

Replacement of Floor Plates in Nonconforming Contributing Buildings

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," BY AMENDING ARTICLE IX, "NONCONFORMANCES," BY AMENDING SECTION 118-395, ENTITLED "REPAIR AND/OR REHABILITATION OF NONCONFORMING BUILDINGS AND USES," TO AUTHORIZE THE HISTORIC PRESERVATION BOARD TO APPROVE THE RECONSTRUCTION OF ORIGINAL INTERIOR FLOOR PLATES IN CONTRIBUTING BUILDINGS ON LOTS THAT ARE NON-CONFORMING AS TO FLOOR AREA RATIO (FAR), SUBJECT TO CERTAIN SPECIFIED CONDITIONS; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, from time to time, the City of Miami Beach (the "City") reviews and updates the requirements of the Land Development Regulations as they pertain to nonconforming structures; and

WHEREAS, the City has adopted regulations pertaining to the restoration and improvement of existing contributing buildings that are nonconforming; and

WHEREAS, the City desires to refine, clarify, expand and enhance existing procedures and requirements for improvements to existing contributing buildings that are non-conforming, in order to ensure that a substantial portion of any such structure is retained and preserved; and

WHEREAS, this Ordinance permits the Historic Preservation Board to approve, subject to the Certificate of Appropriateness criteria in Chapter 118, Article X of the City Code, the reconstruction of original interior floor plates if such floor platess were removed prior to June 4, 1997; and

WHEREAS, City Charter Section 1.03(c) provides, in pertinent part, as follows:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], . . . unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach; and

WHEREAS, to the extent that this Ordinance would permit the reconstruction of floor plates on properties that are nonconforming as to FAR (i.e. properties that have no available FAR), the adoption of this Ordinance is subject to the approval of the City's voters in a Citywide referendum; 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 118, Entitled "Administration and Review Procedures", Article IX, Entitled "Nonconformances," of the Land Development Regulations of the Code of the City of Miami Beach, Florida, 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.

* * *

(3) As applicable to the restoration of a contributing building located within a designated local historic district, the historic preservation board may, at its discretion and subject to the certificate of appropriateness criteria in chapter 118, article X, of this Code, approve the reconstruction of original interior floor plates in accordance with historical documentation and/or building permit records if, prior to June 4, 1997, such floors were removed, even if the underlying lot is currently non-conforming as to floor area ratio (FAR).

(3) (4) There shall be no variances from any of the provisions herein pertaining to maximum floor area ratio and to parking credits.

(4) (5) Unless superseded by the provisions in chapter 142, article II, division 2, single-family homes shall be treated the same as other buildings, in determining when an existing structures lot coverage, height and setbacks may remain.

(5) (6) Notwithstanding the foregoing, in the event of a catastrophic event, including, but not limited to, fire, tornado, tropical storm, hurricane, or other act of God, which results in the complete demolition of a building or damage to a building that exceeds 50 percent of the value of the building as determined by the building official, such building may be reconstructed, repaired or rehabilitated, and the structure's floor area, height, setbacks and any existing parking credits may remain, if the conditions set forth in subsection (b)(1)a—d herein are met.

(6) (7) The foregoing regulations shall not apply to any building or structure located on city-owned property or rights-of-way, or property owned by the Miami Beach Redevelopment Agency.

~~(7)~~ (8) Gasoline service stations.

a. Notwithstanding the foregoing provisions, a nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, and which has been damaged, repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official pursuant to the standards set forth in the Florida Building Code may be repaired or rehabilitated, if the following conditions are met:

1. The entire building and any new addition shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.
2. The entire building and any new addition shall comply with the current development regulations in the zoning district in which the property is located, including, but not limited to all landscape requirements. New monument-style signs shall be required. Pole signs shall be prohibited.
3. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.

b. Necessary repairs to add an emergency electrical generator and related facilities to a nonconforming gasoline service station shall be permitted.

c. A nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, may add new floor area (other than floor area strictly necessary to house an emergency electrical generator and related facilities), or convert existing floor area or land, to add new accessory uses, such as a convenience sales area or a car wash, subject to conditional use approval, notwithstanding the nonconforming status of the gasoline service station.

~~(8)~~ (9) *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; and
3. The structure shall be rebuilt to be harmonious with the primary structure.

SECTION 2. 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 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 re-numbered or re-lettered 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 _____, 2020.

ATTEST:

Dan Gelber
Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

Rafael E. Granado 7/17/20
City Attorney NK Date

First Reading: July 29, 2020
Second Reading: November / December __, 2020

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

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