

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: September 22, 2020

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB20-0395, Standards to Reduce Risk for Non-Residential Buildings.**

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, entitled "General Provisions," at Section 114-1, entitled "Definitions," to modify the definition of "Height of Building" and establish definitions for "Design Flood Elevation," "Minimum Height of Non-residential Buildings," and related definitions; and amending Chapter 118, entitled, "Administration Review and Procedures," Article IX, entitled "Nonconformances," to clarify that minimum first floor elevation standards apply in the event a nonconforming structure is demolished; and amending Chapter 133, entitled "Sustainability and Resiliency," to establish Article III, to be entitled "Ground Floor Commercial Standards," to establish regulations for building frontages with ground floor commercial uses; and providing for repealer, severability, codification, and an effective date.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

BACKGROUND

On July 31, 2019, at the request of former Commissioner John Elizabeth Aleman, the City Commission referred the discussion item to the Sustainability and Resiliency Committee (Item C4 D). Subsequent to this referral, Commissioner Ricky Arriola agreed to co-sponsor the item.

The item was discussed at the September 25, 2019 SRC meeting and continued to the November 27, 2019 meeting, with direction to the administration to come back with options on how to build additional resiliency into commercial structures. The November 27, 2019 and December 18, 2019 SRC meetings were cancelled, and the item was moved to the January 21, 2020 agenda of the newly created Land Use and Sustainability Committee.

On January 21, 2020 the item was continued to the March 17, 2020 LUSC meeting. The March 17, 2020 LUSC meeting was postponed, and the item was moved to the June 30, 2020 LUSC. On June 30, 2020 the LUSC endorsed the proposal and recommended that the City Commission refer the ordinance to the Planning Board. Additionally, Commissioner Mark Samuelian became the new sponsor for the item.

On July 29, 2020 the City Commission referred the item to the Planning Board for review and recommendation (Item C4 G).

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Partially Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Consistent – The proposed amendment does not change district boundaries.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance amendment is not out of scale with the surrounding neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum FAR is not modified.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Consistent – The proposal does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The impacts related to sea level rise and increased major rain events makes passage of the proposed change necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed change will not create or increase traffic congestion from

what is currently permitted.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Consistent – The proposed change will not seriously reduce light and air to adjacent areas.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Not applicable.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal will improve the resiliency of the City with respect to sea level rise by ensuring that commercial ground floors are developed in a resilient manner to make them less susceptible to flooding.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal is compatible with and supports the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

Recently released 2019 sea level rise projections from the South Florida Climate Compact indicate that sea levels are rising faster than previously anticipated. Additionally, as the climate continues to change, Miami Beach expects to see an increase in major rain events that can cause flash flooding. As the City continues to grow, it is important to ensure that new developments are resilient to and able to adapt to sea level rise and climate change.

The attached draft ordinance contains different options to ensure that ground floor commercial uses in different types of buildings are resilient to sea level rise in the near-term and able to adapt to increasing sea level rise with minimal alterations in the long-term. The proposal would also reduce the risks of significant flooding and related damage during major rain events. Standards are provided for three (3) different thresholds in an increasing manor to ensure that the mitigation required is feasible for the type of development being proposed. The proposed ordinance contains four major components as follows:

Minimum Ground Floor Heights

Currently, the Land Development Regulations (LDRs) provide that height is measured from the Base Flood Elevation (BFE) plus the City of Miami Beach Freeboard. On October 29, 2019, Allan Shulman presented the first draft of Historic District Resiliency Guidelines to the Historic Preservation Board. One of the recommendations is to require that the height of buildings be measured from the "Design Flood Elevation" (DFE). This term does not change the way the City measures height, but rather provides a comprehensive term for this measurement. The proposed ordinance therefore proposes to measure building heights from the DFE which is defined as "the BFE plus City of Miami Beach Freeboard..."

