

SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

ORDINANCE NO. 2017-4123

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," AT ARTICLE III, "AMENDMENT PROCEDURE," ARTICLE IV, "CONDITIONAL USE PROCEDURE," ARTICLE VI, "DESIGN REVIEW PROCEDURES," ARTICLE VII, "DIVISION OF LAND/LOT SPLIT," ARTICLE VIII, "PROCEDURE FOR VARIANCES AND ADMINISTRATIVE APPEALS," AND ARTICLE X, "HISTORIC PRESERVATION," TO PROVIDE REFERENCES TO SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA FOR CONSIDERATION BY LAND USE BOARDS WHEN DECIDING ISSUES WITHIN THEIR JURISDICTION; BY AMENDING CHAPTER 133, "SUSTAINABILITY AND RESILIENCY," TO ESTABLISH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, Comprehensive Plan Future Land Use Element Policy 3.6 requires that the City "Maximize unpaved landscape to allow for more stormwater infiltration. Encourage planting of vegetation that is highly water absorbent, can withstand the marine environment, and the impacts of tropical storm winds. Encourage development measures that include innovative climate adaption and mitigation designs with creative co-benefits where possible;" and

WHEREAS, Comprehensive Plan Conservation/Coastal Zone Management Element Policy 2.12 provides that "Salt tolerant landscaping and highly water-absorbent, native or Florida friendly plants shall continue to be given preference over other planting materials in the plant materials list used in the administration of the landscape section of the Land Development Regulations and the design review process;" and

WHEREAS, Comprehensive Plan Conservation/Coastal Zone Management Element Objective 13 provides policies to "Increase the City's resiliency to the impacts of climate change and rising sea levels by developing and implementing adaptation strategies and measures in order to protect human life, natural systems and resources and adapt public infrastructure, services, and public and private property;" and

WHEREAS, the Miami Beach Comprehensive Plan designates the entire City as an Adaptation Action Area (AAA) containing one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure and adaptation planning; and

WHEREAS, Comprehensive Plan Conservation/Coastal Zone Management Element Policy 13.4 states that "the City will develop and implement adaptation strategies for areas vulnerable to coastal flooding, tidal events, storm surge, flash floods, stormwater runoff, salt water intrusion and other impacts related to climate change or exacerbated by sea level rise, with the intent to increase the community's comprehensive adaptability and resiliency capacities;" and

WHEREAS, Comprehensive Plan Conservation/Coastal Zone Management Element Policy 13.8 states that the "City shall integrate AAAs into existing and future City processes and city-wide plans and documents which may include:...Land Development Regulations;" 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.

SECTION 1. Chapter 118, "Administration and Review Procedures," Article III, "Amendment Procedure," Section 118-163, "Review by Planning Board," is amended as follows:

* * *

Sec 118-163. Review by Planning Board

Before the city commission takes any action on a proposed amendment to the actual list of permitted, conditional or prohibited uses in zoning categories or to the actual zoning map designation of a parcel or parcels of land or to other regulations of these land development regulations or to the city's comprehensive plan, the planning board shall review the request and provide the city commission with a recommendation as to whether the proposed amendment should be approved or denied. In reviewing the application, the planning board may propose an alternative ordinance on the same subject for consideration by the city commission. The following procedures shall apply to the board's consideration of the request:

* * *

- (1) In reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

* * *

- n. Whether the proposed change is consistent with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 2. Chapter 118, "Administration and Review Procedures," Article IV, "Conditional Use Procedure," Section 118-192, "Review Guidelines," is amended as follows:

* * *

Sec. 118-192. Review Guidelines

- (a) Conditional uses may be approved in accordance with the procedures and standards of this article provided that:

* * *

- (8) The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 3. Chapter 118, "Administration and Review Procedures," Article VI, "Design Review Procedures," Section 118-251, "Design Review Criteria," is amended as follows:

* * *

Sec. 118-251. Design Review Criteria

(a) Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and design guidelines adopted and amended periodically by the design review board and/or historic preservation board. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department. If the board determines that an application is not consistent with the criteria, it shall set forth in writing the reasons substantiating its finding. The criteria referenced above are as follows:

* * *

- (19) The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 4. Chapter 118, "Administration and Review Procedures," Article VII, "Division of Land/Lot Split," Section 118-321, "Purpose, standards and procedure," is amended as follows:

* * *

Sec. 118-321. Purpose, standards and procedure

- B. *Review criteria.* In reviewing an application for the division of lot and lot split, the planning board shall apply the following criteria:

* * *

- (7) The structures and sites will comply with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 5. Chapter 118, "Administration and Review Procedures," Article VIII, "Procedure for Variances and Administrative Appeals," Section 118-353, "Variance Applications," is amended as follows:

Sec. 118-353. Variance Applications

* * *

- (d) In order to authorize any variance from the terms of these land development regulations and sections 6-4 and 6-41(a) and (b), the applicable board shall find that:

