

**MIAMI BEACH PANEL OF ARCHITECTS**

**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, FLORIDA, CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," BY CREATING SECTION 118-33 TO ESTABLISH THE MIAMI BEACH PANEL OF ARCHITECTS ("MBPOA"); AND BY AMENDING THE CRITERIA AND PROCEDURAL THRESHOLDS FOR THE REVIEW AND APPROVAL OF NEW SINGLE-FAMILY RESIDENTIAL CONSTRUCTION BY AUTHORIZING THE MBPOA TO CONDUCT CERTAIN REVIEWS; CREATING DIVISION 6, ENTITLED "MIAMI BEACH PANEL OF ARCHITECTS," AT SECTIONS 118-139 THROUGH 118-156, PROVIDING FOR PURPOSE, COMPOSITION OF BOARD, MEMBERSHIP, QUALIFICATIONS, QUORUM, MEETING PROCEDURES, POWERS AND DUTIES, FEES AND APPLICATIONS; AMENDING SECTION 118-8, ENTITLED "NOTICE PROCEDURES FOR QUASI-JUDICIAL, PUBLIC HEARING QUASI-JUDICIAL LAND USE BOARD ACTIONS" TO INCLUDE NOTICE PROCEDURES FOR PROCEEDINGS BEFORE THE MBPOA; AND AMENDING SECTION 118-9, ENTITLED "REHEARING AND APPEAL PROCEDURES," TO PROVIDE PROCEDURES FOR APPEALS FROM THE MBPOA; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, new homes that are compatible with the prevailing character of existing residential neighborhoods should be encouraged and promoted; and

**WHEREAS**, the privacy, attractive pedestrian streetscapes and human scale and character of the City's single-family neighborhoods, are important qualities to protect; and

**WHEREAS**, the Design Review Board reviews new construction for those structures constructed prior to 1942 and determined to be architecturally significant, in accordance with section 142-108; and

**WHEREAS**, the Mayor and Commission deem it appropriate to protect the significant architectural history, existing building scale, and unique character of the single family residential neighborhoods in Miami Beach; and

**WHEREAS**, the Mayor and Commission deem it in the best interest and welfare of the City to adopt revised procedures for the review and issuance of new building permits for all new single family homes constructed and located outside of a designated historic district; and

**WHEREAS**, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City's single-family districts.

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

**SECTION 1.** Section 118-33 is hereby created as follows:

**CHAPTER 118  
ADMINISTRATION AND REVIEW PROCEDURES**

\* \* \*  
**ARTICLE II. – BOARDS**

**DIVISION 1. – GENERALLY**

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**Secs. 118-~~343~~—118-50.** - Reserved.

**Sec. 118-33. Miami Beach Panel of Architects (“MBPOA”).**

There shall be created a Miami Beach Panel of Architects (“MBPOA”), which shall be a single-family residential review panel for any land development application seeking approval for new single-family residential construction, including substantial additions, on RS-zoned lots which are vacant or which currently contain a post-1942 single family home or a non-architecturally significant pre-1942 single-family home, which applications would not otherwise require a hearing conducted by the Board of Adjustment, Historic Preservation Board, or Design Review Board. The MBPOA shall not be a quasi-judicial board, and shall have no authority to grant variances from or waivers of any provisions of this Code. The powers and duties of the Board shall be established in this chapter, at article II, division 6, entitled “Miami Beach Panel of Architects (“MBPOA”).”

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**SECTION 2.** Division 6, entitled “Miami Beach Panel of Architects (MBPOA),” is hereby created as follows:

**Secs. 118-139—~~118-149~~~~148-160~~.** - Reserved.

**DIVISION 6. - MIAMI BEACH PANEL OF ARCHITECTS (“MBPOA”)**

**Sec. 118-150. – Purpose.**

The Miami Beach Panel of Architects (“MBPOA”) shall have the authority to review new single-family residential construction, including substantial additions, on RS-zoned lots which are vacant or which currently contain a post-1942 single-family home or a non-architecturally significant pre-1942 single family home.

**Sec. 118-151. – Composition and term of MBPOA.**

- (a) The MBPOA shall consist of up to fifteen (15) design professionals, as defined in section 118-152. Each member shall be appointed to serve for a term of one (1) year.

- (b) The members of the MBPOA shall serve on rotating panels of three (3) members per panel.