Currently, the LDRs require that commercial ground floors have a minimum interior ceiling height of 12 feet above the Future Crown of Road Elevation (5.26' NGVD). While this provides greater resilience for a building by allowing it to adapt by raising the ground floor in the future, it is an insufficient clearance for the very long term pursuant to the South Florida Climate Compact Unified Sea Level Rise Projects and projected King Tides. The proposed ordinance establishes a "Minimum height of non-residential ground floors." This requires that the underside of a ceiling of a new development be located at least 12 feet above the DFE. This provides a minimum of an additional 3.74' of headroom for the ground floor to be raised. This will allow buildings to be resilient for a much longer period.

Existing Building Standards

As existing buildings are renovated, it is important to ensure that improvements are made to those structures so that they are made more resilient to the impacts of sea level rise and major rain events. The Land Development Regulations contain requirements to bring existing non-conforming structures that are being renovated in excess of 50% of the value of the building in conformance with several aspects of the code. For buildings undergoing such a renovation, the proposed ordinance would require improvements to help mitigate against the impacts of sea level rise and climate change. For such buildings, the ordinance proposes the following:

1. To improve a building's resiliency to sea level rise and major rain events, the proposed ordinance requires that where feasible, the ground floor shall be located at a minimum elevation of one foot (1') above the highest sidewalk elevation adjacent to the frontage. Ramping and stairs from the sidewalk elevation to the ground floor elevation shall occur inside the property and not encroach into the public sidewalk or setback areas.

2. In order to limit a building's risk during a major rain events, knee walls, with built in flood barrier protection, should be provided to limit water's ability to seep into buildings. Specifically, except where there are doors, facades must have a knee wall with a minimum height of two feet-six inches (2'-6") above the sidewalk elevation.
3. In order to limit a building's risk during a major rain events, the proposed ordinance requires that where feasible, ground floors shall utilize flood damage resistant materials for a minimum of 2' 6" above the floor elevation.
4. Flood panels are useful when there is a predicted hurricane; however, when there is a significant rain event, there is rarely sufficient time to install them. Where buildings are in low-lying areas that necessitate the use of flood panels, it is important that the flood panels that are for doorways be easily accessible so that they can be quickly installed in case of a storm. Therefore, the proposed ordinance requires that flood panels for doorways shall be permanently located next to all doorways.

Because there may be circumstances where such improvements may not be feasible due to the existing nature of the building, the proposed ordinance incorporates a provision that allows the HPB or the DRB, as applicable, to waive the requirements. For example, raising the ground floor may be difficult or unfeasible if there is a historic public interior that has architecturally significant flooring or if there is insufficient headroom. However, the applicant must demonstrate how the development will mitigate against the impacts of sea level rise and storm water.

Short Frontage Standards

The City has seen several infill buildings with ground floor commercial uses developed in recent years that are adjacent to existing and historic buildings, and which are built at lower elevations. These buildings typically have a frontage that is less than 150 feet long. While it is important to make sure that the new buildings are resilient and able to adapt, it is equally as important to ensure that those buildings are compatible with the surrounding built environment. In such a situation there are many features that can be incorporated into the building that will allow it to be more resilient and able to adapt to sea level rise in the future, while remaining compatible with the built environment.

In order to allow buildings to be more resilient and adaptable, the following requirements are incorporated into the draft ordinance, in addition to those required for existing buildings:

1. Ground floor setbacks must be wide enough to allow for wider pedestrian circulation paths and adequate landscaped areas. Additionally, the ground floor must allow for the ability to adapt in the future as rights of way are raised to mitigate against the impacts of sea level rise. Landscape areas should be larger in order to help drain and treat stormwater. As a result, the proposed ordinance proposes that there should be a minimum of 15 feet from the back of the curb of the roadway, to provide for a ten (10) foot wide sidewalk circulation zone that includes a five (5) foot wide clear pedestrian path, and a five (5) foot wide landscape area.
2. To improve a building's resiliency to sea level rise and major rain events, the ground floor should be located at the future crown of road. Because access ramps and steps consume large areas, it is suggested that any ramping or steps that encroach into the circulation zone be located within the 5 feet closest to the façade of the building. In order to minimize the ramping within the circulation zone, the ramps will only be able to go to an elevation of 14 inches below the future crown of road. The steps and ramping for the additional 14 inches to

get to the interior floor would be required to occur within the property or within the building and shall not encroach into the public sidewalk or setback areas.

