

**Fence Standards for Vacant Lots and Construction Sites**

**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 OF THE CITY CODE, 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 142-108, ENTITLED "PROVISIONS FOR THE DEMOLITION OF SINGLE-FAMILY HOMES LOCATED OUTSIDE OF HISTORIC DISTRICTS," TO CREATE FENCING REQUIREMENTS FOR VACANT LOTS IN SINGLE FAMILY DISTRICTS; BY AMENDING ARTICLE IV, ENTITLED "SUPPLEMENTARY YARD REGULATIONS," DIVISION 1, ENTITLED "GENERALLY," BY CREATING SECTION 142-876, ENTITLED "VACANT AND ABANDONED PROPERTIES AND CONSTRUCTION SITES," TO ESTABLISH MINIMUM REQUIREMENTS FOR VACANT AND ABANDONED PROPERTIES, INCLUDING STANDARDS AND REQUIREMENTS, FOR CONSTRUCTION FENCES IN ALL DISTRICTS, AND BY AMENDING DIVISION 4, ENTITLED "SUPPLEMENTARY YARD REGULATIONS," SECTION 142-1132, ENTITLED "ALLOWABLE ENCROACHMENTS WITHIN REQUIRED YARDS," TO AMEND THE FENCING REQUIREMENTS FOR VACANT LOTS AND ABANDONED PROPERTIES IN ALL DISTRICTS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, there are currently no requirements in the City Code to fence and/or secure vacant lots; and

**WHEREAS**, a vacant lot that is not secured can become a dumping ground and/or other public nuisance, the impacts of which can be difficult to control; and

**WHEREAS**, the City Code currently allows vacant sites to be surrounded with chain link fences for up to one year; and

**WHEREAS**, construction sites are typically fenced with poorly constructed chain link fences and unattractive windscreens; and

**WHEREAS**, chainlink fences surrounding vacant lots and construction sites negatively impact the visual character of neighborhoods and quality of life for surrounding residents and businesses; and

**WHEREAS**, the City of Miami Beach ("City") now desires to implement increased standards for construction fences and for fences surrounding vacant/abandoned properties; and

**WHEREAS**, the regulations set forth herein will promote the general health, safety and welfare of the residents of the City.

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

**SECTION 1.** Chapter 142 of the City Code, entitled “Zoning Districts and Regulations,” Article II, “District Regulations,” Division 2, “RS-1, RS-2, RS-3. RS-4 Single Family Residential Districts,” is hereby amended as follows:

**CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS**

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**ARTICLE II. – DISTRICT REGULATIONS**

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

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

\* \* \*

(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 and 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 and sustainability department.

(ii) The demolition permit shall indicate that the entire property, with the exception of areas surrounding trees to be retained and preserved, 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 ~~shall be required, and, 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~~ shall be completed within ten days of the completion of demolition.
- (vi) All landscaping required herein shall be installed and maintained as required by the demolition permit and the city's landscaping code, until such time as new construction is authorized and commences.

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**SECTION 2.** Chapter 142 of the City Code, entitled “Zoning Districts and Regulations,” Article IV, “Supplementary District Regulations,” Division 1, “Generally,” is hereby amended as follows:

## CHAPTER 142 – ZONING DISTRICTS AND REGULATIONS

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### ARTICLE IV. – SUPPLEMENTARY YARD REGULATIONS

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#### DIVISION 1. - GENERALLY

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#### **Section 142-876. - Vacant and abandoned properties and construction sites.**

(a) Vacant and abandoned properties in all districts. The following minimum fence requirements shall apply to all vacant lots, lots containing a structure that is subject to a permit that has been abandoned or that has expired (for more than 30 days) and which structure is unfit for human habitation, and lots containing buildings unfit for human habitation.

(1) Applicability. With the exception of single family districts, fencing shall be required for all vacant and abandoned lots, as identified more specifically in subsection (a).

