

BELOW GRADE FLOOR AREA – CONTRIBUTING BUILDINGS

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, FLORIDA, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING THE DEFINITION OF FLOOR AREA; WHICH DEFINITION IS CONSISTENT WITH THE DEFINITION OF FLOOR AREA RATIO (FAR) AS EXISTED ON NOVEMBER 7, 2001, THUS ENSURING COMPLIANCE WITH SECTION 1.03(c) OF THE CHARTER; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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; and

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 at Section 114-1 of the land development regulations; and

WHEREAS, as of November 7, 2001, 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 ratio calculation; and

WHEREAS, on June 11, 2014, the City adopted Ordinance 2014-3876, which amended a portion of the definition of floor area, to clarify and narrow the definition, as follows:

"(9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade; ~~however,~~ However, if any portion of the top of the slab of the ceiling is above grade, one half of the floor area that is below grade shall be included in the floor area ratio calculation"; and

WHEREAS, the Mayor and City Commission desire to amend subsection (9) to the definition of floor area, so that Floor Area Ratio (FAR) can be calculated, as it relates to *existing contributing structures, located within a local historic district, national register historic district or local historic site*, to allow a one-half floor area calculation for floor area located below grade, when the top of the slab of an existing ceiling is located above grade; and

WHEREAS, the proposed modification is consistent with charter provision 1.03(c), as the modification would conform the definition of FAR for existing historic and contributing structures, back to the definition that existed on November 7, 2001; and

WHEREAS, this modification would not affect new construction, which new construction would continue to be calculated pursuant to Ordinance 2014-3876, requiring the entire floor area located below grade to be calculated against a property's allowable FAR, if any portion of the top of the slab of the ceiling is above grade; and

WHEREAS, the City desires to more accurately measure the scale and massing of development by updating the definitions in the land development regulations; and

WHEREAS, the regulation in effect prior to June 11, 2014 applied to all buildings, and provided a "one-half" FAR calculation as to floor area located below grade; and

WHEREAS, as the definition of FAR set forth in this Ordinance remains equal to or more restrictive than the FAR regulations in effect on November 7, 2001, a general referendum on the amendment is not required, because the FAR definition that existed on November 7, 2001, is not being amended to allow an "increase[]" 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]";

WHEREAS, the limited change in the definition of floor area is in the best interest of the City.

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

SECTION 1. City Code Chapter 114, "General Provisions," is hereby amended as follows:

CHAPTER 114 GENERAL PROVISIONS

Sec. 114-1. Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

* * *

- (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 existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling is located above grade, one-half of the floor area that is below grade shall be included in the floor area ratio calculation.
- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.

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 and all section and parts of sections in conflict herewith 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 _____, 2016.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: _____, 2016
Second Reading: _____, 2016

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