

## **SUSTAINABILITY AND RESILIENCY**

**ORDINANCE NO. 2016-3993**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY ESTABLISHING CHAPTER 133, ENTITLED "SUSTAINABILITY AND RESILIENCY;" ESTABLISHING REQUIREMENTS FOR GREEN BUILDING CERTIFICATION AS A REQUIREMENT DURING ZONING REVIEW OF NEW PROJECTS OVER A CERTAIN SIZE ("ELIGIBLE PROJECT(S)"); ESTABLISHING A SUSTAINABILITY FEE PROGRAM FOR PROJECTS THAT DO NOT ACHIEVE THE REQUIRED GREEN BUILDING CERTIFICATION LEVEL; AUTHORIZING PROPERTY OWNERS AND DEVELOPERS TO PAY A SUSTAINABILITY FEE, OR, IN THE ALTERNATIVE, POST A BOND, IN THE AMOUNT OF FIVE PERCENT (5%) OF THE TOTAL CONSTRUCTION COST FOR THE ELIGIBLE PROJECT(S), INTO THE CITY'S SUSTAINABILITY FUND, WHICH BOND OR FUNDS ARE REIMBURSABLE TO THE PROPERTY OWNER OR DEVELOPER PURSUANT TO THE LEVEL OF GREEN BUILDING COMPLIANCE ACHIEVED BY THE "ELIGIBLE PROJECT"; ESTABLISHING A SUSTAINABILITY AND RESILIENCY FUND FOR THE DEPOSIT OF THE SUSTAINABILITY FEES GENERATED THROUGH THE SUSTAINABILITY FEE PROGRAM, AND PROVIDING THE USES FOR WHICH THE FEES DEPOSITED IN THE SUSTAINABILITY AND RESILIENCY FUND CAN BE USED; AND REPEALING CHAPTER 100, ENTITLED "SUSTAINABILITY" AS DUPLICATIVE AND CONTRADICTORY TO THE SUSTAINABILITY AND RESILIENCY REVISIONS OF CHAPTER 133; PROVIDING FOR REVIEW; APPLICABILITY; CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

**WHEREAS**, greenhouse gas emissions are a contributor to sea level rise, which is a threat to public health, safety, and general welfare of the citizens of Miami Beach; and

**WHEREAS**, it is in the best interest of the City to promote the economic and environmental health in the City through sustainable and environmentally friendly design and construction which reduces demand for energy and reduces greenhouse gas emissions; and

**WHEREAS**, the United States Green Buildings Council (USGBC) has developed the Leadership in Energy and Environmental Design (LEED) rating system that is a consensus based certification program for design of sustainable buildings; and

**WHEREAS**, the LEED green building certification program recognizes best-in-class building strategies and practices; and

**WHEREAS**, the International Living Future Institute developed an international sustainable building certification program called the Living Building Challenge, encouraging the creation of Living Buildings, Landscapes and Communities in countries around the world while inspiring, educating and motivating a global audience about the need for fundamental and transformative change; and

**WHEREAS**, the Living Building Challenge is the built environment's most rigorous performance standard, which calls for the creation of building projects at all scales that operate as cleanly, beautifully and efficiently as nature's architecture; and

**WHEREAS**, LEED and Living Building Challenge certified buildings conserve materials, energy, water and other natural resources as well as provide occupants with healthier and more productive interior environments; and

**WHEREAS**, high performance sustainable building and development is a means of balancing economic development with the preservation of quality of life; and

**WHEREAS**, high performance buildings provide occupants and visitors with a healthier and more productive environment due to the use of more natural materials and this increase in worker productivity can produce enormous economic benefits, as worker salaries are historically an organization's largest expense; and

**WHEREAS**, it is in the City's best interest to encourage the remediation of Brownfield sites, which is further encouraged through the use of green building standards; and

**WHEREAS**, the City's 2025 Comprehensive Plan requires the encouragement of infill and redevelopment that is supportive of mobility alternatives, such as walking, bicycling, and the use of transit, which is further encouraged through the use of green building standards, which provide credit for features such as proximity to transit, bicycle parking and shower facilities, proximity to diverse uses, and location of building entrances; and

**WHEREAS**, the City's 2025 Comprehensive Plan requires open space in conjunction with every new public and private sector development project, which is further encouraged through the use of green building standards which provide credit for the inclusion of open space; and

**WHEREAS**, studies have indicated that green buildings have lower maintenance costs associated with lower energy consumption, which will improve the City's long-term economic well-being; and

**WHEREAS**, the City of Miami Beach has endorsed the Compact of Mayors pledge to reduce city-level greenhouse gas (GHG) emissions, to track progress, and to enhance resilience to climate change, in a consistent and complimentary manner to national level climate protection efforts; and