* * *

- (8) The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

* * *

SECTION 6. Chapter 118, "Administration and Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance of Certificate of Appropriateness/Certificate to Dig/Certificate of Appropriateness for Demolition," Section 118-564, "Decisions on certificates of appropriateness," is amended as follows:

Sec. 118-564. Decisions on certificates of appropriateness

* * *

- (3) The examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The historic preservation board and planning department shall review plans based upon the below stated criteria and recommendations of the planning department may include, but not be limited to, comments from the building department. The criteria referenced above are as follows:

* * *

- g. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 7. Chapter 118, "Administration and Review Procedures," Article X, "Historic Preservation," Division 4, "Designation," Section 118-592, "Criteria for Designation," is amended as follows:

* * *

Sec. 118-592 . Criteria for Designation

- (c) The historic preservation board shall consider if the historic buildings, historic structures, historic improvements, historic landscape features, historic interiors (architecturally significant public portions only), historic sites, or historic districts comply with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

SECTION 8. Chapter 133, "Sustainability and Resiliency," is amended as follows:

ARTICLE I. – GREEN BUILDINGS

ARTICLE-DIVISION I. – IN GENERAL

* * *

ARTICLE-DIVISION II. – GREEN BUILDING REQUIREMENTS

* * *

ARTICLE DIVISION III. – SUSTAINABILITY FEE PROGRAM

Sec. 133-5. - Generally.

A Sustainability Fee will be assessed for all eligible participants. The calculation of the fee, provisions for refunding all or portions of the fee, its purpose, and eligible uses are detailed within this article division.

* * *

ARTICLE II. – SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Sec. 133-50. – Criteria

The City's Land Use Boards shall consider the following when making decisions within their jurisdiction, as applicable:

(a) Criteria for development orders:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
- (4) Whether resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) will be provided.
- (5) Whether adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact, including a study of land elevation and elevation of surrounding properties were considered.
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.
- (7) Where feasible and appropriate, all critical mechanical and electrical systems shall be located above base flood elevation.
- (8) Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet and or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

(10) Where feasible and appropriate, water retention systems shall be provided.

(b) Criteria for ordinances, resolutions, or recommendations:

- (1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.
- (2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.
- (3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

SECTION 9. REPEALER.

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

SECTION 10. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 11. SEVERABILITY.

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

SECTION 12. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this 26 day of July, 2017.

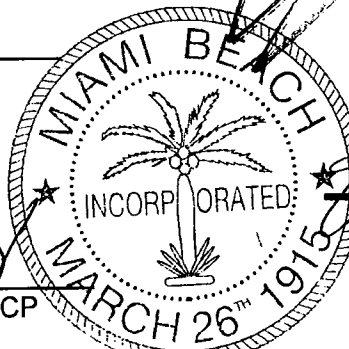
Philip Levine
Mayor

ATTEST:

8/7/17
Rafael E. Granado
City Clerk

First Reading: May 17, 2017
Second Reading: June 7, 2017

Verified By: Thomas R. Mooney, AICP
Planning Director



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

5/23/17
Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: July 26, 2017

10:50 a.m. Second Reading Public Hearing

SUBJECT: SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA:
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," AT ARTICLE III, "AMENDMENT PROCEDURE," ARTICLE IV, "CONDITIONAL USE PROCEDURE," ARTICLE VI, "DESIGN REVIEW PROCEDURES," ARTICLE VII, "DIVISION OF LAND/LOT SPLIT," ARTICLE VIII, "PROCEDURE FOR VARIANCES AND ADMINISTRATIVE APPEALS," AND ARTICLE X, "HISTORIC PRESERVATION," TO PROVIDE REFERENCES TO SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA FOR CONSIDERATION BY LAND USE BOARDS WHEN DECIDING ISSUES WITHIN THEIR JURISDICTION; BY AMENDING CHAPTER 133, "SUSTAINABILITY AND RESILIENCY," TO ESTABLISH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the Ordinance.

ANALYSIS

BACKGROUND

On December 14, 2016, the City Commission, at the request of Commissioner John Elizabeth Alemán, referred this item (R9F) to the Land Use and Development Committee (LUDC) and the Planning Board.

On January 18, 2017, the LUDC recommend that the Planning Board transmit the proposal to the City Commission with a favorable recommendation.

PLANNING ANALYSIS

The City has four Land Use Boards which are authorized to review and approve various types of development projects and make certain recommendations to the City Commission. These boards, with the assistance of City staff, utilize City Code mandated criteria to make their decisions and recommendations. The general duties of the four (4) Land Use Boards are as follows:

- Planning Board
 - Amendments to Comp Plan and Land Development Regulations
 - Conditional Use Permits
 - Division of Land/Lots Splits

- Design Review Board
 - Design Review Approval
- Board of Adjustment
 - Variances and Administrative Appeals
- Historic Preservation Board
 - Historic Designation Recommendations
 - Certificates of Appropriateness

As the City is facing an increase in flooding due to sea level rise, it is important that Land Use Boards incorporate criteria to address and plan for the effects of sea level rise and climate change. Additionally, the recently adopted amendment to the City's Comprehensive Plan related to "Peril of Flood," establish the City as an Adaption Action Area (AAA), which among other things, requires that the City incorporate strategies into the Land Development Regulations to improve the community's adaptability and resiliency capacities, with regards to the sea level rise and climate change.

