

**SINGLE FAMILY HOME – NON ARCHITECTURALLY SIGNIFICANT -
DEMOLITION PROCEDURES**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR's) OF THE CITY CODE, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," SECTION 142-108, "PROVISIONS FOR THE DEMOLITION OF SINGLE-FAMILY HOMES LOCATED OUTSIDE OF HISTORIC DISTRICTS;" BY AMENDING THE REQUIREMENTS AND PROCEDURES FOR THE ISSUANCE OF A DEMOLITION PERMIT FOR SINGLE FAMILY HOMES THAT ARE NOT ARCHITECTURALLY SIGNIFICANT; CREATING SUBSECTION (j), ENTITLED ISSUANCE OF DEMOLITION PERMITS FOR SINGLE FAMILY HOMES THAT ARE NOT ARCHITECTURALLY SIGNIFICANT; PROVIDING FOR FINES , APPEALS AND ENFORCEMENT; PROVIDING FOR CODIFICATION; REPEALER; 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, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, the City's LDRs do not currently provide for any formal demolition rules or procedures when a total demolition permit is requested for a single family structure that is not located within the boundaries of a Local Historic District, not individually designated as an Historic Site or Historic Structure or has not been determined to be an Architecturally Significant Pre-1942 Single Family Home; and

WHEREAS, it is appropriate for the City to adopt criteria in the LDRs by which formal demolition rules and procedures are codified for all single family structures located within the City; 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, "Zoning Districts and Regulations," Article II, "District Regulations," Division 2, "Single Family Residential Districts," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

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

Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts.

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(f) *Issuance of demolition permits for architecturally significant single family homes.*

- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
- (2) A demolition permit for the total demolition of an architecturally significant single-family home constructed prior to 1942, shall not be issued unless all of the following criteria are satisfied:
 - a. the issuance of a building permit process number for new construction;
 - b. the building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;
 - c. all applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
 - d. a tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the ~~Greenspace Management Division~~ Urban Forestry in the Environment & Sustainability Department.

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(j) *Issuance of demolition permits for single family homes that are not architecturally significant.*

- (1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.
- (2) A demolition permit for the total demolition of any single-family home that is not architecturally significant, regardless of year of construction, shall not be issued unless all of the following criteria are satisfied:
 - a. Obtain a building permit process number, which shall require:
 - (i) a building permit process number for new construction;
 - (ii) the building permit application and all required plans for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single family home, shall be reviewed and approved by the Planning Department;
 - (iii) all applicable fees for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single family home, shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;
 - (iv) a tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Urban Forestry in the Environment & Sustainability Department.

b. Or, alternatively, be required to comply with the following:

- (i) A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Urban Forestry in the Environment & Sustainability Department.
- (ii) The demolition permit shall indicate that the entire property shall be raised to sidewalk grade, or the crown of the road, upon the completion of demolition, with approved base material.
- (iii) The demolition permit shall indicate that drought and salt tolerant sod, such as bahia sod or seashore paspalum sod shall be installed on the entire site and hedge material shall be installed along the entire perimeter of the property.
- (iv) Fencing for the property, if any, shall only consist of aluminum picket along the entire perimeter of the property.
- (v) The raising of the site to sidewalk grade and the installation of all required landscaping must be completed within 10 days of the completion of demolition. All landscaping shall be maintained as required by the demolition permit, and the City's Landscaping Code.

(3) Penalties and enforcement. For a violation of subsection 142-108(j)(2)b., each day of noncompliance shall constitute a separate offense. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.

(4) The following civil fines shall be imposed for a violation of this subsection 142-108(j)(2)b.:

- a. First violation within a 12-month period: \$2,500.00;
- b. Second violation within a 12-month period: \$5,000.00;
- c. Third violation within a 12-month period: \$7,500.00;
- d. Fourth or subsequent violation within a 12-month period: \$10,000.00.

(5) Enforcement of subsection 142-108(j)(2)b. The code compliance department shall enforce subsection 142-108(j)(2)b. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(6) Rights of violators of subsection 142-108(j)(2)b.; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

- a. A violator who has been served with a notice of violation must elect to either
 - (i) pay the civil fine in the manner indicated on the notice of violation; or

- (ii) request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.
- b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
- c. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three (3) months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.
- e. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.
- f. The special master shall not have discretion to alter the penalties prescribed in this section.
- g. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

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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 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 _____, 2016.

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: September 14, 2016

Second Reading: October 19, 2016

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

Underline denotes new language

~~Strikethrough~~ denotes deleted language

[Sponsored by Commissioner Malakoff]

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