

## **FREEBOARD**

**ORDINANCE NO. 2017-4150**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A – GENERAL ORDINANCES, OF THE CITY CODE, BY AMENDING CHAPTER 54 “FLOODS” AT SECTIONS 54-39, ENTITLED “ESTABLISHMENT OF DEVELOPMENT PERMIT;” IN ORDER TO SPECIFICALLY ADOPT THE CITY’S STORMWATER MASTER PLAN, AS MAY BE AMENDED, AND TO REQUIRING 5/7 VOTE OF FULL CITY COMMISSION TO LESSEN ANY OF THE STORMWATER REQUIREMENTS CONTAINED IN CHAPTER 54; TO AMEND SECTION 54-45, “PERMIT PROCEDURES,” TO CORRECT THE TITLE OF THE CITY’S STORMWATER MASTER PLAN; AND BY AMENDING SUBPART B – “LAND DEVELOPMENT REGULATIONS,” BY AMENDING SECTION 114-1, ENTITLED “DEFINITIONS,” IN ORDER TO CORRECT THE NAME OF THE CITY’S STORMWATER MASTER PLAN; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, sea level rise and flooding is an ongoing concern of the City; and

**WHEREAS**, low lying infrastructure including buildings must also retrofit and adapt to increased water levels or elevate in order to reduce risk or maintain low risk from potential flood damage; and

**WHEREAS**, it is appropriate to ensure that the Stormwater Master Plan, as may be amended, is incorporated into Chapter 54, entitled “Flooding” of the City’s Code; and

**WHEREAS**, the City’s Stormwater Master Plan provides guidance and regulations to ensure minimum flood-proofing requirements to protect residential and commercial structures, and to provide additional levels of protection to maintain consistency with U.S. Federal and State guidance, and

**WHEREAS**, the City desires to require a 5/7<sup>th</sup> vote of the City Commission in order to reduce, relax, diminish, or repeal the requirements of Chapter 54, and of the Stormwater Master Plan, incorporated by reference therein.

**WHEREAS**, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved.

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

**SECTION 1.** Chapter 54, “Floods,” at Section 54-45, “Permit Procedures,” is amended as follows:

## CHAPTER 54 FLOODS

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**Sec. 54-39. - Establishment of development permit; adoption of the city's stormwater master plan; and requiring 5/7 vote of the full city commission to lessen any of the stormwater requirements contained in this Chapter 54. Repeal or modification of this 5/7 voting requirement shall require a 5/7 vote of the full city commission.**

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities. All developments or applications for development permits shall comply with the city's stormwater master plan, as may be amended. The adoption of any ordinance that would reduce, relax, diminish, or repeal the requirements of this Chapter 54, shall require a 5/7 vote of the city commission.

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### **Sec. 54-45 Permit Procedures**

Application for a development permit shall be made to the building director or his/her designee on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimension, and elevations of the area in questions, existing and proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application stage:

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- (f) A stormwater management plan and site drainage calculations, for new constructions and substantial improvement, shall be prepared by a Florida licensed engineer in accordance with the ~~CDM-Smith 2011~~ City's Stormwater Master Plan, as may be amended, to demonstrate that adequate surface drainage shall be provided and surface run-off water shall be diverted to a storm conveyance or other approved point of collection, in accordance with Florida Building Code Sections 1804 and R401.3. The site shall be graded in manner to drain surface water away from foundation walls in accordance with Florida Building Code Sections 1804 and R401.3. All site drainage for new construction shall be designed and constructed in such a manner as to provide runoff rates, volume and

pollutant loads not exceeding predevelopment conditions and prevent flooding adjacent properties.

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**SECTION 2.** Chapter 114, "General Provisions," of the Land Development Regulations, at Section 114-1, "Definitions," is hereby amended as follows:

## **CHAPTER 114 GENERAL PROVISIONS**

### **Sec. 114-1. Definitions.**

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*Grade, adjusted* means the midpoint elevation between grade and the minimum required flood elevation for a lot or lots.

*Grade, average existing* means the average grade elevation calculated by averaging spot elevations of the existing topography taken at 10-foot intervals along the property lines.

*Grade, future adjusted* means the midpoint elevation between the future crown of the road as defined in the ~~CDM-Smith~~ City's Stormwater Master Plan, as may be amended, and the base flood elevation plus minimum freeboard for a lot or lots.

*Green infrastructure* shall be as defined in Section 54-35.

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### **SECTION 3. 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 Code of the City of Miami Beach, Florida. 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 4. REPEALER.**

All ordinances or parts of ordinances 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 6. EFFECTIVE DATE.**

This Ordinance shall take effect 10 days after enactment.

