

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: July 26, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: **PB22-0546. Resiliency Code.** *RTM/JAN*

#### **RECOMMENDATION**

Transmit the proposed Ordinance amendment to the City Commission with a favorable recommendation.

#### **HISTORY**

On June 5<sup>th</sup>, 2019, City Commission authorized the issuance of a Request for Qualifications (RFQ) for a firm to analyze and update the City's current Land Development Regulations (LDR's) to better meet the City's current regulatory needs with a primary focus on resiliency. On October 16<sup>th</sup>, 2019, the City Commission accepted the recommendation of the City Manager and authorized the Administration to enter into negotiations with Perkins & Will Architects, Inc., the top ranked proposer. On August 21<sup>st</sup>, 2020, the City awarded the contract to the firm of Perkins & Will.

On May 4, 2022, the City Commission referred the subject Ordinance to the Land Use and Sustainability Committee (LUSC) and the Planning Board (C4W). The sponsor of the proposal is Commissioner Ricky Arriola.

On June 3, 2022, and June 17, 2022, the Planning Department conducted Community Workshops with the Planning Board. On June 6, 2022 the item was discussed and continued to the July 7, 2022 LUSC meeting. On July 7, 2022, the LUSC recommended that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation.

#### **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

- Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Consistent** – The proposed amendment does not modify district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Consistent** - The proposed ordinance amendment generally does not affect the scale of development, therefore, the proposal is not out of scale with the needs of the neighborhood or the city. In the limited instances where additional height is provided, the additional height is kept to the minimum in order to ensure the long-term resiliency of buildings in the City and will not result in buildings that are out-of-scale with the needs of the neighborhood or City.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed ordinance does not modify allowable densities or intensities for new development, and therefore does not change the potential loads on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Not Applicable** – Zoning District boundaries are not proposed to be modified.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – Given the current code is approximately 33 years old, changing community needs, including dealing with sea level rise and other environmental and economic impacts makes passage of the proposed change necessary. The current code has had a patchwork of amendments to deal with such issues and is in constant need of updating. The proposal will embed resiliency and an improved ability to react to changing needs into all sections of the code.

Additionally, increased complexity in regulations necessitates the need to incorporate graphics and better methods to communicate code requirements to architects, residents, and property owners. The proposal will incorporate graphics and improved tables in order to facilitate the understanding of code requirements.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood, as it contains existing and new safeguards to ensure that living conditions are maintained and improved over time.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** – Since the City is now a transportation concurrency exception area, the proposed change will not create or increase traffic congestion beyond the levels of service set forth in the Comprehensive Plan, or otherwise affect public safety. Additionally, the proposal does not increase the development potential beyond the limits that currently exist.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent** – The proposed amendment generally does not modify the scale of development and as such will not reduce light and air to adjacent areas beyond what is currently permitted. In the very limited circumstances where additional height is authorized, the increase is limited to three feet for resiliency purposes. Given required setbacks, air and light to adjacent areas should be minimally impacted.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent** – The proposed change will not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – The proposed change will not be a deterrent to the improvement or development of properties in the City.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable.**

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

**Partially Consistent** – The proposed code applies to the entire City and does affect areas

that are vulnerable to the impacts of sea level rise in the long term.

**(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Consistent** – The proposal will improve impact the resiliency of the City with respect to sea level rise by enhancing the resiliency standards that apply to all properties in the City. Specifically the proposal facilitates the development of resilient homes, requires additional floor to ceiling height for non-residential ground floors, and improves resiliency guidelines and regulations.

**(3) Whether the proposal is compatible with the City’s sea level rise mitigation and resiliency efforts.**

**Consistent** – The proposal is compatible with and builds upon the City’s sea level rise mitigation and resiliency efforts.

**BACKGROUND**

In 2019, at the recommendation of the Matrix Group, the City Commission directed the Administration to issue an RFP for a new Resiliency Code. The drafting of this code, using a form-based approach, would also be a long-needed update of our current Land Development Regulations (LDR’s), which have not been holistically evaluated since adoption in 1989.

As previously directed by the City Commission, the Administration negotiated a scope of services with the top ranked firm, Perkins and Will, and the contract was executed in 2020. The consultant began work on the revised code, which included a full review of the Land Development Regulations (LDR’s). The consultants were also tasked with assessing potential impacts of flooding, climate change and sea level rise city-wide and to recommend mitigation strategies within the updated LDR’s as part of the new Resiliency Code.

After contract award in August 2020 the consulting team commenced the code update process by engaging in substantive scenario planning with City staff. This included an analysis of future trends, projected impacts of climate change and sea level rise, as well as other factors such as population growth, transportation and mobility, hazard mitigation and the preservation and protection of cultural and architectural resources. This scenario planning has resulted in an ideal framework for the recommendations that will be included as part of the draft of the Resiliency Code.

