU. The denial or revocation of a CU is appealable in accordance with the procedures for appeals of civil violation notices set forth in chapter 8CC.
 - (i) The denial or revocation will be upheld on appeal if the Hearing Officer finds that a preponderance of the evidence indicates that the CU application contained material information that was factually incorrect, false, or misleading.
 - (ii) For purposes of this subsection, “material information” is information that is or would be important, significant, or essential to a reasonable person in deciding whether to issue the CU.
 - (iii) It shall not be a defense that the inclusion of a factual mistake, a falsehood, or misleading information in the application was unintentional.
- (e) For a guesthouse, a one-time CU shall be obtained. For an ADU, the CU shall be renewed annually, and changes to the ADU, the occupants thereof, and the vehicles associated therewith shall be updated at least annually at the time of renewal. The applicant shall be responsible for ensuring that the information required by this section remains accurate at the time of renewal each year.
- (f) A property owner may, at any time, change the type of accessory unit. If the accessory unit is changed from an ADU to a guesthouse, then the property owner shall obtain a one-time CU for the guesthouse, which shall not require renewal unless the guesthouse is changed to an ADU. If the unit is changed from a guesthouse to an ADU, then the property owner shall obtain an annually-renewable CU for the ADU.

- (g) A CU shall not be issued or renewed if any outstanding fines or liens for violations of any provision of this code are associated with the subject property, including the principal dwelling.
- (h) Prior to the issuance or renewal of a CU, the accessory unit shall be subject to inspection to ensure compliance with all applicable code requirements.
 - (i) At the time of inspection, the applicant shall provide all records and other documentation sufficient to demonstrate compliance with the requirements of this section.
 - (ii) For renewals of CUs required by this section, physical inspection of the property shall be limited to exterior areas, and the property owner shall provide an attestation under penalty of perjury that the accessory unit remains in compliance with all requirements of this section, in addition to providing all other required documentation.
 - (iii) Each required document that the applicant fails to provide shall constitute a separate violation of this section.

(7) *Presumption of Illegal Use.*

- (a) A rebuttable presumption of an unlawful use in violation of this section shall be created where an accessory unit does not have a valid CU and one or more of the following conditions are observed:
 - (i) An advertisement or sign that demonstrates that more than one dwelling unit is on the subject property;
 - (ii) Two or more electrical, water, gas, or other types of utility meters or mailboxes exist on the subject property;
 - (iii) More than one house address, unit number, or unit letter is associated with the subject property; or
 - (iv) The number of vehicles parked overnight or registered to the subject property address is disproportionate in relation to the number of bedrooms or occupants of the principal dwelling.
- (b) The property owner may rebut the presumptions set forth in this subsection by complying with all of the following:
 - (i) Submitting a notarized affidavit on a form acceptable to the Director attesting that the owner does not have

- (ii) Submitting copies of the vehicle registration from the applicable state motor vehicles agency and proof of insurance for all vehicles identified as being stored or parked on the subject property; and
- (iii) Providing the Department with access to the subject property for the purpose of verifying compliance with all of the provisions of this section. If the property owner fails to demonstrate compliance with this section, subject to confirmation by the Department, the presumption shall remain and enforcement shall continue.

(8) Enforcement; penalties.

- (a) Any person operating an accessory unit without a CU or otherwise in violation of this section shall be subject to enforcement in accordance with section 8CC-10, section 1-5, or both and to all other enforcement measures authorized in this code or by other applicable law.
- (b) A CU issued for an accessory unit pursuant to this section shall be revoked for any property that has three or more fully adjudicated violations committed within a consecutive 12-month period. Any such property shall not be eligible to obtain another CU pursuant to this section for a period of three years following the CU revocation; provided, however, that a property owner may apply to obtain a CU before such three-year period has elapsed if:
 - (i) The violations resulting in the CU revocation occurred when the property was under prior ownership; and
 - (ii) There is no relationship, business or familial, between the current property owner and the owner of the property at the time that the CU was revoked, including any commonality between officers or directors of a corporate entity or any affiliated entities having ownership interest in the property; and
 - (iii) The property owner provides the Department with proof that the property changed ownership after revocation of the CU, and any other documentation requested to demonstrate compliance with this section.

- (c) Each vehicle parked or stored in violation of this section constitutes a separate offense, as does each day during any portion of which a violation occurs.
- (d) Notwithstanding any other provision of this code, civil violation notices may be issued to the real property owner where the violation occurs and to the owner of any vehicle stored in violation of this section.<<

Section 4. Section 33-28 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-28. Vacation Rentals.

* * *

- (D) *Vacation Rental Standards.* The following vacation rental standards shall govern vacation rentals in unincorporated Miami-Dade County:

* * *

- (14) >>Accessory units. Where a property has an accessory unit, as defined in section 33-1, the entire property comprised of the principal dwelling and the accessory unit may be used as a single vacation rental, but neither the principal dwelling nor the accessory unit may be used as a vacation rental separate from the other.

- (15)<< *Compliance with applicable laws.* In addition to the foregoing, the responsible party and all transient occupants shall comply with all other applicable local, state, and federal laws, regulations, rules, and standards, including, but not limited to, those pertaining to anti-discrimination, disability, and fair housing to the extent applicable.

* * *

Section 5. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	Description of Violation	Civil Penalty
* * *		
33-20.1.1	Prima facie evidence of illegal multiple use or illegal subdivision of a residence	500.00
>>33-22	<u>Failure to obtain certificate of use for accessory unit or other violation of section 33-22</u>	
	<u>First Offense</u>	<u>500.00</u>
	<u>Second Offense</u>	<u>1000.00</u>
	<u>Each Subsequent Offense</u>	<u>2500.00<<</u>
33-25	Illegally maintaining a houseboat	100.00
* * *		

Section 6. 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 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provision of this ordinance, including any sunset provision, shall become and be made 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 8. 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:

November 1, 2022

Approved by County Attorney as
to form and legal sufficiency:

GBK

Prepared by:

James E. Kirtley
Dennis A. Kerbel