**PASSED AND ADOPTED** this 31 day of October, 2017.

**ATTEST:**

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Philip Levine, Mayor

781 11/3/17  
Rafael E. Granado, City Clerk

First Reading: October 18, 2017

Second Reading: October 31, 2017

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

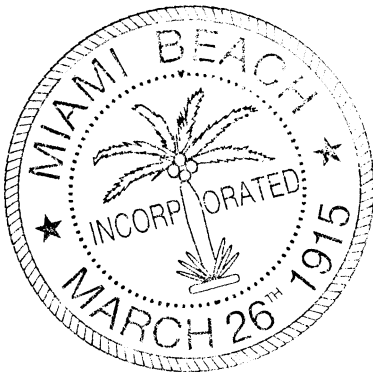
\_\_\_\_\_  
City Attorney  
FW

10/24/17  
Date

Underline = new language

~~Strikethrough~~ = deleted language

[Sponsored by Commissioner John Aleman and Co-sponsored by Commissioner Joy Malakoff]



# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: October 31, 2017

**9:35 a.m. Second Reading Public Hearing**

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING SUBPART A - GENERAL ORDINANCES, OF THE CITY CODE, BY AMENDING CHAPTER 54 "FLOODS" AT SECTIONS 54-39, ENTITLED "ESTABLISHMENT OF DEVELOPMENT PERMIT;" IN ORDER TO SPECIFICALLY ADOPT THE CITY'S STORMWATER MASTER PLAN, AS MAY BE AMENDED, AND TO REQUIRING 5/7 VOTE OF FULL CITY COMMISSION TO LESSEN ANY OF THE STORMWATER REQUIREMENTS CONTAINED IN CHAPTER 54; TO AMEND SECTION 54-45, "PERMIT PROCEDURES," TO CORRECT THE TITLE OF THE CITY'S STORMWATER MASTER PLAN; AND BY AMENDING SUBPART B - "LAND DEVELOPMENT REGULATIONS," BY AMENDING SECTION 114-1, ENTITLED "DEFINITIONS," IN ORDER TO CORRECT THE NAME OF THE CITY'S STORMWATER MASTER PLAN; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

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### **RECOMMENDATION**

The Administration recommends approving the Resolution.

### **ANALYSIS**

The City adopted the 2011 Stormwater Management Master Plan (SWMMP) by Resolution 2012-28068. This plan is intended to be a guide for improving the City's stormwater management system performance for a 20 year planning horizon, with considerations of potential sea level rise over 20 years for stormwater infrastructure and 50 years for seawall heights. Periodically, due to updated climate projections, it is important to update the SWMMP to stay current and viable.

Items such as roadway elevation, levels of service for roads, precipitation design rates and distribution, seawall elevations, and minimum future grade elevations have been presented to the Mayor's Blue Ribbon Panel on Flooding and Sea Level Rise on several occasions.

On February 12, 2014, the City adopted Resolution 2014-28499, which approved the recommendation of The Flooding Mitigation Committee to amend the SWMMP so as to modify the design criteria for the water level in Biscayne Bay be increased from 0.5 Ft-NAVD to 2.7 Ft-NAVD for all tidal boundary conditions.

On July 21, 2015, the Mayor's Blue Ribbon Panel on Flooding and Sea Level Rise recommend that the seawall cap on all new private construction and all public seawall construction be changed from 3.2 feet NAVD to 5.7 feet NAVD throughout the City; provided, however, that for properties with

existing private seawalls that are being replaced/repared not associated with new building construction, the Panel recommended applying a minimum 4.0 NAVD elevation, as long as the structural design to accommodate a seawall height extension to a minimum 5.7 NAVD.

On May 11, 2016, the Mayor and City Commission adopted Ordinances 2016-4009, relating to amending Chapter 54 of the City Code entitled "Floods" to define City of Miami Beach Freeboard, and modify how grade elevation and height are defined due to flooding and climate change.

Also on May 11, 2016, the Mayor and City Commission adopted Ordinance 2016-4010, relating to amending Chapter 118, of the Land Development Code, to incorporate the same Freeboard definitions, and procedures for how to determine grade elevation and height as a result of flooding and climate change.

The SWMMP needs to be amended to incorporate modifications to the standards for the construction of new roads, stormwater systems, and developments; which standards would incorporate higher elevations in order to reduce the risk of flooding; redefine the level of service and design storm; and define minimum "future grade" and seawall heights.

At the Mayor's Blue Ribbon Panel on Flooding and Sea Level Rise on July 18, 2017, the members discussed and recommended that the SWMMP be codified and require a super majority of the Commission to reduce the resiliency standards incorporated therein. Sea level rise and flooding is an ongoing concern of the City. Low lying infrastructure including buildings must either retrofit and adapt to increased water levels or elevate in order to reduce risk or maintain low risk from potential flood damage. It is appropriate to ensure that the SWMMP, as may be amended, gets incorporated into Chapter 54, of the City of Miami Beach's City Code, entitled "Flooding".

The proposed Ordinance specifically adopts the SWMMP as may be amended in the future. All developments or applications for development permits shall comply with the SWMMP. In addition, the adoption of any ordinance that would reduce, relax, diminish, or repeal the requirements of Chapter 54, shall require a 5/7 vote of the City Commission.

The City's SWMMP provides guidance and regulations to ensure minimum flood-proofing requirements to protect residential and commercial structures, and to provide additional levels of protection to maintain consistency with U.S. Federal and State guidance.

Following discussion at the City Commission meeting of October 18, 2017, additional language was added to the Ordinance amendment on the dais, requiring a 5/7 vote of the City Commission in order to repeal or modify the voting mandate.

## **CONCLUSION**

The Administration recommends approving the Resolution.

## **Legislative Tracking**

Public Works

## **Sponsor**

Commissioner John Elizabeth Aleman & Co-sponsored by Commissioner Joy Malakoff

**ATTACHMENTS:**

**Description**

- ▯ FINAL ORDINANCE