Process for Future Increases in FAR

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," BY CREATING SECTION 7.1.10, ENTITLED "PROCEDEURES FOR INCREASING ALLOWABLE FLOOR AREA AND FLOOR AREA RATIO (FAR)," TO ESTABLISH POLICIES, PROCEDURES AND REQUIREMENTS FOR THE REVIEW OF FUTURE INCREASES IN FLOOR AREA AND/OR FLOOR AREA RATIO (FAR); AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, 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], . . . 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, on June 28, 2023, the Florida Governor signed into law Senate Bill 718 (2023), which broadly prohibits "[a]n initiative or referendum process in regard to any land development regulation" (the "New Law"), thereby narrowing the applicability of the voter referendum requirement in Charter Section 1.03(c); and

WHEREAS, in light of the foregoing, the City Commission now desires to adopt a more thorough and transparent process for the review of future increases in floor area and/or floor area ratio ("FAR"); and

WHEREAS, the City's Land Development Regulations set forth the maximum allowable FAR for all zoning districts in the City; 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 amendments set forth below are 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, AS FOLLOWS:

SECTION 1. Chapter 7, entitled "Zoning Districts and Regulations," Article I, entitled "General to All Zoning Districts," is hereby amended in the Resiliency Code of the City of Miami Beach, Florida as follows:

CHAPTER 7
ZONING DISTRICTS AND REGULATIONS

ARTICLE I. – GENERAL TO ALL ZONING DISTRICTS

* * *

7.1.10 PROCEDURES FOR INCREASING ALLOWABLE FLOOR AREA AND FLOOR AREA RATIO (FAR)

7.1.10.1 Intent

The regulations set forth under this Section 7.1.10 shall be in addition to the regulations in Chapter 2, Article IV of these LDRs. In the event of a conflict, the provisions set forth in Section 7.1.10 shall control.

7.1.10.2 Eligible applicants

a. *Private applications.* For FAR increases specific to a private property, unified development site or other development, the property owner shall first be required to file an application directly with the planning board. Subsequent to filing, a copy of the application and all exhibits shall be sent to all registered neighborhood association(s) in the affected area. Additionally, for applications for FAR increases within a local historic district, a copy of the application and exhibits shall be sent to the Miami Design Preservation League (MDPL).

b. *City Commission referrals.* For FAR increases that are not limited to a specific private property, unified development site, or other development, and which apply more broadly (e.g. citywide or within defined overlays), as well as modifications to floor area exceptions or new FAR incentives tied to specific uses or benchmarks, an amendment to the LDRs shall be initiated through a referral by the City Commission to the Planning Board. Any referral to the Planning Board initiated under this paragraph shall require a 5/7ths vote of the City Commission.

7.1.10.3 Planning Board review

Any ordinance subject to this Section 7.1.10 shall require a 3-step review process before the Planning Board, as follows:

a. Step One – Planning Board Preliminary Review.
The Planning Board, at a duly noticed public hearing, shall perform an initial review of the proposed ordinance. Notice of the Planning Board preliminary review hearing shall be given in accordance with the applicable provisions in Chapter 2, Article IV of the Land Development Regulations. If the proposed ordinance involves less than ten (10) contiguous acres, the notice requirements for the preliminary Planning Board review shall also include a minimum 30-day mail notice for all properties within 375 feet of the properties subject to the proposed floor area or FAR increase, and a 30-day published notice.

Prior to the Planning Board's preliminary review stage, the Administration, either internally or with the assistance of an outside consultant, will perform an impact analysis of the proposed FAR increase; and such impact analysis shall include, but not be limited to, the following:

1. Calculation of the actual square footage increase for affected properties such as, for example, the maximum allowable square footage for residential, office, retail, hotel or other uses resulting from the FAR increase.

2. An infrastructure analysis regarding potential impacts on traffic/mobility, parking, water, sewer, resiliency, parks and open space, as well as any other area of concern identified by the City Commission or the Administration.

3. Massing studies, which illustrate the volume and location of the area associated with the proposed increase in FAR.

For private applications, the applicant shall be required to provide all data and exhibits related to the above noted impact analysis as part of the application submission. The findings of this impact analysis shall be presented to the Planning Board at the preliminary review stage.

b. Step Two – Community Outreach Meeting:
Subsequent to the Planning Board's preliminary review meeting, the City shall facilitate a public meeting for all affected stakeholders, in order to solicit additional input and feedback, as well as for City staff to address any outstanding issues or questions. Courtesy notice of the meeting shall be given by the applicable City department, in coordination with the Planning Department, in a manner consistent with the City's courtesy notices for other community meetings, workshops, or presentations.

c. Step Three – Planning Board Transmittal:
At a second duly noticed public hearing, which is separate and apart from the preliminary review hearing, the Planning Board shall consider and transmit the proposed ordinance to the City Commission with a recommendation. Notice of this transmittal hearing shall be given in accordance with the applicable provisions in Chapter 2, Article IV of the Land Development Regulations.

7.1.10.4 City Commission review
Any ordinance subject to this Section 7.1.10 shall require a 3-step review process before the City Commission, as follows:

a. Step One – First Reading Public Hearing:
After transmittal of the ordinance by the planning board, the City Commission shall hold a first reading public hearing. Notice of the first reading shall be given in accordance with the applicable provisions in Chapter 2, Article IV of the Land Development Regulations. If the proposed ordinance involves less than ten (10) contiguous acres, the notice requirements for first reading shall also include a minimum 30-day mail notice for all properties within 375 feet of the properties subject to the proposed floor area or FAR increase, and a 30-day published notice.

b. Step Two – Community Workshop:
Subsequent to the approval of the ordinance at first reading, and prior to second reading, at least one additional community workshop, which is separate and apart from the first reading public hearing, shall be held. This additional community workshop shall be considered a courtesy meeting, and open to participation by all affected stakeholders, including residents, property

owners, or businesses in the surrounding area that may be affected by the proposed floor area or FAR increase, as determined by the City Commission. Such community workshops may be held in a virtual, in-person or hybrid formats, at the discretion of the City Commission, and shall be noticed in a manner to be determined by the City Commission.

c. Step Three – Second Reading / Adoption Public Hearing:
After the community workshop described above, the City Commission shall hold a second reading public hearing to consider final adoption of the proposed ordinance. Notice of the second reading shall be given in accordance with the applicable provisions in Chapter 2, Article IV of the Land Development Regulations.

SECTION 2. 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 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. 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

8-31-23
City Attorney NK Date

First Reading: September 13, 2023
Second Reading: October 18, 2023

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