In 2021, City staff organized a number of focus group workshops involving stakeholders from a wide variety of interests and disciplines, including residents, developers, property owners, attorneys, design professionals and neighborhood groups. Because of the size of the workshops, multiple meetings were held, primarily using virtual platforms, due to the pandemic.

**Meetings:**

- **May 27, 2021**
  - Resiliency Code Focus Group Meeting Homeowner Associations
- **June 2, 2021**

- Resiliency Code Focus Group Meeting - CMB Chamber of Commerce
- Resiliency Code Focus Group Meeting CMB Convention Center & GMCVB
- Resiliency Code Focus Group Meetings Land Use and Sustainability Committee
- **June 3, 2021**
  - Resiliency Code Focus Group Meeting HPB – MDPL
  - Resiliency Code Focus Group - Design Review Board
  - Resiliency Code Focus Group - Land Use Attorneys
- **June 10, 2021**
  - Resiliency Code Focus Group - Landowner and Developer
  - Resiliency Code Focus Group Meeting PB & BOA- Board Members
  - Resiliency Code Focus Group Meeting – Architects
- **February 10, 2022**
  - Tom Mooney – Brief to Miami Beach Chamber of Commerce
  - June 1, 2022
  - Resiliency Code to Land Use and Sustainability
- **June 3, 2022**
  - Community Meeting/Workshop- PB
- **June 17, 2022**
  - Community Meeting/Workshop- PB

### **PLANNING ANALYSIS**

The current Land Development Regulations (LDRs) were adopted as Ordinance 89-2665 on September 21, 1989 and took effect on October 1, 1989. Over the years the LDR's have been updated many times in order to authorize specific developments, address changing conditions, and dealing with environmental concerns. As a result of over 32 years of updates, the Code has become cumbersome to read and comprehend.

Since the current LDRs were adopted there have been many changes in the way zoning codes are drafted to improve their transparency, facilitate interpretation, and achieve better development results. This includes incorporating graphics and diagrams that detail how the written text is to be interpreted, providing graphical standards as to the expected form of a building, and providing tables to describe requirements as opposed to paragraphs.

Finally, there is now a better understanding of climate change and sea level rise. Given the City of Miami Beach's location and geography, it is experiencing the impacts of sea level rise today during continuously increasing King Tide events. As a result of this knowledge, it is imperative to embed regulations to mitigate against these impacts in the LDRs to ensure that new buildings are resilient well into the future.

As a result of these issues, the proposal herein will replace Zoning Ordinance 89-2665 with a new Resiliency Code. The Resiliency Code will not noticeably alter the scale of development,

allowable uses, parking requirements, or development patterns. The following are the goals of the code update:

- Address climate adaptation and resilience
- Modernize, simplify and update the Code while protecting quality of life
- Safeguard historic preservation
- Ensure clarity and transparency in Code, Land Use Boards and permitting process
- Allow flexibility for Code updates over time

The enclosed document is the proposed Miami Beach Resiliency Code. It utilizes a form-based approach to better describe to architects, property owners, and residents the intent and standards within the Code. The proposed Code maintains all existing land use boards and maintains their jurisdiction of review. Feedback from the LUSC, Planning Board, and focus groups has been incorporated into the draft.

### **Proposed Changes by Chapter**

The following provides a summary of substantive changes proposed for each chapter of the Code and should be read with the draft Code document. In addition to the proposed changes noted below and highlighted in the draft Code document, minor changes have been made such as reordering of content for readability and removal of redundant regulations:

#### **Chapter 1: General Provisions (formerly Chapter 114: General Provisions)**

- Article II: Definitions
  - All definitions currently distributed throughout the Code have been consolidated in Article II: Definitions
  - Definitions have been categorized for easier reference
  - Use definitions have been categorized to correspond to new use tables introduced in Chapter 7: Zoning Districts and Regulations
  - New and revised definitions are highlighted in the draft Code document
- New section: 1.3.6 Administration of Regulations
  - New section has been added to clarify the role of the planning director to interpret the land development regulations, the standards for administrative interpretation and the appeal process in case of disagreement

#### **Chapter 2: Administration and Review Procedures (formerly Chapter 118: Administration and Review Procedures)**

- Consolidated and standardized provisions for appointment and conduct of Land Use Boards
- Consolidated, standardized and updated application and hearing procedures for land use approvals
- Created new annual 4-time per year zoning cycle
- Created new process and standards for commission warrants which can allowing modifications up to 25% from design parameters for specific projects, in order to minimize the need for future code amendments and provide better control of development proposals
- No changes to historic preservation regulations
- Created a new Conditional Use criterion for pedestrian safety and comfort

