

## Definition of Floor Area

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART B OF THE CITY CODE, ENTITLED "LAND DEVELOPMENT REGULATIONS," CHAPTER 114, ENTITLED "GENERAL PROVISIONS," SECTION 114-1, ENTITLED "DEFINITIONS," TO MODIFY FOR CLARIFICATION PURPOSES THE DEFINITION OF "FLOOR AREA"; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, City Code Section 114-1 sets forth explicit definitions of the technical terms "floor area" and "floor area ratio," and provides specific requirements for the measurement and calculation of floor area; and

**WHEREAS**, the City relies upon the terms "floor area" and "floor area ratio" as objective intensity standards for the control of population densities, building intensities, and for comprehensively planning the necessary public infrastructure to support orderly growth and development; and

**WHEREAS**, one purpose of the City's regulation of a property's maximum floor area and/or floor area ratio ("FAR") is to provide a quantifiable and objective mechanism to control both the size and intensity, as well as the overall mass, of a building; and

**WHEREAS**, pursuant to City Code Section 114-1, the term "floor area" means "the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings"; and

**WHEREAS**, Section 114-1 enumerates ten elements of a building that are excluded from the definition of "floor area"; and

**WHEREAS**, if a building element is not listed as an exclusion from the calculation of "floor area," then the element is deemed to be included in the calculation of "floor area"; and

**WHEREAS**, the City has consistently counted elevator shafts, stairwells, and mechanical chutes and chases as "floor area" for more than 48 years; and

**WHEREAS**, on two prior occasions in 1994, the Planning Director was formally asked to determine whether the definition of floor area includes voids in floors to accommodate elevator shafts, voids in floors to accommodate mechanical/ventilation/trash shafts, and stairwells; and

**WHEREAS**, on both occasions, the Planning Director concluded that voids in floors to accommodate elevator shafts, voids in floors to accommodate mechanical/ventilation/trash shafts, and stairwells were included in the definition of floor area; and

**WHEREAS**, on both occasions, the Board of Adjustment affirmed the administrative determinations of the Planning Director; and

**WHEREAS**, on July 10, 2019, the Planning Director issued a determination concluding that the following elements are included within the definition of floor area: (1) voids in floors to accommodate elevator shafts; (2) voids in floors to accommodate mechanical/ventilation/trash shafts; and (3) voids in floors to accommodate stairwells, including voids to accommodate stairwells within accessory garages; and

**WHEREAS**, in a clear departure from its limited quasi-judicial authority, the Board of Adjustment voted on November 1, 2019, to reverse the July 10, 2019 determination, and effectively amend the Land Development Regulations—without the authority to do so—to create a new exclusion from the definition of Floor Area for the elements identified in the immediately preceding recital; and

**WHEREAS**, the Board of Adjustment's decision is not consistent with the plain text of the definition of Floor Area, not consistent with the legislative intent of the City Commission, and not consistent with the intent and purpose of the land development regulations; and

**WHEREAS**, the Mayor and City Commission now desire to codify and re-affirm the Planning Director's longstanding interpretation and declare that no exception to the definition of Floor Area exists other than those exceptions explicitly defined in the Land Development Regulations. For the avoidance of doubt, the following building elements are – and always have been -- included in the calculation of floor area: stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), and mechanical chutes and chases at every floor (including mezzanine level).

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

**Section 1.** Chapter 114 of the City Code, entitled "General Provisions," is hereby amended as follows:

## **CHAPTER 114 – GENERAL PROVISIONS**

### **Sec. 114-1.-Definitions**

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Floor area* means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. For the purpose of clarity, floor area includes, but is not limited to, stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), and mechanical chutes and chases at every floor (including mezzanine level).

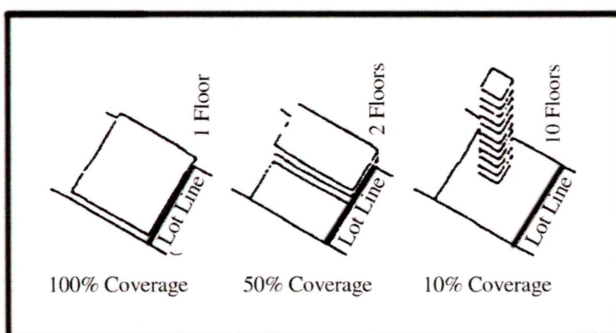
However, the floor area of a building shall not include the following For the avoidance of doubt, unless otherwise provided for in these land development regulations, floor area excludes only the spaces expressly identified below:

- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- (6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- (7) Mechanical equipment rooms located above main roof deck.
- (8) Exterior unenclosed private balconies.
- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.
- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter 118, article V for additional regulations that address floor area.

*Floor area ratio* means the floor area of the building or buildings on any lot divided by the area of the lot.



Each example illustrated above has a floor area ratio of 1.0.



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**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 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. Applicability.**

The provisions of this Ordinance shall not apply to the development site that is the subject of an appeal granted by the Board of Adjustment prior to the effective date of this Ordinance that (i) authorized the exclusion from floor area calculations of elevator shafts, mechanical/ventilation/trash shafts, and stairwells; and (ii) does not result in a change to the height or floor plate of the residential tower of the proposed development.

**SECTION 6. Effective Date.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

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

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Rafael E. Granado, City Clerk

APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

Rafael E. Granado 2-4-20  
City Attorney Date

First Reading: January 15, 2020  
Second Reading: February 12, 2020

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

(Sponsored by Mayor Dan Gelber, Commissioner Michael Góngora, and Commissioner Mark Samuelian)