3. There are developments that have multiple frontages; this presents an opportunity to provide additional mitigation measures. The proposed ordinance requires that for developments that have multiple frontages and one frontage is greater than 150 feet, the development shall follow the more stringent standards for buildings with long frontages, which are described below.

The Historic Preservation Board (HPB) or the Design Review Board (DRB), as applicable, is able to waive the requirements if implementing them is unfeasible or if there is incompatibility with the surrounding neighborhood. However, the applicant must provide alternatives for how the development will mitigate against the impacts of sea level rise and stormwater must be considered.

Long Frontage Standards

The City has several examples of new commercial and mixed-use development projects that have raised the public sidewalks adjacent to their properties in order to facilitate incorporating higher ground floor elevation. These projects tend to have frontages that are longer than 150 feet. The majority are located on or near commercial sections of Alton Road. The sidewalks are generally being raised to the Future Crown of Road Elevation as designated in the City's Stormwater Master Plan which is currently set at 5.26' NGVD (3.7' NAVD).

The Planning Department has analyzed how those buildings and sidewalks are being developed and how transitions between lower and higher sidewalk levels are occurring. Since uniform standards do not exist, each sidewalk is being developed in a different fashion. Each example that was analyzed has both positive and negative aspects. The proposed ordinance consolidates the positive aspects of each example into uniform sidewalk and ground floor commercial standards that can be followed by future projects.

Below is a description of some of the major sites that were analyzed, including positive and negative aspects. Photos and a more detailed description are also attached.

- 709 Alton Road (Baptist Urgent Care) – This development contains raised sidewalks and the ground floor façade is setback, allowing for a wider pedestrian circulation area. The landscape transition area between the raised sidewalk and the lower parallel parking is wide enough for the landscaping to succeed. However, no access is provided to the vehicles from the sidewalk, leading to people walking through and damaging the landscaping to access the sidewalk, or alternatively, dangerously walking along the edge of travel lanes to get to access points at the corners of the block. The transition area to one of the lower level adjacent sidewalks exceeds 5% and therefore necessitating that handrails being placed in public rights of way.
- 1212 Lincoln Road – This development contains raised sidewalks and the ground floor façade is setback to allow for wider pedestrian circulation areas and future outdoor cafes. Transitions to lower adjacent sidewalks are gradual and therefore do not require handrails being placed in public rights of way. However, the landscape transition area between the raised sidewalk and the lower parallel parking is narrow, and the landscaping has struggled to survive. The landscape transition area has areas with steps to allow direct access to on-street parallel parking; however, they are insufficient to provide access to the entire row of parallel parking and they are placed in locations where access can be blocked by parked vehicles.

- 1045 5th Street (Target) – This development contains raised sidewalks, but the pedestrian circulation paths are somewhat narrow and broken up by planters. Because there are minimal landscape transition areas between the raised sidewalk and the vehicle travel lanes, handrails are necessitated along the edge of the raised sidewalks. Since the location of building entrances was not considered prior to the design of the raised sidewalk, ADA access requirements necessitate the use of awkward steps and switchback ramps with handrails to transition between the raised sidewalk elevation and the adjacent lower sidewalk elevations. One positive aspect is that trees are planted in raised planters that will allow the trees to survive sea level rise and future roadway adaptation.