### **Chapter 3: Concurrency Management and Mobility Fees (formerly Chapter 122 Concurrency Management and Mobility Fees)**

- No major changes proposed

### **Chapter 4: Landscape Requirements (formerly Chapter 126: Landscape Requirements)**

- General
  - Enhancements to promote drought tolerant, salt tolerant species suitable for Miami Beach
- Section 4.2.3: Minimum standards
  - Soil volumes added for street trees to improve street tree health
- Section 4.2.7 Landscaped areas in permanent parking lots & Sec. 4.2.8 Temporary and provisional parking lot standards
  - New requirements to promote permeability for stormwater management

### **Chapter 5: Off-Street Parking (formerly Chapter 130: Off-Street Parking)**

- Organized parking districts 1-9 into parking tiers 1-3, creating a structure of areas with reduced parking requirements that in future can be expanded to align further with transit corridors and hubs as identified by the City's Comprehensive Plan and Transportation Master Plan
- Tier 1 (highest parking requirements)
  - Tier 1 is composed of former parking district 1 and applies to all areas outside of other parking districts/tiers
  - Parking requirements have been consolidated for some uses but no changes have been made
- Tier 2 (intermediate parking requirements)
  - Tier 2 is composed of former parking districts 5, 6 and 9 which are maintained.
  - Lower parking requirements are specified for some uses
  - Tier 1 requirements apply for uses for which no parking requirements are specified
  - If parking requirements for districts 5, 6 and 9 differed the lowest requirement was generally chosen
  - Geographic exceptions preserve specifics of former districts 5, 6 and 9
- Tier 3 (lowest parking requirements)
  - Tier 3 is composed of former parking districts 2, 3, 4, 7 and 8 which are maintained.
  - Lower parking requirements are specified for some uses
  - If parking requirements for districts 2, 3, 4, 7 and 8 differed the lowest requirement was generally chosen
  - For uses for which no parking requirements are specified the parking requirement is 0 (which is consistent with the former parking districts)
- Parking requirements are provided in tables organized by use, similar to use tables in Chapter 7: Zoning Districts and Regulations
- Section 5.2.5: Bicycle off-street parking requirements:
  - Short term and long-term bicycle parking requirements have been applied city-wide for commercial non-retail, retail, restaurants, bars, nightclubs, hotel and multifamily residential.
- Section 5.2.8: Off-site parking facilities

- Made maximum distance for offsite parking consistent across the city at 1,200 feet from the property
- New Section 5.2.9: Non-conforming parking lots
  - New regulations for the repair and/or rehabilitation of nonconforming parking lots
- Parking regulations formerly in Chapter 142: Zoning Districts and Regulations have been consolidated in Chapter 5: Off-street Parking
  - Removed Supplementary Convention Center Parking Article as authority to issue supplementary convention center parking permits expired in 1993

#### **Chapter 6 Signs (formerly Chapter 138: Signs)**

- Clarified design review requirements
- Clarified interpretation of maximum sign sizes
- Standardized terminology for different types of signs and added definitions
- Updated graphic exhibits

#### **Chapter 7: Zoning Districts and Regulations (formerly Chapter 142: Zoning Districts and Regulations and Chapter 133 Sustainability and Resiliency)**

Note: Changes relating to the relocation of content are shown in grey

### **7.1 GENERAL TO ALL ZONING DISTRICTS**

#### **7.1.2 Resilience and Adaptation Standards**

- Placed in this the first section and combined it with 'Exterior building and lot standards', which regulate yard height, an adaptation response. Chapter 133 – Sustainability and Resiliency is current location of these standards.
- Whenever possible clarified and streamlined vertical measurements and tied them to Base Flood Elevation. Because this vertical measurement is in flux, this allows the code to remain up to date as Base Flood Elevation migrates upwards over time.
- New and Updated Definitions:
  - Pedestal definition was updated from '50 feet measured from the sidewalk elevation' to '50 feet measured from BFE'.
  - New Use definition: Neighborhood Impact Lot: Developments on properties greater than 20,000 square feet of lot area.
  - New Use definition: Neighborhood Impact Structure: New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards.
- Created a new hierarchy of regulations supported by exhibits in the following order:
  - **7.1.2.2 Resilience and Adaptation Standards for Buildings.** These include: ☐ Subterranean (formerly Sec 142-870.17. Design and Resilience Standards (b))
    - Understory
    - Residential First Habitable Level and
    - Non Residential First Habitable Level



Placed current 'Article III. Ground Floor Standards for Nonresidential Buildings', nearly unchanged, except for increasing the minimum floor-to-ceiling height to 12 feet for residential FHL and 14 feet for non-residential FHL in the new 'First Habitable Level Standards' section, in order to create a longer lifespan/looser fit which will ease the retrofit process.

