

ORDINANCE NO. 2020- \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 98, ENTITLED "STREETS AND SIDEWALKS," BY AMENDING SECTION 98-94 THEREOF, ENTITLED "BUILDING PERMITS," BY CREATING A BATTERY BACKUP LOWERING SYSTEM REQUIREMENT FOR CERTAIN ELEVATORS, AND BY AMENDING CHAPTER 14, ENTITLED "BUILDING REGULATIONS," BY RELOCATING SECTION 14-403(d) THEREOF, INTO SECTION 98-94, AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 399 F.S., entitled "Elevator Safety," provides the authority for the City to issue construction permits and certificates of operation, for inspection of elevators, and enforcement of the applicable provisions of the Florida Building Code; and

**WHEREAS**, in the United States, the relied-upon safety code for elevators, escalators, and associated equipment is the American Society of Mechanical Engineers ("ASME") A17.1-2016: Safety Code for Elevators and Escalators, which refers to the respective building code when addressing emergency or standby power as it relates to elevators; and

**WHEREAS**, Section 403 of the Florida Building Code provides that elevators contained within a high-rise building, defined as a building with an occupied floor located more than 75 feet above the lowest level of fire department vehicle access, are required to include standby and emergency power, which allows elevators to function in the event of interruption of power; and

**WHEREAS**, neither the ASME Safety Code for Elevators and Escalators nor the Florida Building Code contain any battery backup system requirements for elevators which are not contained within a high-rise building; and

**WHEREAS**, requiring all new and modernized elevator construction not contained within a high-rise building, to include the installation of a battery backup system will ensure the safety of passengers in the event of a utility power failure.

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

**SECTION 1.** That Sections 14-403 and 98-94 of the City Code of Miami Beach are hereby amended as follows:

**CHAPTER 14**

**BUILDING REGULATIONS**

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**ARTICLE VII. - PERMITS APPLIED FOR ON OR AFTER MARCH 1, 2002**

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**DIVISION I. - GENERALLY**

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**Sec. 14-403. - Penalty for violation of article.**

- (a) Any person who shall violate or fail to comply with any of the provisions of this article or with any of the requirements of this article, shall be brought before the special master of the city. The special master may assess a fine and impose a lien to the maximum allowed by city ordinance and state law; or, in the alternative, the violation may be brought to the county court. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and any person employed in connection therewith and who has assisted in the commission of any such violation may be guilty of a separate offense and upon conviction fined as provided in this section.
- (b) Any person who shall violate or fail to comply with any of the provisions of this article or with any of the requirements thereof shall be subject to a delinquency penalty as specified in appendix A.
- (c) A special master, appointed as provided in article II of chapter 30 may either revoke or temporarily suspend the business license of any person in accordance with the procedures set forth in chapters 18 and 102 of this Code when it is determined that the licensee is conducting business from premises that do not possess a valid and current certificate of occupancy and/or certificate of use as may be required by city or county laws. (Ord. No. 2002-3360, § 1, 4-10-02)
- (d) ~~For violations of F.S. § 553.509, which pertain to the requirement to provide vertical accessibility under the "Florida Americans with Disabilities Act," in buildings without an active wheelchair lift, a certified elevator inspector employed by the City of Miami Beach Elevator Safety Section may issue a citation in the manner provided in subsection 14-442(b). The schedule of violation fines shall be set forth in section 14-444 hereof.~~

The citation may be appealed by filing a written request for an administrative hearing with the clerk of the special master within ten days after service of the notice of violation. Failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and unpaid fines will result in the imposition of liens which

may be foreclosed by the city. The citation shall also inform the violator that repeat violations of this section will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restriction on certificate of use, or accessory use, and/or injunctive proceedings as provided by law.

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**CHAPTER 98**

**STREETS AND SIDEWALKS**

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**DIVISION 2. - PERMIT**

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**Sec. 98-94. - Building permits.**

(a) Up-front processing fee.

