

**SINGLE FAMILY ACCESSORY STRUCTURE HARMONIZATION
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, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE IX, ENTITLED "NONCONFORMANCES," AT SECTION 118-395, ENTITLED "REPAIR AND/OR REHABILITATION OF NONCONFORMING BUILDINGS AND USE", TO INCORPORATE EXISTING REQUIREMENTS FOR NONCONFORMING SINGLE FAMILY STRUCTURES AND ALLOW FOR THE RAISING OF CERTAIN ACCESSORY AND NON-HABITABLE STRUCTURES; AND AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 2, ENTITLED "RS-1, RS-2, RS-3, AND RS-4 SINGLE FAMILY DISTRICTS," AT SECTION 142-105, ENTITLED "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS" TO REMOVE REQUIREMENTS FOR NONCONFORMING SINGLE FAMILY STRUCTURES; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, addressing and mitigating the effects of sea level rise and increased flooding are major priorities of the City of Miami Beach (the "City"); and

WHEREAS, in 2015, the City contracted with AECOM to review the City Code and produce a report to assist the City in enhancing the City's sustainability and resiliency, in light of climate change and increased flooding events; and

WHEREAS, the FEMA FIRM panels indicate a base flood elevation in certain areas of the City of 7.0 feet NGVD, and AECOM has analyzed that a large storm event would create a flood risk situation even at a flood elevation of 8.0 feet NGVD; and

WHEREAS, accordingly, the City desires to encourage existing low-lying infrastructure and future construction projects to be elevated in order to reduce risks associated with potential flood damage; and

WHEREAS, the City has implemented "freeboard" requirements with additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management, which factor is to be utilized in construction projects in developing first floor elevations, in order to protect the structures from flooding events; and

WHEREAS, the City is raising roads in response to sea level rise; and

WHEREAS, existing homes will have to undergo a harmonization process as a result of the new elevations of roadways; and

WHEREAS, existing single-family homes often contain non-conforming accessory structures which may be located at elevations below the freeboard level and new elevation of the roadway; and

WHEREAS, it is in the best interest of the City and residents that the raising of those non-conforming accessory structures be facilitated in order to increase the resiliency of the City; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City.

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

Section 1. Chapter 118 of the City Code, entitled “Administration and Review Procedures,” Article IX, entitled “Nonconformances,” is hereby amended as follows:

**CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES**

* * *
ARTICLE IX. – NONCONFORMANCES

* * *

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

* * *

(b) *Nonconforming buildings.*

* * *

(8) *Single Family Districts:* Notwithstanding the above, the following provisions shall apply to existing single-family structures in single-family districts:

- a. Existing single-family structures that are nonconforming as to the provisions of sections 142-105 and 142-106 may be repaired, renovated, or rehabilitated, regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of this article. Should such an existing structure constructed prior to October 1, 1971, be completely destroyed due to fire, casualty, or other catastrophic event, through no fault of the owner, such structure may be reconstructed regardless of the applicable requirements in sections 142-105 and 142-106 that are in effect at the time of the destruction of the structure.
- b. Existing garages, carports, pergolas, cabanas, gazebos, guest/servant quarters, decks, swimming pools, spas, tennis courts, sheds, and similar accessory structures may be rebuilt consistent with existing non-conforming setbacks, unit size, and lot coverage, at a higher elevation, in accordance with the following provisions:
 - 1. The yard elevation of the property shall be raised to a minimum of adjusted grade;

- 2. The structure shall be re-built in the same location as originally constructed; provided that the re-built structure has no less than a four foot setback from all property lines;
- 3. The structure shall be rebuilt to be harmonious with the primary structure.

Section 2. Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 2, entitled "RS-1, RS-2, RS-3, and RS-4 Single Family Districts," is hereby amended as follows:

CHAPTER 142
ZONING DISTRICTS AND REGULATIONS
 * * *
ARTICLE II. – DISTRICT REGULATIONS
 * * *
Division 2. - RS-1, RS-2, RS-3, and RS-4 Single Family Districts
 * * *

Sec. 142-105. - Development regulations and area requirements.

* * *

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

- * * *
- (5) *Lot coverage (building footprint).*
- * * *

~~e.—*Nonconforming structures.* Existing single family structures nonconforming with respect to sections 142-105 and 142-106, may be repaired, renovated, rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "nonconformance." Should such an existing structure constructed prior to October 1, 1971, be completely destroyed due to fire or other catastrophic event, through no fault of the owner, such structure may be replaced regardless of the above noted regulations existing at the time of destruction.~~

SECTION 3. REPEALER.

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

SECTION 4. 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 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2019.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2019

Second Reading: _____, 2019

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