○ **7.1.2.3 Resilience and Adaptation Standards for Exterior Building and Lot.**

These include:

- Minimum and Maximum Yard Elevations (Relocated some of the Exterior building and lot standards and yard standards in the RS zoning districts as well as RM-1, and RM-2). Standards were converted to tables.
- Updated elevation of minimum required yards from 5 feet NAVD to Future Adjusted Grade (if Future Crown of the Road is known), and BFE minus 1 foot (if Future Crown of the Road is not known) in order to keep up with a portion of IPCC's projections.

**7.1.3 Environmental Mitigation Standards**

- Placed Green Buildings and Rating Systems in this section in order to emphasize the close relationship between 'adaptation' which precedes this section, and 'mitigation.' Source: Chapter 133 – Sustainability and Resilience, Article 1. Green Buildings.
- Created a section for 'Original Green Standards' that would deal with passive cooling, daylighting, and other environmental measures that are not related to rating systems and higher tech solutions. Held in 'Reserved'.

**7.1.4 Frontages**

- Created a new section which shows the idealized cross-sections of new construction and future retrofit. This is inspired by Smart Code but illustrates how the frontage relates to the future crown of the road.

**7.1.5 Minimum Unit Sizes**

- Created a new section for minimum unit sizes that makes them consistent citywide, unless regulated in each district, overlay, or historic district. Most districts have the same minimum unit sizes. This allows for them to be deleted in each zoning district, thereby shortening the code.
- Removed 'Average Unit Sizes' in order to simplify calculations and enforcement of the code and to make the projects more market friendly.

**7.1.6 Parking Screening Standards**

- Relocated and enhanced 'Ground Floor Requirements' from RMs, CDs and other districts and renamed it '7.1.6 Parking Screening Standards'. This enabled the code to be shortened and improves frontage quality. Rewrote provision to require liner buildings for parking so that it is consistent with the terms 'understory' and 'First Habitable Level (FHL)' as used elsewhere in the proposed code.

**7.1.7 Colors**

- Clean up but no significant changes.

### **7.1.8 Prohibited Uses**

- Relocated Sec. 142-1. Prohibiting Gambling and Casinos to Prohibited Uses to this section.
- Relocated 'Assisted living facilities and medical uses' to supplementary use section.

## **7.2 DISTRICT REGULATIONS**

### **All Zoning Districts**

- Cleaned up and created a consistent and clear District section structure. All Districts include:
  - Purpose
  - Uses (with tables)
  - Development Regulations (with tables and exhibits) and
  - Additional Regulations if any
- Numbering throughout the code was made consistent and simplified so that the code can be amended and expanded without having to leave 'Reserved' sections.
- All zoning districts remain except for a few that were removed because they had not been deployed in the zoning map. Districts removed were RO-2 and RO-3.
- Districts were reorganized as a gradient from less intense (such as Single Family Residential and Townhome Districts) to more intense (such as Mixed Use Entertainment and Town Center Districts) and Civic Districts (Government Use, Special Public Facilities Districts) and Special Districts (Golf Course and Waterway Districts)
- Most Overlay Districts remain except for a few that were incorporated into the underlying zoning district, such as the 40th Street Overlay (that affected only a few properties in the RS-2 and RS-4 Districts)
- Converted permitted, conditional, accessory and prohibited uses paragraphs into tables. Supplemental use regulations remain and are referenced on the tables. This makes the code easier to interpret and consistent.
- Combined the Development Regulations Table or text with the Setback Requirements to create one larger table. All standards in all Districts have the same table structure. This makes the code shorter and more user friendly.
- Added FAR from the Comprehensive Plan to all Development Regulations Tables. This allows the code to be more user friendly and clear.
- Relocated and enhanced 'Ground Floor Requirements' and 'For New Construction' to General to All Districts and renamed it '7.1.6 Parking Screening Standards' and refer to that section in all applicable Districts. This enabled the code to be shortened and improves frontage quality.
- Deleted setback requirements for At-Grade parking lots from all districts on the same lot because a table was added to the Parking Chapter which establishes general standards for surface parking lots.
- Whenever there is a mention of a geographic area in the district regulations a reference to a map key was added and mapped in GIS. This map appears on the Gridics Platform directly accessible through the text.
- Deleted Video Game Arcade from uses regulations because this is not used anymore.

- Included Accessory Uses listed in the 'Article IV Supplementary District Regulations' to the District's Uses tables. Any specific supplementary regulations remain in '7.5.4 supplementary use regulations'.

