

Pre-1942 Single-Family Fence Height Modifications

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 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-106, ENTITLED "SETBACK REQUIREMENTS FOR A SINGLE-FAMILY DETACHED DWELLING," TO MODIFY FENCE REQUIREMENTS; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

WHEREAS, Section 142-106 of the Land Development Regulations permits certain encroachments—including fences, walls, and gates—within required yards for single-family homes; and

WHEREAS, currently, within required rear or side yards, the maximum height of fences, walls, and gates is measured from grade; and

WHEREAS, the Mayor and City Commission now wish to amend Section 142-106 to provide that, for properties containing a pre-1942 architecturally significant home, where an existing required rear or side yard is located at least 12 inches above grade, the overall height of fences, walls, and gates may be measured from the elevation of existing yards; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

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

**CHAPTER 142
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 2. RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

* * *

Sec. 142-106. Setback requirements for a single-family detached dwelling.

* * *

(b) Allowable encroachments within required yards.

* * *

(7) *Fences, walls, and gates.* Regulations pertaining to materials and heights for fences, walls and gates are as follows:

- a. *Front yard.* Within the required front yard, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is set back from the front property line. Height may be increased one foot for every two feet of setback.
- b. *Rear and side yards.* Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway, or golf course, the maximum height shall not exceed five feet.

In the event that a property has approval to be improved at adjusted grade, the overall height of fences, walls and gates may be measured from adjusted grade, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

Pre-1942 exemption. Notwithstanding the provisions of this subsection (b)(7)(b), for properties containing a pre-1942 architecturally significant home, where a substantial portion of the existing rear yard and/or side yard is located at least 12 inches above grade, the overall height of fences, walls and gates may be measured from the elevation of the existing yard, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

- c. *Materials.* All surfaces of masonry walls and wood fences shall be finished in the same manner with the same materials on both sides to have an equal or better-quality appearance when seen from adjoining properties. The structural supports for wood fences, walls or gates shall face inward toward the property.
- d. *Chain link fence prohibition.* Chain link fences are prohibited in the required front yard, and any required yard facing a public right-of-way or waterway (except side yards facing on the terminus of a dead-end street in single-family districts) except as provided in this section and in section 142-1134.
- e. *Other materials prohibited.* Barbed wire or materials of similar character shall be prohibited.

* * *

SECTION 2. Repealer.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 renumbered or relettered 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 _____, 2021.

Dan Gelber, Mayor

ATTEST:

APPROVED AS TO FORM AND LANGUAGE AND FOR EXECUTION

Rafael E. Granado, City Clerk



City Attorney NK Date 12-31-20

First Reading: January 13, 2021

Second Reading: February 10, 2021

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