

ORDINANCE NO. 1067-2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 93-10, LOCATION, ACCESSIBILITY, AND APPEARANCE OF MULTI-FAMILY RESIDENTIAL AND COMMERCIAL GARBAGE AND RECYCLING RECEPTACLES; BY REMOVING THE PROVISIONS RELATED TO AMORTIZED COMPLIANCE; ACKNOWLEDGING NON-CONFORMING SITES AND PROVIDING SAFETY REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE

WHEREAS, the amortized compliance provisions of this Code Section applicable to nonconforming multi-family and commercial sites has gone unenforced; and,

WHEREAS, the Code Compliance Department has advised that current enforcement would require the commencement of a new amortization period for nonconforming sites; and,

WHEREAS, due to the existing footprints of many of the multi-family and commercial sites in nonconformity with the provisions of this ordinance, it is unlikely that many could conform to the ordinance requirements; and,

WHEREAS, the City Council has discussed whether a current problem exists that would necessitate the implementation of a new amortization period; and,

WHEREAS, the City Council has determined that it is both proper and appropriate and in the best interests of the City and its citizens to remove the unused amortization provisions of Code Section 93-10 and instead provide for a safety standard for nonconforming sites:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS:

Section 1: That Code of Ordinance Section 93-10, Location, accessibility and appearance of multi-family residential and garbage and recycling receptacles, is hereby amended as follows:

Sec. 93-10. Location, accessibility, securing for safety, and appearance of multi-family residential and commercial garbage and recycling receptacles- and dumpsters.

(A) *Intent.* It is the intent of this section to establish standards for the location, accessibility, securing for safety, and appearance of garbage and recycling receptacles and dumpsters on multi-family residential and commercial property sites in the City.

- (B) *Applicability.* The provisions contained herein shall be applicable to all new construction on properties in the City that are zoned for multi-family residential use, in excess of single family and duplex, and all commercially zoned property sites that utilize dumpsters for garbage or recycling collection. In addition, existing nonconforming properties shall be required to comply with the provisions contained herein in accordance with the provisions contained in Section (G) of this section.
- (C) Location of dumpsters
- (D) Placement of dumpsters
- (E) Construction standards for enclosures
- (F) Appearance and maintenance standards
- ~~(G) *Amortization of existing properties in nonconformity with requirements.*~~
 - ~~1. All nonconforming locations, placements, containers or enclosures in service and being utilized on the effective date of this section shall conform with current requirements within the time period specified in this section. Existing enclosures which meet appearance and maintenance standards shall not be required to conform to construction and placement standards. If a nonconforming enclosure is destroyed or deteriorated by more than 50 percent of its value, the enclosure shall be required to meet all standards of this section.~~
 - ~~2. Within 15 months of the issuance of a notice of violation, all garbage and recycling containers and their enclosures, nonconforming as to appearance and maintenance standards, but otherwise in conformance with other standards contained herein, shall comply with the requirements of this section.~~
 - ~~3. Within 18 months of the issuance of a notice of violation, existing nonconforming properties for which an enclosure is lacking or is inadequate with respect to present construction, location, placement, appearance or maintenance standards contained herein shall comply with the requirements of this section.~~
 - ~~4. The owner of any existing nonconforming property may apply for a variance, in accordance with the procedures and requirements contained in Chapter 150 of the Code of Ordinances, to excuse compliance with the foregoing provisions predicated upon a demonstration of the following:

 - ~~(a) Special conditions exist peculiar to the land, structure or building involved.~~
 - ~~(b) Such conditions do not arise from the actions of the applicant.~~
 - ~~(c) That literal interpretation of the Code would work unnecessary hardship on the applicant.~~
 - ~~(d) That the relief requested is the minimum necessary to permit the use of the subject area and facilities.~~~~
 - ~~5. A denial of a variance may be appealed in the same manner as all other variances denied by the Board of Adjustment.~~

(G) Nonconforming existing multi-family and commercial sites; existing dumpster enclosures

1. Existing multi-family and commercial sites shall be considered to be in non-conformity if the site does not contain an exterior enclosure for garbage and recycling dumpsters or other large receptacle containers.

2. Such sites shall not be required to construct enclosures for their garbage and recycling dumpsters and/or large receptacle containers, so long as such dumpsters and large receptacle containers are safely secured in their present location so as not to pose a threat to any adjacent property.

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

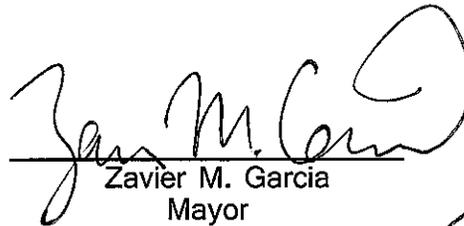
Section 3: That this Ordinance shall take effect immediately upon adoption.

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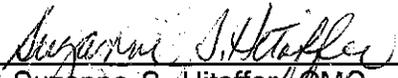
PASSED AND ADOPTED by the City Council of the City of Miami Springs, Florida this 24th day of February, 2014.

The motion to adopt the foregoing ordinance was offered on second reading by Councilman Windrem, seconded by Vice Mayor Bain, and on roll call the following vote ensued:

Vice Mayor Bain	"aye"
Councilman Windrem	"aye"
Councilman Lob	"aye"
Councilman Petralanda	"aye"
Mayor Garcia	"aye"


Zavier M. Garcia
Mayor

ATTEST:


Suzanne S. Hitaffer, CMC
Acting City Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

First reading: 02-10-2014
Second reading: 02-24-2014

Words ~~stricken through~~ shall be deleted. Underscored words constitute the amendment proposed. Words remaining are now in effect and remain unchanged.