### **7.1.2 RS**

- Understories are allowed with administrative approval. If a single-family house has an Understory, the height may be increased by 3 ft. An Understory with a minimum height of 10 feet places the Residential First Habitable Level (FHL) above the maximum Design Flood Elevation. Therefore 3 additional feet are awarded to ensure comfortable and climate responsive ceiling heights.
- Consolidated setback table with other development standards to create one table, making the code more user friendly and clear.
- Eliminated parapet setbacks because this is inauthentic to the detailing of parapets in art deco and streamlined moderne buildings.
- Relocated other yard requirements to the text and notes immediately following the table. (7.2.2.3 vii Exterior Building and Lot Standards (RS))
- Altos del Mar Historic District o Preserved the maximum height of 37 feet but changed the calculation of height so that it is measured from DFE rather than from grade, in order to ease future retrofit and promote a long lifespan/loose fit and to be consistent in the way height is measured throughout the code.
- 'Commercial Use of Single-Family Homes Prohibited' currently Sec. 142-109, was moved to supplemental uses section in RS.
- 'Provisions for the demolition of single-family homes located outside of historic districts' was moved to 7.7.7.4 Additional Regulations (RS)

### **7.1.3 TH**

- Relocated public-private parking agreement paragraph and 'Sec. 142 607 Design Review' to '7.2.3.4 Additional Regulations (TH)'

### **7.1.4 RM-1**

- Added Hostels as a prohibited use.
- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-1 and refer to that section.
- Relocated standards for the 'Flamingo Park Local Historic District' to '7.2.4.4 Additional Regulations (RM-1)'
- Relocated the 'North Beach Private and Public School Overlay District' to section 7.2.4.5 as part of the RM-1 District. This Overlay only affects a few properties in RM-1 and it is more appropriate as part of the District Regulations.

### **7.1.5 RM-2**

- Added Hostels as a prohibited use.
- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-2 and refer to that section.
- Relocated regulations for properties that front the west side of Alton Road and Julia Tuttle Causeway to '7.2.5.4 Additional Regulations'

### **7.1.6 RM-3**

- Added Hostels as a prohibited use.
- Organized many of the remaining regulations into a section, 'Additional Development Regulations.'

### **7.1.7 RM-PRD**

- Added Supplemental minimum unit sizes because it differed from those found in Article 1.

### **7.1.8 RM-PRD-2**

- Separated Sec. 142-187 'Purpose and Uses' into two sections, 'Purpose' and 'Uses' to be consistent with other zoning districts.
- Under uses, added a sentence regarding allowance of limited accessory ground floor retail to the Accessory Uses. The sentence had been located, previously, in a part of the document that does not pertain to uses.
- Created 'Additional Use Regulations' in order to gather the use regulations for the St. Francis Hospital Site and place these with other use regulations rather than at the end of the document.
- Reformatted 'Sec. 142-188. Development Regulations' so that the metrics are organized as a table 'RM-PRD-2 Development Regulations Table.'
- Created a new section 'Parking Standards' that organizes those regulations relating to parking.
- Deleted any use regulations, alternative setback or building metrics from Sec. 142-294 Urban and Architecture Design Guidelines and moved these to the master table, leaving only the regulations pertaining to Urban and Architecture Design.

### **7.1.9 RO**

- Removed RO-2 and RO-3 from the District Regulations because they are not deployed in the zoning map. This makes the code shorter.

### **7.1.10 CD-1**

- Removed Tower setbacks because the maximum height is 40 feet, therefore Tower setbacks do not apply. This helps clean up the code.
- FAR for mixed-use buildings refers to the RM-1 district. Brought 1.25 FAR from RM-1 and removed this reference. This makes the code easier to interpret and removes burden of having to go to many different districts to find specific regulations.

### **7.1.11 CD-2**

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-2)'
- FAR for mixed use buildings refers to RM-2 district. Got FAR of 2.0 from RM-2 and removed this reference. This makes the code easier to interpret and takes away the burden of having to go to many different districts to find specific regulations.
- Removed setbacks for Oceanfront Lots because there are no Oceanfront lots in CD-2. This helps clean up and make the code leaner.
- Created separate sections and development regulations for:
  - o Washington Avenue (CD-2)
  - o The Wolfsonian Arts District (CD-2)

- Alton Road Gateway Area (CD-2)
- Alton Road – Historic District Buffer (CD-2)
- Sunset Harbour (CD-2)
- Alton Road Office Development Overlay (CD-2) (This used to be an Overlay District but now is part of CD-2 regulations)

#### **7.1.12 CD-3**

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-3)'
- Supplementary Minimum Unit Sizes specific to CD-3 were included in the development regulations table.
- Relocated 'Lincoln Road Hotel Incentives and Public Benefits Program' to '7.2.12.4 Additional Regulations (CD-3)'

#### **7.2.13 MXE**

- Relocated 'Sec. 142-546 Additional restrictions for lots fronting Ocean Drive, Ocean Terrace and Collins Avenue' and 'Sec 142-546 Additional regulations' to '7.2.13.2 e Additional Use Regulations (MXE)' section after the uses table.