In addition to the requirements for existing buildings and buildings with short frontages, and based on the analysis of the various sites, the following best practices for developments with raised sidewalks have been identified and incorporated into the draft ordinance for developments that have a frontage that is longer than 150 feet:

1. Developments with longer frontages have an easier ability to raise sidewalks and provide transitions to areas with lower elevations. Because these buildings are larger there is a bigger area that can facilitate sea level rise mitigation. Therefore, the proposed ordinance requires that, with the exception of transition areas, the sidewalk must be raised at a minimum to the future crown of road elevation (5.26' NGVD).
2. Ground floor setbacks are to allow for a wider pedestrian circulation zone and sufficient landscape transition areas between the raised sidewalks and lower level roadways. Landscape transition areas must be sufficiently wide to allow trees to thrive and eliminate the need for handrails along the edge of the circulation zone. As a result, the proposed ordinance proposes that there should be a minimum of 15 feet from the back of the curb of the roadway, to provide for a ten (10) foot wide sidewalk circulation zone that includes a five (5) foot wide clear pedestrian path, and a five (5) foot wide landscape transition area between the raised sidewalk and the lower vehicular roadway.
3. As sea levels rise, the fresh water source required for trees to survive will diminish. Additionally, as roads are raised, it is important that trees will not be impacted. Therefore, it is important that trees be planted at higher elevations so that they will be resilient. As a result, the proposed ordinance requires that trees be planted in raised planters or stabilized planting areas with a minimum elevation of the future crown of road.
4. The sidewalk transitions between higher and lower elevations should be designed to minimize impacts to pedestrian comfort and safety. Low slopes on transitions between raised sidewalks and lower sidewalk elevations should be provided. This should be considered before entry points into a building are sited to remove the need for steps and the use of minimize handrails. Generally, this necessitates that slopes of less than five (5%) percent be provided so that ADA access can be maintained. Therefore, the proposed ordinance requires that the use of switchbacks, and handrails be prohibited in parallel transition areas.
5. In order to improve safety for those parallel parking and minimize impacts to landscaping, developments must provide properly placed access steps where there is lower elevation parallel parking adjacent to a raised sidewalk. Therefore, the proposed ordinance requires that steps that are no wider than 36 inches be placed between every two parking spaces where parallel parking exists.

6. Because the sidewalk is being raised, there are opportunities to raise the ground floor even further than what is typically done, providing for resilience to sea level rise for a longer time frame. Therefore, the proposed ordinance requires that the ground floor elevations be located a minimum of 14 inches above the raised sidewalk elevation.
7. Because the sidewalk is raised, knee walls can be measured from a higher elevation, improving the building's resilience to major rain events. Therefore, the proposed ordinance requires that except where there are doors, facades shall have a knee wall with a minimum height of two feet-six inches (2'-6") above the raised sidewalk elevation.

As with the short frontage standards, the HPB or the DRB will have the ability to waive standards, provided that the applicant provides measures to mitigate against sea level rise and storm water.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

Minimum Flood Elevation Requirements for Non-Residential Buildings

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, ENTITLED "GENERAL PROVISIONS," AT SECTION 114-1, ENTITLED "DEFINITIONS," TO MODIFY THE DEFINITION OF "HEIGHT OF BUILDING" AND ESTABLISH DEFINITIONS FOR "DESIGN FLOOD ELEVATION," "MINIMUM HEIGHT OF NON-RESIDENTIAL BUILDINGS," AND RELATED DEFINITIONS; AND AMENDING CHAPTER 118, ENTITLED, "ADMINISTRATION REVIEW AND PROCEDURES," ARTICLE IX, ENTITLED "NONCONFORMANCES," TO CLARIFY THAT MINIMUM FIRST FLOOR ELEVATION STANDARDS APPLY IN THE EVENT A NONCONFORMING STRUCTURE IS DEMOLISHED; AND AMENDING CHAPTER 133, ENTITLED "SUSTAINABILITY AND RESILIENCY," TO ESTABLISH ARTICLE III, TO BE ENTITLED "GROUND FLOOR COMMERCIAL STANDARDS," TO ESTABLISH REGULATIONS FOR BUILDING FRONTAGES WITH GROUND FLOOR COMMERCIAL USES; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, 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, Comprehensive Plan Goal RLU 3 seeks to "encourage innovative development consistent with the historic resources of the City, while ensuring that redevelopment, investment, and new development is constructed utilizing principles of sustainable and resilient development practices;" and