(1) When the building permit application is received, the applicant shall pay an "up front" processing fee as specified in appendix A.

(2) This processing fee is not refundable, but shall be credited toward the final building permit fee. The "up front" processing fee, after it is calculated, shall be rounded up to the nearest \$5.00, with a minimum fee as specified in appendix A.

(b) Refunds, time limitations, cancellations, change of contractor. The fees charged pursuant to the schedule in appendix A, provided the same are for a permit required by Section 105.1 of the Florida Building Code, may be refunded by the building official subject to the following:

(1) No refunds shall be made on requests involving:

- a. Permit fees of the minimum permit fee as specified in appendix A or less; or
- b. Permits for which plans review has commenced; or
- c. Permits revoked by the building official under authority granted by the Florida Building Code; or
- d. Permits cancelled by court order; or
- e. Permits which have expired; or

- f. Permits under which work has commenced as evidenced by any recorded inspection having been made by the department. unless the refund is due to an overcharge by the city.
- (2) A full refund shall be granted to a permit holder who takes out a permit covering work outside the jurisdictional inspection area.
  - (3) A full refund less the minimum up-front permit fee and any outside agency fees shall be granted to a permit applicant who requests a refund in writing within one year of payment, provided that no plan review has commenced.

A full refund less the minimum permit fee as specified in appendix A or the up-front permit fee, whichever amount is greater, rounded down to the nearest dollar, and any outside agency fees shall be granted to a permit applicant who requests a refund in writing within one year of payment, provided that a permit has not been issued.

A full refund less the minimum permit fee as specified in appendix A or the up-front permit fee, whichever amount is greater, rounded down to the nearest dollar, and any outside agency fees shall be granted to a permit holder (to whom a permit has been issued) who requests a refund in writing within one year of payment, provided:

- a. That the permit holder makes a written request prior to the permit expiration date; and
  - b. That no work as evidenced by any recorded inspection has commenced under such permit.
- (4) Where the permit is revoked, or becomes null and void, or expires because of lack of work or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work, pursuant to Section 105.4.1.1 of the Florida Building Code. If no more than 180 days of the expiration date of the original permit has passed, and no refund has been made according to this section, the applicant may apply to renew the permit, the reapplication must be covering the same project and involving the same plans, and must be submitted with the plans and the applicant's validated copy of the original permit. A fee of 25 percent of the original permit fee, plus an additional processing fee equivalent to the minimum permit fee as specified in appendix A, shall be charged for a renewal under these circumstances.

For permits that have expired where the only missing component is one or more final inspections, the fee for reopening the permit, performing the final inspection(s), and providing a final approval on the permit shall be charged based on the minimum building permit fee.

- (5) Every application submitted for permit will be evaluated and fees assessed accordingly whether it is for a master permit, a stand-alone permit, or a subcontract/trade subsidiary permit. All submittals will be assessed the fees as prescribed in appendix A, or the minimum permit fee, whichever is greater.
- (c) [Public works fees.] Public Works Fees associated with a building permit are as specified in appendix A.
- (d) For violations of F.S. § 553.509, which pertain to the requirement to provide vertical accessibility under the "Florida Americans with Disabilities Act," in buildings without an active wheelchair lift, a certified elevator inspector employed by the City of Miami Beach Elevator Safety Section may issue a citation in the manner provided in subsection 14-442(b). The schedule of violation fines shall be set forth in section 14-444 hereof.
- (e) All new and modernized elevator construction covered by Chapter 399 of the Florida Statutes, except those elevators in a high-rise building, which is defined in the Florida Building Code, must provide and require a battery backup lowering system that must automatically activate upon loss of normal electrical power.

## **SECTION 2. REPEALER.**

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

## **SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## **SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word " ordinance" may be changed to " section," " article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect the \_\_\_ day \_\_\_\_\_, 2020.

**PASSED and ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**


\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

Underline denotes additions  
Strikethrough denotes deletions

(Sponsored by: Commissioner Michael Gongora)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

7/21/2020  
Date

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