#### **7.2.14 TC**

- Created a Use Table and a Development Regulations Table for each TC sub-district.
- Relocated 'Cultural Use' definition to general uses definitions chapter. This helps clean up the code and have all use definitions in one place.
- Removed FAR for 'properties bounded by 69th Street on the south, Collins Ave on the east, 72nd St on the north and Indian Creek Drive/Dickens Ave on the west' from TC-1, TC-2 and TC-3 tables because this is now part of TC-C.
- Removed Video Game Arcades from uses list.
- Created separate development regulations tables for TC-1, TC-2 and TC-3.
- Removed 'Sec. 142-739 Parking' because it conflicts with the standards in parking district no. 8. (now in Tier 3)
- TC-C is now a subdistrict of TC.
- Supplemental minimum unit sizes for TC-C have been added to the development regulations table.
- Setback and encroachments are part of the development regulations table in TC-C.
- Relocated 'Sec. 142-746 Nonconforming structures within unified development sites', Sec. 442-747 Public Benefits Program' and 'Sec. 142-748 North Beach Public Benefits Fund' to 'Additional Regulations (TC-C)'

#### **7.2.15 PS**

- Created a new structure and sub-districts for R-PS, C-PS and RM-PS Districts
- Made uses tables consistent with other district's uses tables.
- Incorporated Accessory Uses to uses tables.
- Removed oceanfront lots metrics in C-PS subdistricts because there are no oceanfront lots in C-PS.
- Relocated 'Sec. 142-704 Minimum required yards in relation to minimum open space ratio' to '7.2.15 Additional Regulations (PS)'.

- Removed 'Sec. 142-706 Supplemental Parking Regulations' and incorporate standards into Off-Street Parking Chapter 5.

#### **7.2.16 GU**

- No significant formatting or content changes

#### **7.2.17 CCC**

- Changed one measurement for the 17th Street and Convention Center Drive Front Setbacks to be related to DFE rather than from grade.
- 'Sec. 142-367. Notice of public hearing; vote' and 'Sec. 142-368 Off-site parking' to Additional Regulations (CCC)

#### **7.2.18 SPE**

- Converted Development Regulations and Uses into tables.

#### **7.2.19 HD**

- Reformatted the section for minimum yards and maximum height as part of the table.
- Deleted Sec. 142-454. Master plan for hospital development as this was supposed to have occurred by 1990.
- Relocated 'Sec. 142-455 Special use regulations' to '7.2.19.2 Uses (HD)'
- Removed setbacks for St. Francis, South Shore and Heart Institute because they are obsolete.

#### **7.2.20 MR**

- Removed tower setbacks because at a maximum height of 40 feet, tower setbacks do not apply.

#### **7.2.21 WD**

- Combined WD-1 and WD-2 and made them 2 separate sub-districts of WD with their separate uses and development regulations tables.

#### **7.2.22 GC**

- The regulations limiting waste collection hours of operation moved to the noise regulations section because they were formerly located in setback requirements and have nothing to do with building setbacks.
- Removed setbacks for properties fronting 17th Street and Convention Center Drive because the Miami Beach Golf Club is designated GU not GC.

#### **7.2.23 I-1**

- Relocated 'Sec. 142-488. Special regulations for alcohol beverage establishments' to supplemental use regulations.

### **7.3 OVERLAY DISTRICTS**

- Overlay Districts did not change except for renumbering of sections and used a consistent section structure:
  - Location and Purpose

- Compliance with Regulations
- **7.3.1 Dune Preservation and Oceanfront Overlays District**
  - Combined into 1 overlay district with specific location and purpose and regulations for each.
- **7.3.2 Convention Hotel Overlay District**
  - No significant formatting or content changes
- **7.3.3 West Avenue Bay Front Overlay District**
  - No significant formatting or content changes
- **7.3.4 Collins Park Arts District Overlay District**
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes
- **7.3.5 Faena District Overlay District**
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes
- **7.3.6 Ocean Terrace Overlay District**
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes
- **7.3.7 Art Deco MIMO Commercial Character Overlay District**
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes
- **7.3.8 North Beach National Register Conservation Overlay District**
  - No significant formatting or content changes
- **7.3.7 Sunset Harbour Mixed-Use Neighborhood Overlay District**
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes

## **7.4 NEIGHBORHOOD CONSERVATION DISTRICTS**

- **7.4.1 Gilbert M. Fein Neighborhood Conservation Overlay District**
  - Created a new category for Conservation Districts and placed it in the section.
  - Removed map from text and create an exhibit code to view map on Griddics platform.
  - No significant formatting or content changes.