WHEREAS, Comprehensive Plan Guiding Principle 1 states that "The City shall encourage redevelopment that contributes to community resiliency by meeting all required peril of flood mitigation and storm hazard standards for on-site development and shall also prioritize energy efficient development that provides stormwater mitigation, and co-benefit features that contribute to the City's resiliency as a whole;" and

WHEREAS, Comprehensive Plan Policy RLU 2.1.6 seeks to "Maximize unpaved landscape to allow for more stormwater infiltration. Encourage planting of vegetation that is highly water absorbent, Florida friendly or native, able to withstand the marine environment, and tropical storm winds. Encourage development measures that include innovative climate adaption and mitigation designs with creative co-benefits where possible, through the Land Development Regulations and regulations related to the "Care and Maintenance of Trees and Plants" within the City Code of Ordinances;" and

WHEREAS, Comprehensive Plan Objective RLU 2.4 seeks to "Identify and implement resilient and sustainable development best practices to encourage effective long-term investments that sustain and/or the quality of life for residents;" 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 Climate Resiliency and Sustainability Element Policy RSE 1.1.4 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 Policy RSE 1.2.4 states that “The City shall evaluate new area plans and land development regulations for their impacts on stormwater management and sea-level rise, including prioritizing increasing permeable surfaces, maximizing on-site water management, enhancing walkability, encouraging alternative modes of transportation, and preserving neighborhood character;” and

WHEREAS, Comprehensive Plan Policy RSE 2.2.1 states that “Stormwater management techniques to meet the drainage level-of-service standards of this plan shall be required for all new development and shall be incorporated in the City’s concurrency requirements of the Land Development Regulations;” and

WHEREAS, the City Code provides for the regulation of how the height of buildings are measured, including definitions and exclusions; and

WHEREAS, the City desires to change the method in which the height of buildings are measured to address sea level rise; and

WHEREAS, it is appropriate to update the definitions in the Land Development Regulations; and

WHEREAS, the proposed amendments to the Land Development Regulations are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan; 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. The following provisions of Chapter 114 of the City Code, entitled “General Provisions,” is hereby amended as follows:

Chapter 114 – General Provisions

Sec. 114-1. – Definitions.

Design flood elevation means the base flood elevation plus “City of Miami Beach Freeboard.” For existing development where the minimum finished floor elevation is located below the “City of Miami Beach Freeboard,” the design flood elevation means the minimum finished floor elevation.

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Height of building means the vertical distance from the lowest floor design flood elevation according to the highest point of a roof following, as applicable follows:

- (a) ~~When the minimum finished floor elevation is located between grade and base flood elevation plus "City of Miami Beach Freeboard", height shall be measured from the minimum finished floor elevation to the highest point of the roof;~~
- (b) ~~When the minimum finished floor elevation is located above the base flood elevation plus freeboard, height shall be measured from the base flood elevation plus freeboard.~~

The highest point of a roof is as follows:

1. The highest point of a flat roof;
 2. The deck line of a mansard roof;
 3. The average height between eaves and ridge for gable hip and gambrel roofs; or
 4. The average height between high and low points for a shed roof.
- (c) ~~For commercial new non-residential development properties, height shall be measured from the base flood elevation, plus freeboard, provided that the height of the first ground floor shall comply with the minimum height of non-residential ground floors. be tall enough to allow the first floor to eventually be elevated to base flood elevation, plus freeboard, with a future minimum interior height of at least 12 feet as measured from the height of the future elevated adjacent right of way is elevated as provided under the city's public works manual.~~

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Minimum finished floor elevation means the lowest enclosed floor above grade and shall not include areas for building access, provided such areas do not exceed a depth of 20 feet from the exterior building face. Interior stairs, ramps and elevators used to transition from grade to the minimum finished floor elevation may be located beyond the 20 feet depth from the exterior building face. However, areas for building access may exceed a depth of 20 feet from the exterior building face if approved by the design review board or historic preservation board, as applicable.

