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.

* * *

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 in 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.

* * *

(b) *Nonconforming buildings.*

* * *

(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 structure's 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 pursuant to section 118-395 (a) [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 waive 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), in accordance with the certificate of appropriates review criteria or design review criteria, 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 waive 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), in accordance with the certificate of appropriates review criteria or design review criteria, 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 waive 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), in accordance with the certificate of appropriates review criteria or design review criteria, 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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