The attached draft ordinance amendment establishes Sea Level Rise and Resiliency Review Criteria within Chapter 133, entitled "Sustainability and Resiliency," of the Land Development Regulations. It also references these criteria within the individual review criteria for each board. This criteria will facilitate the climate adaptation and mitigation discussion between the applicant and staff during the review process, and subsequently at land use board review. The following is a summary of the draft criteria for the Land Use Boards when reviewing development applications:

1. A recycling or salvage plan for partial or total demolition shall be provided.
2. Windows that are proposed to be replaced shall be hurricane proof impact windows.
3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.
4. If resilient landscaping (salt and drought tolerant, native plants species) will be provided.
5. Whether adopted Southeast Florida regional Climate Action Plan sea level rise projections, including a study of land elevation and elevation of surrounding properties were considered.
6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land.
7. Where feasible and appropriate, all critical mechanical and electrical systems will be located above base flood elevation.
8. Existing buildings shall be, where reasonably feasible and appropriate, elevated to the base flood elevation.
9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet and dry flood proofing systems will be provided in accordance with Chapter 54 of the City Code.
10. Where reasonably feasible and appropriate, water retention systems shall be provided.

When considering ordinances, adopting resolutions, or making recommendations, the following criteria would apply:

1. Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.
2. Whether the proposal will increase the resiliency of the City with respect to sea level rise.
3. Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

As part of the initial draft of this legislation, separate criteria pertaining to a prohibition on below

grade vehicular storage was included. At the direction of the Land Use Committee, this was relocated to Chapter 130 of the Code (Off-Street Parking).

PLANNING BOARD REVIEW

On February 28, 2017, the Planning Board discussed the proposed Ordinance Amendment and requested that there be further study on the prohibition of underground parking; the Board continued the item to the April 25, 2017 meeting. On April 25, 2017, the Planning Board transmitted the proposed Ordinance Amendment to the City Commission, with a favorable recommendation. The Planning Board also recommended the following modifications:

1. Below grade parking shall not be prohibited.
2. A separate amendment to the Land Development Regulations of the City Code shall be referred to the Planning Board by the City Commission to address the following:
 - a. That there be sufficient setbacks for ramping and access to below grade levels from adjacent streets and rights-of-way, in order to ensure sufficient dimensions to accommodate the future raising of public sidewalks, streets and public right-of-way, and without ramps encroaching into the public right-of-way.
 - b. That the minimum setback requirements for all below grade structures be increased to meet the applicable pedestal setback requirements, in order to allow for permeable areas on the site and natural drainage of stormwater.
 - c. That there be sufficient pumping capacity to ensure all below grade levels remain dry without affecting surrounding properties.
 - d. For properties containing a 'contributing' building, and located within a Local Historic District or Designated Historic Site, the Historic Preservation Board shall have the ability to waive the setback requirements for below grade parking levels, in accordance with the applicable Certificate of Appropriateness criteria.

SUMMARY

The proposed sea level rise and resiliency criteria has been extensively vetted at the administrative and committee levels, and should provide a tangible and appropriate set of tools for all Land Use Boards to be able to utilize. Such criteria will also be beneficial to design professionals as they put together land development projects in the early, conceptual stages.

UPDATE

On May 17, 2017, the City Commission approved the subject ordinance at First Reading, but removed the proposed prohibition on below grade off-street parking. This required a modification to the ordinance title, and a new first reading. The City Commission also referred the below grade parking criteria endorsed by the Planning Board to the Land Use and Development Committee as a separate ordinance amendment.

On June 7, 2017, the subject ordinance was approved at a new first reading, with the modified Title. On July 11, 2017, Planning Department staff presented the proposed criteria to the Historic Preservation Board for review and input. The Historic Preservation Board did not have any objections to the proposed criteria in the ordinance.

Finally, at the request of the City Commission, the Administration has put together draft documents, illustrating how the proposed new review criteria will be integrated into the development review process. These include the following, all of which are attached as separate documents:

1. Sample Historic Preservation Board Staff Report.

2. Sample Historic Preservation Board Designation Report.
3. Sample Planning Board Staff Report.
4. Revised Requirements for Letters of Intent (LOI).
5. Revised Application Checklist.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance.

Legislative Tracking

Planning

Sponsor

Commissioner John Elizabeth Aleman

ATTACHMENTS:

Description

- ▢ Ordinance
- ▢ Sample Historic Preservation Board Staff Report
- ▢ Sample Historic Preservation Board Designation Report
- ▢ Sample Planning Board Staff Report
- ▢ Revised Requirements for Letters of Intent
- ▢ Revised Application Checklist