## **7.5 SUPPLEMENTARY DISTRICT REGULATIONS**

- No significant formatting or content changes
- **7.5.2 Height Regulations**
  - No significant formatting or content changes
- **7.5.3 Supplementary Yard Regulations**
  - No significant formatting or content changes
- **7.5.4 Supplementary Use Regulations**
  - Relocated 'Division 2. Accessory Uses' Under supplementary Use Regulations.
  - Relocated Use definitions to the General Use Definitions Chapter. This allows the code to be clearer.
  - Removed 'Sec. 142-1104 Video Game and machines in commercial districts'.
  - Cleaned-up '7.5.4.13 Accessory Uses'
  - Removed and Relocated 'Solar Panels' in accessory Uses. This is not a use.
  - Landing or storage areas for helicopter, or other aircraft pads are only allowed in HD District.

## **SUMMARY**

The proposed Resiliency Code update will not noticeably alter the scale of development, allowable uses, parking requirements, or development patterns. The update will provide for a much more transparent code that clearly outlines regulations with graphics and diagrams and is easier to navigate. The Resiliency Code will also imbed standards throughout the document to ensure that resiliency is at the forefront of new development proposals as well as rehabilitation of existing structure.

The proposed Code maintains the four existing land use boards and maintains their jurisdiction of review and respects all provisions of the City Charter, including sections related to Historic Preservation and Floor Area Ratio (FAR). However, it does codify pre-application processes and other procedures that are currently followed for improved transparency. Additionally, the code provides for a City Commission approved Warrant process that will minimize the need for future code amendments while guaranteeing promised development outcomes. This proposed Warrant process will also ensure that when amendments are necessary that they are considered holistically through a quarterly amendment cycle.

If adopted, the Code will be incorporated into the Gridics online code platform that will give property owners the ability to quickly obtain zoning information about each property and provide increased transparency to residents. Ultimately, staff expects that this update will facilitate the review of building permits when they are submitted to the City, as the expectations will be clear to architects, contractors, developers and City staff.

Prior to final adoption of the Code, which is expected to occur in October, additional definitions will likely be added. Also, staff will ensure that any recently and soon to be adopted LDR amendments are incorporated into the Resiliency Code.



**RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance amendment to the City Commission with a favorable recommendation.

## RESILIENCY CODE

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

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ESTABLISHING A COMPREHENSIVE ZONING ORDINANCE, HEREAFTER KNOWN AS THE "RESILIENCY CODE," FOR THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO THE REQUIREMENTS OF SECTION 163.3202, FLORIDA STATUTES AND CONSISTENT WITH THE MIAMI BEACH 2040 COMPREHENSIVE PLAN; TO REGULATE AND RESTRICT THE ERECTION, RECONSTRUCTION, ALTERATION, LOCATION, PRESERVATION, SUBDIVISION, RESILIENCY, DESIGN, AND USE OF BUILDINGS, STRUCTURES, LAND, AND WATER, FOR COMMERCE, INDUSTRY, RESIDENCE, OR OTHER PURPOSES; TO REGULATE AND RESTRICT THE SIZE OF BUILDINGS AND OTHER STRUCTURES HEREAFTER ERECTED OR ALTERED; TO REGULATE THE SIZE AND DIMENSIONS OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS; TO REGULATE AND RESTRICT BUILDING LINES AND THE PERCENTAGE OF LOTS THAT MAY BE OCCUPIED, UNIT SIZES, AND THE DENSITY OF POPULATION; TO REGULATE SIGNAGE; TO ESTABLISH MINIMUM STANDARDS FOR LANDSCAPING; TO PROVIDE FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS AND WATERBODIES; TO ESTABLISH REQUIREMENTS FOR PARKING, TRANSPORTATION AND MOBILITY FEES, CONCURRENCY, AND INFRASTRUCTURE; AND FOR SAID PURPOSES TO ESTABLISH A ZONING ATLAS THAT DIVIDES THE CITY OF MIAMI BEACH INTO DISTRICTS OF SUCH NUMBER, SHAPE AND AREA AS MAY BE DEEMED BEST SUITED TO CARRY OUT THESE REGULATIONS, AND FOR EACH SUCH DISTRICT TO IMPOSE REGULATIONS AND RESTRICTIONS DESIGNATING THE KINDS OR CLASSES OF COMMERCE, INDUSTRIES, RESIDENCES, OR OTHER PURPOSES AS DESCRIBED ABOVE; TO PROVIDE A METHOD FOR AMENDMENT, SUPPLEMENT, CHANGE, MODIFICATION AND REPEAL OF REGULATIONS, RESTRICTIONS AND BOUNDARIES; TO PROVIDE FOR A DESIGN REVIEW BOARD, A PLANNING BOARD, A BOARD OF ADJUSTMENT, AND A HISTORIC PRESERVATION BOARD, AND TO PRESCRIBE THEIR POWERS AND DUTIES; TO PROVIDE PROVISIONS FOR APPEAL; AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE AND ALSO TO PROVIDE FOR ITS ENFORCEMENT; REPEALING ZONING ORDINANCE 89-2665, AS AMENDED, IN ITS ENTIRETY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, APPLICABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the current Land Development Regulations (LDRs) were adopted as Ordinance 89-2665 on September 21, 1989 and took effect on October 1, 1989; and