**Sec. 118-152. – Membership and qualification.**

MBPOA members shall be appointed by the city manager, with the consent of the city commission. The minimum qualifications of a member are as follows:

- (a) Each member shall be a State of Florida registered architect or State of Florida registered landscape architect.
- (b) Each member shall have demonstrated experience in the design and construction of projects or landscape design within the City of Miami Beach during the last five (5) years.
- (c) Each member shall either be a resident of, or shall have his or her principal place of business in the City of Miami Beach. Upon the recommendation of the city manager, the city commission may waive this residency requirement, but only if the applicant is a resident of or has his or her principal place of business in Miami-Dade or Broward County.

**Sec. 118-153. – Quorum and approvals.**

For a panel to convene, a quorum of two (2) members shall be required. A simple majority vote shall be required to approve any application.

**Sec. 118-154. – Meetings.**

The MBPOA shall conduct regularly scheduled meetings in accordance with the following provisions:

- (a) Rotating panels of the MBPOA shall meet twice a month. No meeting of the MBPOA shall occur on the same day as a regularly scheduled meeting of the historic preservation board, design review board, planning board, or board of adjustment.
- (b) The planning director, or designee, shall schedule all MBPOA meetings and provide administrative and staff support to the MBPOA. The city attorney's office shall provide legal counsel to the MBPOA, as may be needed from time to time.
- (c) The MBPOA shall review an application after the applicant attends a pre-application meeting with the planning director, or designee, pursuant to the criteria set forth in section 118-155.
- (d) Meetings of the MBPOA shall be publicly noticed and open to the public, but no application shall require a public hearing. The chair or presiding officer of a panel shall have the discretion to allow public comments, and may limit an individual speaker's time to provide comments.
- (e) The authority of the MBPOA is administrative in nature, not quasi-judicial.

- (f) After a panel renders a decision, an applicant or an affected person, as defined in section 118-9(d)(2), may appeal the decision of the panel to the design review board, which board shall hold a quasi-judicial hearing and affirm, affirm with conditions, or reverse the decision of the panel.

#### **Sec. 118-155. – Powers and duties.**

- (a) Following its review of submitted plan(s), a panel may approve, approve with conditions, continue, continue with comments, an application. The Panel may continue an application one time, unless further continuances are agreed to by the applicant. After one continuance, the Panel shall approve, approve with condition, or reject an application. No building permit may be issued for demolition or new construction that requires review by the MBPOA pursuant to this division is completed and the new home is approved. If a panel votes to continue an application to a subsequent meeting, the applicant may request that its revised plans be reviewed by the same panel that conducted the initial review, which request shall be subject to the availability of the panel members. The continuance of an application shall not require the reposting of the property.
- (b) The MBPOA shall have the authority to recommend changes to an applicant's plans and specifications. Prior to rendering a decision, the MBPOA shall consider any recommendations of planning department staff, and/or any comments or information submitted by any member of the public.
- (c) The MBPOA shall review all applications in accordance with the applicable criteria and requirements set forth in section 142-105, of this Code.
- (d) The MBPOA shall have no authority to grant variances from or waivers of any provisions of this Code.

#### **Sec. 118-156 Fees and applications.**

- (a) Fees to apply for review by the MBPOA shall be set forth in Appendix A, as may be amended from time to time.
- (b) Any application for review by the MBPOA shall comply with section 118-1, relating to site plan requirements.
- (c) All applications for review by the MBPOA must be filed with the planning department no later than fourteen (14) calendar days before the meeting date.

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#### **SECTION 3.** Section 118-8 is hereby amended as follows:

**Sec. 118-8. - Notice procedures for quasi-judicial, public hearing quasi-judicial land use board actions; and notice procedures for Miami Beach Panel of Architects.**

(1) Quasi-judicial, public hearing, applications for land use board actions (Board of Adjustment, Design Review Board, Historic Preservation Board, and Planning Board) that require notice shall be noticed in accordance with the following provisions, unless otherwise more specifically provided for in these Land Development Regulations, and shall pay a fee pursuant to Section 118-7, and Appendix A:

- (a) *Advertisement.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation. Applicant shall be required to pay all associated costs relating to the advertisement.
- (b) *Mail notice.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, start time of the meeting, and location of the hearing shall be given by mail to the owners of record of land lying within 375 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested of the director in writing to be notified of board hearings. Applicant shall be required to pay all associated costs relating to the mailed notice.
- (c) *Posting.* At least 30 days prior to the quasi-judicial, public hearing date, a description of the request, and the date, time, and place of such hearing shall be posted on the property. Such posting shall ~~be have~~ have a minimum dimension of 11 inches by 17 inches, ~~and shall be~~ located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. Applicant shall be required to pay all associated costs relating to the posting.