Minimum height of non-residential ground floor means the minimum elevation of the underside of the ceiling of the ground floor of a non-residential use, which shall be located a minimum of 12 feet above the design flood elevation.

SECTION 2. Chapter 118, entitled, "Administration Review and Procedures," Article IX, entitled "Nonconformances," is hereby amended as follows:

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

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- (b) *Nonconforming buildings.*

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- (5) Notwithstanding the foregoing, in the event of a catastrophic event, including, but not limited to, fire, tornado, tropical storm, hurricane, or other act of God, which results in the complete demolition of a building or damage to a building that exceeds 50 percent of the value of the building as determined by the building official, such building may be reconstructed, repaired or rehabilitated, and the structure's floor area, height, setbacks and any existing parking credits may remain, if the conditions set forth in subsection (b)(1)a—d herein are met. However, the structures first floor elevation shall meet all applicable provisions of these land development regulations.

SECTION 3. The following provisions of Chapter 133 of the City Code, entitled "Sustainability and Resiliency," is hereby amended as follows:

Chapter 133 – Sustainability and Resiliency

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Article III. – Ground Floor Commercial Standards

Sec. 133-60. – Existing Building Standards.

Existing non-residential buildings that are being substantially renovated (AKA 50% rule), as determined by the Building Official shall comply with the following standards:

- (a) Where feasible, the ground floor shall be located at a minimum elevation of one foot (1') above the highest sidewalk elevation adjacent to the frontage. Ramping and stairs from the sidewalk elevation to the ground floor elevation shall occur inside the property and not encroach into the public sidewalk or setback areas, unless adequate space exists on the exterior.
- (b) Except where there are doors, facades shall have a knee wall with a minimum height of two feet-six inches (2'-6") above the sidewalk elevation. Such knee walls shall include any required flood barrier protection. The Planning Director or designee may wave this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable building code requirements for flood barrier protection, or if the finished floor meets the minimum freeboard requirements of the City Code.
- (c) Where feasible, ground floors, walls system, partitions, doors and finishes shall utilize waterflood damage resistant materials in accordance with all applicable requirements of the Florida Building Code, FEMA regulations, and American Society of Civil Engineer (ASCE) - Flood Resistant Design and Construction Standards, for a minimum of 2' 6" above the floor elevation.
- (d) Flood panels for doorways shall be permanently located next to all doorways.
- (e) Where implementation of these regulations is unfeasible or incompatible with the surrounding areas, they may be waived to the minimum extent necessary by the Historic Preservation

Board (HPB) or Design Review Board (DRB), as applicable; however, there shall be consideration of alternatives for adequate mitigation of flooding.

Sec. 133-61. – Short Frontage Standards.

The following regulations shall apply to new construction with ground floor commercial uses on frontages with a width of 150 feet or less:

(a) *Sidewalk Standards.* Where feasible, sidewalks shall be developed as follows:

(1) *Circulation Zone.* The sidewalk shall contain a “circulation zone” with a minimum dimension of ten (10) feet wide, pursuant to the following standards:

- a. The “circulation zone” shall be fully illuminated, consistent with the City’s lighting policies.
- b. The “circulation zone” shall be consistent with the City’s public sidewalk requirements.
- c. The “circulation zone” may be in areas of the public right-of-way and setback areas that are in front of the building facade.
- d. The “circulation zone” shall remain free from obstructions created by landscaping, signage, utilities, and lighting fixtures.
- e. Pedestrians shall have 24-hour access to the “circulation zone.”
- f. The “circulation zone” shall maintain a minimum five-foot (5’) wide “clear pedestrian path,” free from obstructions, including but not limited to stairs, ramping, handrails, outdoor cafés, sidewalk cafés, handrails, and door swings. The “clear pedestrian path” shall be delineated by in-ground markers that are flush with path, differing pavement tones, pavement type, or other method to be approved by the City.
- g. An easement to the city providing for perpetual public access shall be provided for portions of the “circulation zone” that fall within the property line.

