

Fence Heights for Oceanfront Properties

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 4, "SUPPLEMENTARY YARD REGULATIONS," AT SECTION 142-1132, "ALLOWABLE ENCROACHMENTS WITHIN REQUIRED YARDS," TO MODIFY FENCE REGULATIONS FOR OCEAN FRONT PROPERTIES AND PROPERTIES ZONED WD-2; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, currently heights of fences, walls and gates for oceanfront properties are measured from the sidewalk elevation at the front of the property, regardless of the location on the property; and

WHEREAS, due to the often large variation between the yard elevation at the front and rear of a lot, fences, walls and gates cannot be constructed at a reasonable height in the rear of an oceanfront property without a variance, when that height is required to be measured from grade at the front of the property; and

WHEREAS, it is appropriate to amend the height regulations for fences, walls, and gates for oceanfront properties to be more reflective of the varying site conditions between the front and rear of a property; 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 IV, entitled "Supplementary District Regulations", Division 4, entitled "Supplementary Yard Regulations", of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-1132. - Allowable encroachments within required yards.

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

(1) All districts except I-1 and WD-2:

a. 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. For properties zoned multifamily and located within a locally designated historic district or site, fences shall be subject to the Certificate of Appropriateness review procedure, and may be approved at the administrative level.

- b. 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. Within RS-1 or RS-2 single-family district, in the event that a property has approval for 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 (4) feet in height consists of open pickets with a minimum spacing of three (3) inches, unless otherwise approved by the design review board or historic preservation board, as applicable.
 - c. 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. Chainlink 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. Chainlink fences may be erected to surround vacant lots or vacant buildings to minimize the possibility of the property becoming a dumping area. Such fence shall be permitted on a temporary basis for a period not to exceed one year and subject to its removal prior to the issuance of a certificate of use or a certificate of occupancy for a main permitted use on the property. In the architectural district, such a fence shall be vinyl coated.
 - f. Barbed wire or materials of similar character shall be prohibited.
 - g. Vacant lots in the CD-1, CD-2, CD-3, C-PS1, C-PS2, C-PS3, C-PS4, RM-1, RM-2, RM-3, R-PS1, R-PS2, R-PS3, R-PS4, RM-PS1, and MXE districts must be secured against motor vehicle entry at all entry points by a chain, hedge, fence, or other such material approved by the planning and zoning director.
- (2) In I-1 light industrial districts, within the front, rear or side yard a fence shall not exceed seven feet, as measured from grade, excluding barbed wire or materials of similar character. Barbed wire or materials of similar character shall be elevated seven feet above grade and be angled towards the interior of the lot. The combined height of a wall or fence plus barbed wire or materials of similar character shall not exceed nine feet. Vacant lots in the I-1 district must be secured against motor vehicle entry at all entry points by a chain, hedge, fence or other such material approved by the planning and zoning director.
- (3) For government facilities in GU and CCC districts, a fence surrounding the property may be located on the property line, not to exceed six feet in height, as measured from grade. The height may be increased up to a maximum total height of eight feet if the fence is set back one foot from the property line, subject to design review approval; fence(s) shall be constructed in a manner such that there is substantial visibility through the fence.
- (4) In the WD-2 districts, the following shall apply:
- a. Fences and gates shall be subject to the Certificate of Appropriateness review criteria, and may be reviewed for approval at the administrative level.

- b. Fences and gates shall not exceed six feet in height, as measured from the elevation of Miami Beach Drive at the center of the property.
- c. Fences and gates shall consist only of open aluminum picket, unless otherwise approved by the Historic Preservation Board.
- d. Wood, chain link, masonry, concrete, barbed wire or materials of similar character shall be prohibited.

(5) For oceanfront properties, the following shall apply with regard to measurement of maximum height.

- a. The height of allowable fences, walls and gates located in the front, interior side yard or side yards facing a street (and not also within a rear yard) shall be measured from grade, as defined in Section 114-1.
- b. The height of allowable fences, walls and gates located within the required rear yard (including overlapping portions of interior and street side yards) shall be measured from the elevation of the beach walk (not an elevated boardwalk) at the center of the property. Where no beach walk is present, the height of allowable fences, walls, and gates shall be measured from the elevation of the erosion control line at the center of the property.

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 re-numbered or re-lettered 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 _____, 2018.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado
City Clerk

First Reading: _____, 2018

Second Reading: _____, 2018

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

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