(2) Notice procedures for Miami Beach Panel of Architects.

- (a) Posting. In every case where the MBPOA is scheduled to review an application for single family residential construction, a notice of the meeting shall be given in the following manner:

- (i) At least five (5) days prior to the date of the MBPOA meeting at which an application is first scheduled to be heard, a description of the request and the date, time, and place of such hearing shall be posted on the property. Such posting shall have a minimum dimension of 11 inches by 17 inches, shall be located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate. Applicant shall be required to pay all associated costs relating to the posting. Continuances of an application shall not require posting.

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**SECTION 4.** Section 118-9 is hereby amended as follows:

**Sec. 118-9. - Rehearing and appeal procedures.**

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- (d) Appeal from decisions of the Miami Beach Panel of Architects.

- (1) Deadline to appeal. A decision of the MBPOA may be appealed to the design review board, which appeal shall be quasi-judicial in nature. The design review board shall conduct a de novo review of the application and the decision of the MBPOA. Each petition for appeal, which must satisfy the requirements set forth in subsection (3), shall be submitted to the planning director on or before the 15th day after the date on which the decision by the panel is reached. The design review board shall have no jurisdiction to hear an appeal that fails to comply with the requirements of this section. The failure of an appellant to provide required documents, or to file an appeal prior to the deadline set forth herein, shall result in an administrative dismissal of the appeal, which dismissal may not be appealed. An appeal of the design review board's appellate determination shall comply with 118-9(b)(2) and (3).
- (2) Eligible parties. Parties eligible to file a petition for appeal to the design review board are limited to the following:
- (i) The original applicant/property owner;
  - (ii) The city manager on behalf of the city; and
  - (iii) An affected person which, for purposes of this section, shall mean a person owning property within 100 feet of the property that is the subject of the application.
- (3) Application requirements. The following shall be required for any appeal from a decision of the MBPOA:
- (i) The petition to the board shall be in writing; and
  - (ii) The petition shall be submitted by or on behalf of an eligible party; and
  - (iii) The petition shall set forth the factual, technical, architectural, historic, and legal bases for the appeal; and
  - (iv) The party filing the appeal shall be responsible for providing sufficient copies of all plans and exhibits, subject to planning department procedures.
- (4) Notice requirements. An appeal of an MBPOA decision to the design review board shall be subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8(1). The appellant shall be responsible for all associated costs and fees.
- (5) Outside counsel to the planning department. In the event of an appeal of a decision of the MBPOA to the design review board, the planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the planning department on appeal.

(6) Design review board decisions on appeals from the MBPOA. The design review board may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination of the MBPOA, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of five members of the design review board shall be necessary to reverse any order, requirement, decision, or determination of the MBPOA, or to decide in favor of the applicant on any matter upon which the MBPOA is required to pass under these land development regulations.

(7) No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

(8) Stay of work and proceedings on appeal. An appeal of a MBPOA decision to the design review board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the following exceptions applies:

A. The planning director shall certify to the design review board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the design review board or by a court of competent jurisdiction, upon application, with notice to the planning director and for good cause shown; or

B. The hearing before the board to which application was made may proceed, provided any approval does not vest. The final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings. The appellant shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations.

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**SECTION 5.** Section 142-105 is hereby amended as follows:

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

(a) The review criteria and application requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Compliance with Regulations and Review Criteria*

a. Permits for new construction, alterations or additions to existing structures shall be subject to administrative (staff level) review by the planning director or designee, the design review board (DRB), or historic preservation board (HPB) as applicable, or in certain instances subject to the review and approval of the Miami Beach Panel of Architects

(MBPOA), in order to determine consistency with the review criteria listed in this section.

- b. In complying with the review criteria located in this section, the applicant may choose either to adhere to the development regulations identified in sections 142-105 and 142-106 administratively through staff level review or seek enhancements of the applicable development regulations as specified therein, where permitted, through approval from the historic preservation board or design review board, in accordance with the applicable design review or appropriateness criteria.
- c. Notwithstanding the foregoing, for those structures located within a locally designated historic district, or individually designated as an historic structure or site, the review and approval of the historic preservation board (HPB) may be required.
- d. Notwithstanding the foregoing, for those structures constructed prior to 1942 and determined to be architecturally significant, in accordance with section 142-108 herein, the review and approval of the design review board (DRB) shall be required.
- e. Notwithstanding the foregoing, for those structures constructed post-1942, in accordance with requirements of section 142-108, the review and approval of the Miami Beach Panel of Architects (MBPOA), shall be required.

