

ORDINANCE NO. 2021-_____

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 ARTICLE III, ENTITLED "EXCAVATIONS," BY AMENDING SECTION 98-94 THEREOF, ENTITLED "BUILDING PERMITS," TO CREATE PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS MAINTENANCE REQUIREMENTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, according to the American Society of Mechanical Engineers (ASME) A18.1-2017: Safety Standard for Platform Lifts and Stairway Chairlifts, routine inspections shall generally be conducted every six (6) months; and

WHEREAS, wheelchair lift manufacturers recommend that maintenance be performed every six (6) months for platform lifts and stairway chairlifts located inside a property, and a quarterly basis for platform lifts and stairway chairlifts located outside and exposed to the elements; and

WHEREAS, the Americans with Disabilities Act (ADA) and other Federal Civil Rights laws also require that accessible features be maintained in a working condition so they may be accessed and used by individuals with disabilities; and

WHEREAS, the City of Miami Beach currently inspects platform lifts and stairway chairlifts once a year; and

WHEREAS, the City has approximately 210 wheelchair lifts throughout the City; and

WHEREAS, private building owners are reminded by City staff that ASME A18 Safety Standard for Platform Lifts and Stairway Chairlifts requires routine maintenance and inspections; and

WHEREAS, at the time of the inspection, about 65% of the lifts were found inoperable due to lack of proper maintenance; and

WHEREAS, in an effort to increase the use and reliability of the lifts throughout the year, the City's Public Works Elevator Safety Section recommends that building owners attest or provide proof of a maintenance agreement for stairway chairlifts and platform lifts, which agreement would provide for routine service and maintenance every six (6) months for lift maintenance indoors, and quarterly service for lifts maintenance outdoors; and

WHEREAS, the City Commission desires to amend section 98-94 of the City Code as a way to ensure proper operation of these mechanical conveyances.

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

SECTION 1. That section 98-94 of the City Code of Miami Beach are hereby amended as follows:

Chapter 98

STREETS AND SIDEWALKS

* * *

ARTICLE III. EXCAVATIONS

* * *

DIVISION 2. PERMIT

* * *

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) *[Violations of state law.]* 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) *[Elevator construction.]* All new and modernized elevator construction covered by F.S. ch. 399, 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, which shall lower the elevator to a floor designated by building personnel.
- (f) *[Maintenance requirements.]*
(1) Effective February 1, 2022, all building owners utilizing platform lifts and stairways chairlifts for purposes of compliance with American with Disabilities (ADA) requirements shall submit to the Public Works Department the following: (i) proof of a valid maintenance agreement satisfying the requirements of subsection (f)(2); or (ii) a notarized affidavit attesting that the building owner has a valid maintenance agreement in place.
(2) All building owners shall have maintenance agreements requiring bi-annual service and maintenance of platform lifts and stairway chairlifts located inside buildings, and quarterly service and maintenance for platform lifts and stairway chairlifts located outside and exposed to the elements. Such maintenance agreements shall be continuously in place, and subject to verification as part of the City's annual elevator inspections.

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 ____ 2021.

PASSED and ADOPTED this ____ day of _____, 2021.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough denotes deletions~~

(Sponsored by Vice-Mayor Michael Gongora)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *FR*

6-15-21
Date