

## Modifications to FAR Exceptions

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, AT SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 114, ENTITLED "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, ENTITLED "DEFINITIONS," TO MODIFY THE DEFINITION OF "FLOOR AREA," BY AMENDING THE LIST OF EXCEPTIONS FROM THE DEFINITION; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, on January 15, 2020, the City Commission referred a discussion to the Land Use and Sustainability Committee ("LUSC") regarding a strategic Citywide analysis of potential increases in floor area ratio ("FAR"); and

**WHEREAS**, on May 6, 2020, the Administration presented the LUSC with a number of possible strategic FAR incentives; and

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

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

**WHEREAS**, following the discussion, the LUSC recommended that the City Commission refer an Ordinance to the Planning Board to amend the list of exceptions from the definition of "floor area," to include certain areas of a building that are required by the Land Development Regulations, Florida Building Code, and the Life Safety Code; and

**WHEREAS**, specifically, the following areas of a building are proposed to be excluded from the definition of "floor area":

- Stairwells and elevators located above the main roof deck,
- Electrical transformer vault rooms,
- Fire control rooms and related equipment for life-safety purposes, and
- Secured bicycle parking; and

**WHEREAS**, City Charter Section 1.03(c) provides that "[t]he floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements,

unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach”; and

**WHEREAS**, pursuant to City Charter Section 1.03(c), the approval of the City’s voters in a Citywide referendum is required prior to any legislative action that would result in an increase in floor area ratio; and

**WHEREAS**, this Ordinance would permit certain areas to be excluded from a building’s floor area calculations, and would therefore have the effect of increasing a property’s floor area ratio; and

**WHEREAS**, accordingly, the adoption of this Ordinance is subject to the approval of the City’s voters in a Citywide referendum; and

**WHEREAS**, currently, required vehicular parking is exempt from the calculation of a building’s floor area, and up to two vehicular parking spaces may be provided per apartment unit, without counting as floor area; and

**WHEREAS**, pursuant to the Land Development Regulations, in most districts in which minimum parking requirements have been reduced, parking may still be provided, in most cases, in accordance with the regulations for Parking District No. 1, which is generally subject to the greatest parking requirements; and

**WHEREAS**, a typical parking space, including half of the abutting drive, occupies an area of approximately 250 square feet, whereas the same area could easily accommodate more than 10 bicycles; and

**WHEREAS**, the area occupied by two typical stairwells and a typical elevator is approximately 500 square feet per story of a building; and

**WHEREAS**, while many older buildings may have one stair to the roof, in order to add a rooftop deck or pool, Florida Building Code and Life Safety Code requirements must be satisfied, which generally require two stairs as well as an accessible means of vertical access (e.g., an elevator); and

**WHEREAS**, therefore, excluding these areas from the calculation of a building’s floor area would be especially beneficial to existing buildings that are currently nonconforming as to FAR; and

**WHEREAS**, such an exception would allow these non-conforming buildings to add desirable roof-top amenities; and

**WHEREAS**, required electrical transformer vaults have, over time, become increasingly larger, and often include additional infrastructure required by FPL to support utility service at neighboring properties; and

**WHEREAS**, incorporating these utility rooms within an enclosed building would be preferable to any exterior pad-mounted option; and

**WHEREAS**, an exception to the definition of “floor area” for electrical transformer vault rooms would be especially beneficial to existing buildings under renovation, which may need to remove a hotel room or other space to accommodate the area required for the electrical transformer vault; and

**WHEREAS**, fire control rooms and related public safety spaces, not accessible to the general public, are important life-safety requirements for larger projects; however, buildings constructed several decades ago were not subject to these requirements; and

**WHEREAS**, the amendments proposed herein are intended to (i) accommodate changes in development due to evolving building and life-safety requirements, and (ii) incentivize the use of alternative modes of transportation.

**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).

For the avoidance of doubt, unless otherwise provided for in these land development regulations, floor area excludes only the spaces expressly identified below:

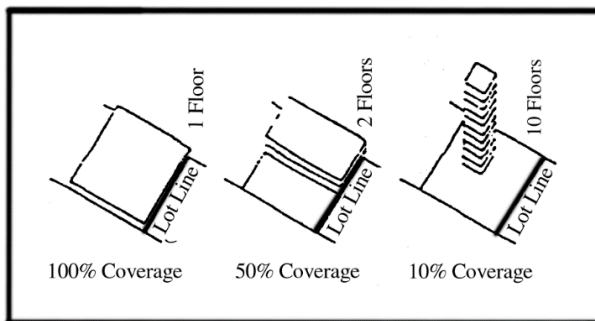
- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street 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.
- (11) Stairwells and elevators located above the main roof deck.
- (12) Electrical transformer vault rooms.
- (13) Fire control rooms and related equipment for life-safety purposes.
- (14) Secured bicycle parking.

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.

\* \* \*

**SECTION 2. 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 3. REPEALER.**

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

**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 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

**ATTEST:**

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

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

Paul C. Smith      7/16/20  
City Attorney      NK      Date

First Reading:      July 29, 2020  
Second Reading:      December \_\_\_\_, 2020

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