(2) *Landscape area.* A landscape area shall be provided between the “circulation zone” and the adjacent automobile parking or vehicle travel lanes shall be provided as follows:

- a. The “landscape area” shall be predominantly landscaped, except where there are access paths, public transit stops, valet parking stands, lighting fixtures, pedestrian crossings, or driveways.
- b. The “landscape area” shall have a minimum width of five (5) feet.
- c. Street trees shall be planted within the “landscape area.”
- d. Where the “landscape area” is adjacent to on-street parking, access paths shall be provided between parking spaces so that each parking space has access to the

"circulation zone" generally from either the front end or rear end of the vehicle. Access paths shall be no wider than 36 inches.

e. Street and pedestrian lighting fixtures shall be located within the "landscape area."

f. The "circulation zone" may encroach into the "landscape area" in order to meet adjacent sidewalks and street crossings.

(b) Setbacks. The building's ground floor façade, parking areas, and loading areas shall be setback a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required "circulation zone" and "landscape area" in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required.

(c) Ground floor elevation. The ground floor shall be located no lower than the future crown of road elevation.

(d) Ramping and Stairs. Ramping and stairs from the sidewalk elevation to 14 inches below the ground floor elevation may occur on the exterior of the building and encroach into the circulation zone only if within five (5) feet of the façade of the building. Ramping and stairs shall not encroach into the "clear pedestrian path." Ramping above 14 inches below the ground floor elevation shall occur within the property and shall not encroach into the public sidewalk or setback areas.

(e) Knee Wall. Except where there are doors, facades shall have a knee wall with a minimum height of two feet-six inches (2'-6") above the sidewalk elevation. Such knee walls shall include any required flood barrier protection. The Planning Director or designee may wave this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable building code requirements for flood barrier protection or if the finished floor meets the minimum freeboard requirements of the City Code.

(f) Flood Damage Resistant Materials. Ground floors shall utilize water resistant materials for a minimum of 2' 6" above the floor elevation.

(g) Flood panels. Flood panels for doorways shall be permanently located next to doorways.

(h) Multiple Frontages. For developments that contain more than one frontage, and where one such frontage is greater than 150 feet, the requirements of section 133-62 shall be followed.

(i) Waivers. Where implementation of these regulations is unfeasible or incompatible with the surrounding areas, they may be waived to the minimum extent necessary by the Historic Preservation Board (HPB) or Design Review Board (DRB), as applicable; however, there shall be consideration of alternatives for adequate mitigation of flooding.

Sec. 133-62. – Long Frontage Standards.

The following regulations shall apply to new construction with ground floor commercial (non-residential) uses on frontages with a width greater than 150 feet:

(a) Sidewalk Standards. The sidewalk shall be raised to the future crown of road elevation, except for transition areas and where there are street crossings, intersections, or driveways, as follows:

1. Circulation Zone. The sidewalk shall contain a "circulation zone" with a minimum dimension of ten (10) feet wide, pursuant to the following standards:
 - a. The "circulation zone" shall be fully illuminated, consistent with the City's lighting policies.
 - b. The "circulation zone" shall be consistent with the City's public sidewalk requirements.
 - c. The "circulation zone" may be located in areas of the public right-of-way and setback areas that are in front of the building facade.
 - d. The "circulation zone" shall remain free from obstructions created by landscaping, signage, utilities, stairs, ramping, handrails, and lighting fixtures.
 - e. Pedestrians shall have 24-hour access to the "circulation zone."
 - f. The "circulation zone" shall maintain a minimum five-foot (5') wide "clear pedestrian path," free from obstructions, including but not limited to outdoor cafés, sidewalk cafés, handrails, and door swings. The "clear pedestrian path" shall be delineated by in-ground markers that are flush with path, differing pavement tones, pavement type, or other method to be approved by the City.
 - g. An easement to the city providing for perpetual public access shall be provided for portions of the "circulation zone" that fall within the property line.
2. Parallel Transition Areas. "Parallel transition areas" between the raised "circulation zone" and lower level sidewalks, street crossings, intersections, and driveways shall be accommodated within the frontage adjacent to the new development as follows:
 - a. The "parallel transition areas" shall not contain steps, switchback ramps, or handrails.
 - b. The "parallel transition areas" shall be of the minimum length necessary so as to not require the use of steps, switchback ramps, and handrails between the higher future crown of road elevation and the lower level sidewalk, pedestrian crossing, or driveway elevation.
3. Landscape Transition Areas. "Landscape transition areas" between the raised "circulation zone" and the adjacent automobile parking or vehicle travel lanes shall be provided as follows:
 - a. The "landscape transition area" shall be predominantly landscaped, except where there are access steps, lighting fixtures, pedestrian crossings, or driveways.
 - b. The "landscape transition area" shall have a minimum width of five (5) feet.