**WHEREAS**, over the years the LDR's have been updated many times in order to authorize specific developments, address changing conditions, and dealing with environmental concerns; and

**WHEREAS**, as a result of over 32 years of updates, the Code has become cumbersome to read and comprehend; and

**WHEREAS**, since the current LDRs were adopted there have been many changes in the way zoning codes are drafted to improve their transparency, facilitate interpretation, and achieve better development results; and

**WHEREAS**, there is now a better understanding of climate change and sea level rise; and

**WHEREAS**, given the City of Miami Beach's location and geography, it is experiencing the impacts of sea level rise today during continuously increasing King Tide events; and

**WHEREAS**, the City of Miami Beach (City) has a need for Land Development Regulations that incorporate graphics and diagrams that detail how the written text is to be interpreted, provide graphical standards as to the expected form of a building, and provides tables to describe requirements; and

**WHEREAS**, the City has a need for Land Development Regulations that will (1) Address climate adaptation and resilience, (2) Modernize, simplify and update the Code while protecting quality of life, (3) Safeguard historic preservation, (4) Ensure clarity and transparency in Code, Land Use Boards and permitting process, and (5) Allow flexibility for Code updates over time; and

**WHEREAS**, the City finds that a form-based approach to Land Development Regulations would better describe to architects, property owners, and residents the intent and standards within the Code; and

**WHEREAS**, the City finds that it wishes to maintain the existing Land Use Board process which ensures excellence and adherence to sound planning principles; and

**WHEREAS**, the City seeks to adopt Land Development Regulations, known as the "Resiliency Code," that will accomplish the aforementioned goals; and

**WHEREAS**, pursuant to Section 163.3202, Florida Statutes, and its home rule powers under the Constitution and Section 166.021(4), Florida Statutes, the City of Miami Beach has the authority to adopt Land Development Regulations; and

**WHEREAS**, pursuant to Section 163.3202 (1), Florida Statutes, the Land Development Regulations must be consistent with the adopted Comprehensive Plan; and

**WHEREAS**, the City finds that the proposed Resiliency Code is consistent with the City of Miami Beach 2040 Comprehensive Plan; and

**WHEREAS**, the City finds that the proposed Resiliency Code is consistent with the City Charter; and

**WHEREAS**, the City has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

**WHEREAS**, the amendment set forth below is necessary to accomplish all of the above objectives.

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

**SECTION 1.**

Zoning Ordinance 89-2665, as amended, is hereby repealed.

**SECTION 2.**

The Miami Beach Resiliency Code, as depicted in "Exhibit A," is hereby adopted as the Land Development Regulations for the City of Miami Beach in subpart B of the City Code of Ordinances.

**SECTION 3.**

The Zoning District Map adopted as part of Zoning Ordinances 89-2665, as amended, is adopted as the Zoning District Map for the Miami Beach Resiliency Code.

**SECTION 4.**

The City Commission directs the Administration to incorporate amendments to Zoning Ordinance 89-2665 that are adopted between July 1, 2022 and the effective date of this Ordinance into the Miami Beach Resiliency Code in the sections deemed most appropriate.

**SECTION 5. 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 6. 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 7. SEVERABILITY.**

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

**SECTION 8. APPLICABILITY.**

This ordinance shall not be enforced against any development application which filed a completed application package for Board of Adjustment, Historic Preservation Board, Design Review Board, or Planning Board approval with the Planning Department prior to the effective date of the ordinance; or anyone who obtained a Building Permit Process Number from the Building Department prior to the effective date of the ordinance. The Land Development Regulations in effect at the time of the submittals or shall continue to apply to the aforementioned projects.

**SECTION 9. EFFECTIVE DATE.**

This Ordinance shall take effect 120 days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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

ATTEST:

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

APPROVED AS TO FORM AND  
LANGUAGE AND FOR EXECUTION

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

\_\_\_\_\_  
Date

First Reading: September 14, 2022  
Second Reading: October 26, 2022

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

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