

6/7 Vote Requirement for Future Increases in FAR

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE IV, ENTITLED "AMENDMENTS TO COMPREHENSIVE PLAN AND TO THE TEXT OF LAND DEVELOPMENT REGULATIONS," BY AMENDING SECTION 2.4.2, ENTITLED "AMENDMENT TO THE TEXT OF LAND DEVELOPMENT REGULATIONS," TO REQUIRE AN AFFIRMATIVE VOTE OF SIX-SEVENTHS OF ALL MEMBERS OF THE CITY COMMISSION PRIOR TO ANY FUTURE INCREASE IN THE FLOOR AREA OR FLOOR AREA RATIO (FAR) OF ANY PROPERTY IN THE CITY; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Charter Section 1.03(c) provides that "[t]he 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], . . . 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, on June 28, 2023, the Florida Governor signed into law Senate Bill 718 (2023), which broadly prohibits "[a]n initiative or referendum process in regard to any land development regulation" (the "New Law"), thereby narrowing the applicability of the voter referendum requirement in Charter Section 1.03(c); and

WHEREAS, in light of the foregoing, the City Commission desires to adopt a more thorough and transparent process for the review of future increases in floor area and/or floor area ratio ("FAR"); and

WHEREAS, given the limitations imposed by the New Law on the City's authority to require voter approval, the City Commission now desires to adopt a heightened 6/7ths voting requirement for future floor area or FAR increases; and

WHEREAS, the City's Land Development Regulations set forth the maximum allowable FAR for all zoning districts in the City; and

WHEREAS, the Land Development Regulations establish procedures for amendments to these regulations, including increases in maximum allowable floor area or FAR; and

WHEREAS, the City has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; 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, AS FOLLOWS:

SECTION 1. Chapter 2, entitled "Administration and Review Procedures," Article IV, entitled "Amendments to Comprehensive Plan and to the Text of the Land Development Regulations," is hereby amended in the Resiliency Code of the City of Miami Beach, Florida as follows:

**CHAPTER 2
ADMINISTRATION AND REVIEW PROCEDURES**

* * *

**ARTICLE IV. – AMENDMENTS TO COMPREHENSIVE PLAN AND TO THE TEXT OF THE
LAND DEVELOPMENT REGULATIONS**

* * *

2.4.2. Amendment to the text of land development regulations

* * *

d. Action by city commission; notice and hearings.

* * *

iv. Voting requirement.

1. An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any amendment to these land development regulations.

2. Notwithstanding the foregoing, an affirmative vote of six-sevenths of all members of the city commission shall be required in order to enact any amendment to these land development regulations that increases the floor area ratio (FAR) of any property or any zoning district in the City, including any amendment that modifies the definition of "floor area" or the exceptions to the definition of "floor area" as set forth in Chapter 1 of these land development regulations in such a manner as to result in an increase to the FAR of a property or zoning district. Any amendment to this paragraph that reduces the six-sevenths voting requirement shall require an affirmative six-sevenths vote of all members of the city commission.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same 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 _____ 2023.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney NK

10-10-23
Date

First Reading: October 18, 2023
Second Reading: October 25, 2023

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