- c. Street trees shall be planted within the "landscape transition area" in raised planters or stabilized planning areas that at a minimum match the elevation of the "circulation zone."
- d. Where the "landscape transition area" is adjacent to on-street parking, access steps shall be provided between parking spaces so that each parking space has access to the "circulation zone" generally from either the front end or rear end of the vehicle. Steps shall be no wider than 36 inches, not included handrails.
- e. Handrails shall only be permitted for access steps to on-street parking.
- f. Street and pedestrian lighting fixtures shall be located within the "landscape transition area."
- g. The "circulation zone" may encroach into the "landscape transition area" in order to meet adjacent sidewalks and street crossings. The encroachment shall be the minimum necessary to comply with the requirements for and shall comply with the requirements of "parallel transition areas."
- h. Notwithstanding the standards in subsections (a) to (g) above, public transit stops and valet parking stands, may be located within the "landscape transition area." The necessary requirements for the stop shall supersede the requirements herein.

(b) Setbacks. The building's ground floor façade, parking areas, and loading areas shall be setback a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required "circulation zone" and "landscape transition areas" in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required.

(c) Driveways. Driveways to access off-street parking, drop-off, and loading areas shall comply with the following:

1. Where a development has more than one frontage, driveways should be located facing the street with the lowest traffic volumes.
2. The number of driveways should be minimized to the greatest extent possible.
3. Where the "circulation zone" passes through a driveway, the surface shall be fully horizontal in a direction perpendicular to the façade of a building, so as to provide a safe and comfortable pedestrian environment.
4. Mountable curbs shall be utilized, where feasible.

(d) Ground Floor Elevation. The ground floor shall be located a minimum elevation of 14 inches above the future crown of road elevation. Ramping and stairs from the sidewalk "circulation zone" to the ground floor elevation shall occur within the property and not encroach into the "circulation zone" or setback areas, unless adequate space exists on the exterior.

(e) Knee Wall. Except where there are doors, facades shall have a knee wall with a minimum height of two feet-six inches (2'-6") above the future crown of road elevation. Such knee walls shall include any required flood barrier protection. The Planning Director or designee may wave this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable building code requirements for flood barrier protection.

(f) Flood Damage Resistant Materials. Ground floors, walls system, partitions and doors shall utilize water flood damage resistant materials in accordance with all applicable Florida Building Code, FEMA regulations and American Society of Civil Engineer (ASCE)- Flood Resistant Design and Construction Standard, for a minimum of two feet-six inches (2'-6") above the ground floor elevation.

(g) Flood Panels. Flood panels for doorways shall be permanently located next to doorways.

(h) Waivers. Where implementation of these regulations is unfeasible or incompatible with the surrounding areas, they may be waived to the minimum extent necessary by the Historic Preservation Board (HPB) or Design Review Board (DRB), as applicable; however, there shall be consideration of alternatives for adequate mitigation of flooding.

SECTION 4. REPEALER.

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

SECTION 5. 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 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2020.

Dan Gelber
Mayor

Attest:

Rafael E. Granado
City Clerk

Underline denotes additions
~~Strike through~~ denotes deletions

First Reading: October 14, 2020
Second Reading: November 18, 2020

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

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