**WHEREAS**, to meet the requirements of the Compact of Mayor's pledge, the City needs to build and complete a community-wide GHG inventory with a breakdown of emissions for buildings and transport sectors, set a target to reduce its GHG emissions, and conduct a climate change vulnerability assessment; and

**WHEREAS**, green building certifications recognize that built environments provide a wide-range of GHG emissions reduction opportunities, including strategies related to building systems, transportation, water use, construction, materials, waste management, and land cover; and

**WHEREAS**, green building certifications strive to transform the way buildings and communities are designed, built, and operated, in order to create buildings and communities that are environmentally and socially responsible, healthy, and prosperous; and

**WHEREAS**, it is in the interest of the health, safety and welfare of the residents of the City to ensure sustainable construction and to ensure that the City safeguard natural resources, and ensure that efficient buildings are constructed; and

**WHEREAS**, Chapter 163.04, Florida Statutes is intended to encourage the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources, which is further encouraged by the use of green building standards; and

**WHEREAS**, the City desires to require Gold LEED standards or Living Building Challenge certification standards on construction within the City, for construction over a certain minimum size, or require the payment of a Sustainability Fee, for failing to meet those minimum standards of sustainability; and

**WHEREAS**, the value of the Sustainability Fee is based on the mid-range of estimated costs of achieving LEED Gold standards for a construction project; and

**WHEREAS**, the Sustainability Fee is not an impact fee, but rather a mechanism to ensure compliance with the green building standards; and

**WHEREAS**, it is the City's expectation that development will comply with the green building standards and that the Sustainability Fee be refunded to the participants; and

**WHEREAS**, should a development not comply with the green building standards the City will utilize the Sustainability Fee revenue to provide public improvements that increase the sustainability and resiliency of the City; and

**WHEREAS**, the adoption of the provisions set forth below and the repeal of Chapter 100 are necessary to accomplish the above objectives.

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

**SECTION 1.** That Chapter 133, entitled "Sustainability and Resiliency," of the City Code, is created as follows:

## **Chapter 133 – SUSTAINABILITY AND RESILIENCY**

### **ARTICLE I. – IN GENERAL**

#### **Sec. 133-1 – Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time.

*Construction* means any project associated with the creation, development, or erection of any structure required to comply with this Chapter.

*Enhanced storm water quality and quantity improvements* means projects that augment water quality and quantity by: reducing polluted runoff; advancing groundwater recharge, soil infiltration and erosion control; and restoring habitat.

*Environmental monitoring* means periodic or continuous surveillance or testing to determine the level of compliance required by the Environmental Protection Agency (EPA), Florida Department of Environmental Protection (DEP), or Miami-Dade County Department of Regulatory and Environmental Resources (RER) and/or pollutant levels in various media (air, soil, water) or biota, as well as to derive knowledge from this process. Examples of environmental monitoring include, but are not limited to: water quality sampling and monitoring, groundwater testing and monitoring, and habitat monitoring.

*Environmental remediation* means clean-up of, or mitigation for, air, soil or water contamination for which the City is legally responsible for environmental clean-up or mitigation.

*Environmental restoration* means the return of an ecosystem to a close approximation of its condition prior to disturbance.

*Green infrastructure* means both the natural environment and engineered systems to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife. Green infrastructure uses vegetation, soils, and natural processes to manage natural resources and create healthier urban environments. Examples of green infrastructure practices include, but are not limited to: right-of-way bio-swales, green roofs, blue roofs, rain gardens, permeable pavements, infiltration planters, trees and tree boxes, rainwater harvesting systems.

*Green building* means generally the resource efficient design, construction, and operation of buildings by employing environmentally sensible construction practices, systems and materials.

*Green building certification agency* means the United States Green Building Code (USGBC) or the International Living Future Institute, as may be selected by the eligible participants.

*International Living Future Institute* means a non-profit organization that created an international sustainable building certification program called The Living Building Challenge. Certification types include Living Building Certification, Petals Certification and Net Zero Energy Building Certification.

LEED means an effective edition of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System for Building Design and Construction or Homes, as applicable, of the United States Green Building Council (USGBC).

Project means any construction associated with the creation, development or erection of any building required to comply with this chapter.

Scorecard means a guide provided by the green building certification agency to assist in determining the total project score and achievable credits and level of certification at the inception of a green building, as provided under this chapter.

USGBC means the United States Green Building Council.