(2) Review criteria. Staff level review and review by the Miami Beach Panel of Architects (MBPOA) shall encompass the examination of architectural drawings for consistency with the review criteria below:

- a. The existing conditions of the lot, including, but not limited to, topography, vegetation, trees, drainage, and waterways shall be considered in evaluating the proposed site improvements.
- b. The design and layout of the proposed site plan inclusive of the location of all existing and proposed buildings shall be reviewed with particular attention to the relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, and view corridors. In this regard, additional photographic and contextual studies that delineate the location of adjacent buildings and structures shall be required in evaluating compliance with this criterion.
- c. The selection of landscape materials, landscaping structures and paving materials shall be reviewed to ensure a compatible relationship with and enhancement of the overall site plan design and the surrounding neighborhood.

- d. The dimensions of all buildings, structures, setbacks, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district.
- e. The design and construction of the proposed structure, and/or additions or modifications to an existing structure, indicates sensitivity to and compatibility with the environment and adjacent structures and enhances the appearance of the surrounding neighborhood.
- f. The proposed structure is located in a manner that is responsive to adjacent structures and the established pattern of volumetric massing along the street with regard to siting, setbacks and the placement of the upper floor and shall take into account the established single family home context within the neighborhood.
- g. The construction of an addition to main existing structure shall be architecturally appropriate to the original design and scale of the main existing structure; the proposed addition may utilize a different architectural language or style than the main existing structure, but in a manner that is compatible with the scale and massing of the main existing structure.
- h. The construction shall be in conformance with the requirements of article IV, division 7 of this chapter with respect to exterior facade paint and material colors.

(3) Application requirements for DRB or HPB review.

- a. DRB or HPB applications shall follow the application procedures and review criteria, specified in chapter 118, article VI, design review procedures or article X, historic preservation, of these land development regulations (as applicable), board by-laws, or as determined by the planning director, or designee. ~~However, the fee for applications to the DRB for non-architecturally significant homes constructed prior to 1942 and all homes constructed after 1942 shall be \$150.00.~~

(4) Miami Beach Panel of Architects ("MBPOA"). The MBPOA shall apply the same criteria listed above for review of an application.

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## **SECTION 6. REPEALER.**

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith are hereby repealed.

## **SECTION 7. 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 8. APPLICABILITY.**

Notwithstanding the provisions of Section 118-168(a) of the City Code regarding the enforcement of amendments to the land development regulations, for purposes of this ordinance, applications for building permits for new construction or renovations of single-family homes that have received a process number from the City of Miami Beach Building Department by February 1, 2017 (the effective date of this Ordinance), may obtain a full building permit based upon the plans originally submitted, as long as the plans are in substantial compliance with the originally submitted plans as modified through the effective date of the ordinance.

#### **SECTION 9. SEVERABILITY.**

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

#### **SECTION 10. EFFECTIVE DATE**

Pursuant to Resolution No. 2016-\_\_\_\_\_, the City has called a special election on November 8, 2016 to submit to the voters a proposed amendment to the City's Code of Ethics, which amendment would exempt land use board members who are architects or landscape architects from the lobbying prohibition applicable to members of City boards. If the ballot measure is approved, this Ordinance shall become effective on February 1, 2017. If the ballot question fails, this Ordinance shall sunset immediately and be automatically repealed.

#### **SECTION 11. SUNSET PROVISION**

\_\_\_\_\_ If the ballot measure is approved, this ordinance shall sunset immediately and be automatically repealed on August 1, 2017, unless otherwise extended by the City Commission.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Philip Levine  
Mayor

**ATTEST:**

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

First Reading: June 8, 2016  
Second Reading: July 13, 2016

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

Underline denotes new language  
~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner Joy Malakoff]

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## APPENDIX A

Section of this Code	Description	Amount
Section 118-156	Applications to the MBPOA	\$2,500
	Square Footage	\$0.50 per square foot of new construction
	Mailing Label	\$4.00, per label
	Posting (site)	\$100