(2) Height. There shall be no minimum height requirement for fences in single family districts; however, the maximum height in single family districts shall not exceed seven feet (7'). In all other zoning districts, a seven foot (7') high fence shall be constructed along all property lines, except those facing a waterway, in which case the height shall be five feet (5'). If a property contains a building that is set back less than five feet (5') from a property line, or there is an existing CBS wall that is at least five feet (5') in height, the planning director, or designee, may waive the minimum fence requirements along those property lines, provided that the property is secure from trespassing. In the event that an abutting property has an existing fence along an interior side and/or rear property line, and such fence provides adequate securing of the property, the planning director, or designee, may waive the requirement for a fence along such property lines. Within single-family, townhome, and all other residential districts, the fence shall be set back four feet (4') from front and side street property lines.

(3) Materials. Along the front, street side and any waterway portions of the property line, including all required front yards, side street yards, and rear yards facing a street or waterway, an aluminum picket fence (or equivalent standard) with permanent-quality construction shall be required. Along interior property lines, as well as rear property lines not facing a waterway or street, black or green vinyl coated chain-link fencing, of

permanent-quality construction, may be permitted, provided such fencing is not located within a required front yard, street side yard, or rear yard facing a waterfront.

(4) Construction requirements. All fences required herein shall be of permanent-quality construction, including concrete foundations.

(5) Access. Wherever there is a driveway approach entering the lot, vehicular access onto the site shall be required for maintenance, with a locked gate.

(b) Construction fences in all districts. As applicable to all properties with active building permits, which are also unfit for human habitation, construction fences shall be required to be installed along all property lines:

(1) Height. In single-family districts, construction fences shall be installed at a minimum height of six feet (6') and maximum height of ten feet (10'), as measured from the adjacent grade. In all other districts, construction fences shall be a minimum height of six feet (6') and maximum height of twelve feet (12'), as measured from adjacent grade.

(2) Materials. In all districts, construction fences located along a front, side facing a street, or waterfront property lines, shall consist of an opaque screening, which may include plywood or aluminum panels, or the equivalent solid construction on a wood or metal frame. The exterior face of such fencing shall at a minimum consist of a continuous color finish in single family districts. In all other districts, an artistic mural, which is integral to the fence construction, shall be required, subject to design review approval or a certificate of appropriateness, as applicable.

(3) Construction requirements. All fences required pursuant to this section shall be of permanent-quality construction, including concrete foundations.

(4) Access. A rolling or rigid folding gate shall be placed as an opening in the fence wherever there is a vehicular access for construction vehicles entering the site. The width of the gate shall not be larger in width than what is required for access for construction vehicles; however, the height may be increased as necessary to provide a rigid frame completely surrounding the vehicular access point. The gate shall not be of the swinging type.

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#### **DIVISION 4. - SUPPLEMENTARY YARD REGULATIONS**

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

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(h) *Fences, walls, and gates.* Regulations and requirements pertaining to materials and heights for fences, walls and gates, excluding for vacant parcels and construction sites, are as follows:

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

a. Front yard and side yard facing a street. Within the required front yard or required side yard facing a street, 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 (7') if the fence, wall or gate is set back from the front and/or side street property line. Height may be increased by one foot (1') for every two feet (2') 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. Rear and side yard. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet (7'), as measured from grade, except when such yard abuts a public right-of-way, waterway or golf course, in which case the maximum height shall not exceed five feet (5'). Within ~~RS-1 or RS-2~~ single-family districts, 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 feet in height consists of open pickets with a minimum spacing of three inches (3"), unless otherwise approved by the design review board or historic preservation board, as applicable.
  - c. Finish. 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. In the event that a masonry wall or wood fence cannot be equally finished on both sides, an affidavit shall be submitted at the time of building permit, signed by the abutting property owner, waving this requirement. This shall not apply to portions of masonry walls or fences which face the right-of-way or water.
  - d. 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. ~~Chain link 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 (7'), as measured from grade, excluding barbed wire or materials of similar character. Barbed wire or materials of similar character shall be elevated seven feet (7') 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 (9'). ~~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 (6') in height, as measured from grade. The height may be increased up to a maximum total height of eight feet (8') if the fence is set back one foot (1') 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 (6') 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 3. Repealer.**

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

### **SECTION 4. 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 5. Severability.**

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

**SECTION 6. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dan Gelber, Mayor

ATTEST:

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

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: July 17, 2019  
Second Reading: September 11, 2019

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