CPS BELOW GRADE FLOOR AREA REQUIREMENTS

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, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 114 OF THE CITY CODE ENTITLED "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, ENTITLED "DEFINITIONS," TO MODIFY FLOOR AREA REQUIREMENTS APPLICABLE TO BELOW GRADE AREAS OF A BUILDING; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the commercial performance standard area requirements for the PS performance standard district codified in section 142-698 defines certain parcels as the "Block 51 Properties," the "Block 51 Swap Property," the "Block 52 Properties," the "Block 1 Properties," the "Goodman Terrace and Hinson Parcels," and the "Retail Parcel," (the "Defined Parcels"); and

WHEREAS, the Defined Parcels were the subject of certain settlement agreement recognized in a series of Resolutions, including Resolution Nos. 2004-25509, 2004-25649 and 2004-25650 (the "Settlement Resolutions"); and

WHEREAS, the Settlement Resolutions contemplated the preservation and confirmation of certain development rights and restrictions upon the Defined Parcels, many of which are presently codified in the commercial performance standard area requirements; and

WHEREAS, calculation of floor area for below grade areas under the present general land development regulations differs from than that in effect when the Settlement Resolutions and resulting commercial standard area requirements were adopted; and

WHEREAS, Section 1.03 of the City Charter entitled "Powers of the City," provides as follows:

> (c) The 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.

WHEREAS, Section 1.03 of the City Charter requires the approval of the City's voters in order to increase the Floor Area Ratio (FAR) of any property or street end by zoning transfer, or any other means, from the FAR allowed as of November 7, 2001; and

WHEREAS, floor area is defined in Section 114-1 of the land development regulations; and

WHEREAS, as of November 7, 2002, the exceptions to the definition of “floor area” in the City’s land development regulations included the following provision:

(9) Floor area located below grade ; however if the ceiling is above grade, one half of the floor area that is below grade shall be included in the floor area calculation; (the “Basement Exception”)

WHEREAS, the on June 11, 2014, the City adopted Ordinance No. 2014-3876, which eliminated the Basement Exception; and

WHEREAS, on September 14, 2016, the City adopted Ordinance No. 2016-4029, which partially reinstated the Basement Exception for existing contributing structures within a local historic district, national register historic district, or local historic site, and

WHEREAS, Ordinance No. 2016-4029 did not require a general referendum because the partial reinstatement of the Basement Exception was equal to or more restrictive than the FAR regulations in effect on November 7, 2001; and

WHEREAS, the Mayor and City Commission desire to clarify how below grade floor area should be calculated with respect to certain properties that were subject to the Settlement Resolutions; and

WHEREAS, like Ordinance No. 2016-4029, the method for calculating below grade floor area set forth in this Ordinance remains equal to or more restrictive than the FAR regulations in effect on November 7, 2001, thus a referendum on this Ordinance is not required; and

WHEREAS, in order to avoid possible uncertainty and ambiguity, the clarification of the treatment of below grade areas for certain Defined Parcels is necessary and desirable, as it will permit use of surplus floor area for enclosure of spaces that are potential sources of noise disturbances or public safety hazards; and

WHEREAS, the amendments set forth below are necessary to clarify that the historic treatment of certain below grade areas under the Settlement Resolutions and the commercial performance standard area requirements will continue in accordance with 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. Chapter 114, "General Provisions," at Section 114-1, entitled "Definitions," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

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,~~ 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 in the following instances:

a. E~~e~~xisting contributing structures that are located within a local historic district, national register historic district, or local historic site.

b. Structures located within Block 1 Properties as more specifically defined in section 142-698(a).

(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.

SECTION 2. REPEALER.
All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.
If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 4. CODIFICATION.
It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.
This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2023.

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading: May 17, 2023

Second Reading: June 28, 2023

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

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