

ORDINANCE NO. 2014- 425

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING SECTION 265-23 OF THE CITY CODE TO CLARIFY THE PROCESS TO EXTEND THE USEFUL LIFE OF TRANSFER OF DEVELOPMENT RIGHTS (“TDRS”); PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose of Section 265-23 of the Code of Ordinances of the City of Sunny Isles Beach is to provide for greater flexibility in the pattern of development by allowing for the transfer of development rights (TDRs) from one parcel to another; and

WHEREAS, this transfer of development rights is applicable in situations where the City Commission determines such transfers will assist in the renewal, rehabilitation and redevelopment of commercial, Town Center and beachfront property, or for the preservation and enhancement of open space, natural resources, concentration of public parking, or such other public purpose objectives; and

WHEREAS, the City Commission wishes to amend Section 265-23 of the City Code to clarify the process to extend the useful life of TDRs by deleting certain restrictive time limitations of privately owned TDR transactions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. Amendment. Chapter 265-23 of the City Code is amended to read as follows:

§ 265-23: Transfers of development rights; definitions.

...

G. Establishment of TDR Bank; limitations.

- (1) TDR Bank. The City Commission may by resolution adopt procedures for the establishment of a TDR Bank which shall be maintained and operated by the City Manager or designee, for the deposit and withdrawal/purchase by private developers of development rights and shall be retroactive to all TDR transactions.

- (a) An annual fee shall be established by resolution to be paid to the City by the depositor of privately owned TDRs ~~or purchase for each transaction~~, to extend the time frame for withdrawals from the TDR Bank.

...

- (2) Time limitations on private TDR transactions. All privately owned development rights shall be deposited in the TDR Bank as provided in this subsection. Withdrawals of TDRs from the TDR Bank must occur no later than five years from the date of the City Commission action approving the applicable sending site in accordance with § 265-23C(3)(f) hereinabove, unless the time frame for withdrawals is extended pursuant to §265-23 (G) (1) (a). ~~Each depositor, at time of initial deposit, shall execute a written waiver of its rights, if any, to assert any claim to those development rights, except as specifically permitted by the terms of this section. All requirements of this section shall be met prior to the actual transfer (withdrawal) of development rights from the TDR Bank. Private TDRs shall be utilized within five years from the date of withdrawal from the TDR Bank provided that no extension is granted. The City Commission may extend the time period for the utilization of private TDRs for a period up to two years. If an extension is granted, the City Commission has the authority to impose an administrative fee up to \$10,000.00 as a condition of granting such extension.~~

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clause, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Sunny Isles Beach Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 5. Repealer. All ordinances or part of ordinances in conflict herewith be and the same are hereby repealed

Section 6. Effective Date. This Ordinance shall become effective upon adoption on second reading.

PASSED and ADOPTED on first reading the 17th day of April 2014.

PASSED and ADOPTED on second reading the 15th day of May 2014.

Norman S. Edelpcup, Mayor

ATTEST:

Jane A. Hines, MMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Hans Ottinot, City Attorney

Moved by: _____

Seconded by: _____

Vote:

Mayor Edelcup

_____(Yes)

_____(No)

Vice Mayor Aelion

_____(Yes)

_____(No)

Commissioner Gatto

_____(Yes)

_____(No)

Commissioner Levin

_____(Yes)

_____(No)

Commissioner Scholl

_____(Yes)

_____(No)