### **Sec. 133-2. – Intent and Purpose.**

The purpose of this chapter shall be to promote sustainable development within the City of Miami Beach by supporting resilient design and construction practices. The City’s intent is to establish a certification compliance schedule that incentivizes all qualifying projects to attain at a minimum LEED Gold certification, or similar green building program recognized in this chapter. Sustainable building practices will promote the economic and environmental health of the city, and ensure that the City continues to become environmentally resilient to combat sea level rise and help curb climate change. This chapter is designed to achieve the following objectives:

- a. increase energy efficiency in buildings;
- b. encourage water and resource conservation;
- c. reduce waste generated by construction projects;
- d. reduce long-term building operating and maintenance costs;
- e. improve indoor air quality and occupant health;
- f. contribute to meeting state and local commitments to reduce greenhouse gas production and emissions; and
- g. encourage sound urban planning principles.

## **ARTICLE II. – GREEN BUILDING REQUIREMENTS**

### **Sec. 133-3. – Sustainability Requirements.**

(a) Mandatory compliance with the requirements of this chapter shall be required for all applicants with building permit applications that meet the following criteria (hereinafter “eligible participants”):

- (1) All new construction that proposes over 7,000 square feet of construction of a structure;  
or
- (2) Ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area.

### **Sec. 133-4 Standards.**

This chapter shall be administered using standards developed for and standards developed by the United States Green Building Council (USGBC) or the International Living Future Institute. All eligible participants who are certified as having satisfied all of the requirements of the green building certification agency, including but not limited to any monetary or certification requirements, are eligible for a partial or full refund of the sustainability fee identified in Section 133-7, herein based upon the level of compliance with the regulations in this chapter.

**ARTICLE III. – SUSTAINABILITY FEE PROGRAM**

**Sec. 133-5. – Generally.**

A Sustainability Fee will be assessed for all eligible participants. The calculation of the fee, provisions for refunding all or portions of the fee, its purpose, and eligible uses are detailed within this article.

**Sec. 133-6. – Sustainability Fee Calculation.**

(a) In order to obtain a Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO), or Certificate of Completion (CC), whichever comes first, the eligible participant must first post a Sustainability Fee payment bond or issue full payment of the Sustainability Fee to the City. The Sustainability Fee shall be valued at five percent (5%) of the total construction valuation of the building permit. However, the eligible participant may be entitled to a refund or partial refund, of the bond, or payment of the Sustainability Fee, based upon achieving the program certification levels in the compliance schedule below:

Certification Compliance Schedule

<u>Level of Certification Achieved</u>	<u>Sustainability Fee Reimbursement to Participant for meeting certain Green Building certification levels</u>
<u>Failure to obtain Certification</u>	<u>0% refund of bond or payment of Sustainability fee</u>
<u>LEED Certified</u>	<u>50% refund of bond or payment of Sustainability Fee</u>
<u>LEED Silver Certified</u>	<u>66% refund of bond or payment of Sustainability Fee</u>
<u>LEED Gold Certified or International Living Future Institute Petals or Net Zero Energy Certified</u>	<u>100% refund of bond or payment of Sustainability Fee</u>
<u>LEED Platinum Certified or International Living Future Institute Living Building Challenge Certified</u>	<u>100% refund of bond or payment of Sustainability Fee</u>

If the proof of green building certification is provided prior to the obtaining a TCO, CO, or CC, the “Sustainability Fee” shall be in the full amount identified above, minus the refund for the level of green building certification achieved identified in the Certification Compliance Schedule.

(b) The Sustainability Fee shall be valued upon the eligible participant’s submittal at time of application for Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO) or

Certificate of Completion (CC), whichever comes first, upon review by the planning department during zoning review of the certificate. The Sustainability Fee bond or full payment shall be provided by participant prior to obtaining a Temporary Certificate of Occupancy (TCO), Certificate of occupancy (CO) or Certificate of Completion, whichever comes first.

- (c) Refund of the Sustainability Fee or bond to the eligible participant may occur as provided for in subsection (a), above, provided the eligible participant complies with the certification compliance schedule within the timeframe identified in in Section 133-7(b).
- (d) The entirety of the Sustainability Fee shall be forfeited to the City based upon Participant's failure achieve the applicable green building certification levels identified 133-6(a) within the timeframe identified in Section 133-7(b).

### **Sec. 133-7 – Review Procedures.**

- (a) Prior to obtaining a Temporary Certificate of Occupancy, Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever comes first, the qualifying projects shall post a bond with the City, or in the alternative, provide a payment to the City, in the amount of the "Sustainability Fee" identified in Section 133-6(a).
- (b) Within one year from the receipt of a Certificate of Occupancy (CO) or Certificate of Completion (CC), the owner shall submit proof of green building certification for the development from the green building certification agency.
  - (1) The bond or payment provided, or percentage thereof, shall be refunded to program participants that have achieved a level of green building certification identified in the Certification Compliance Schedule in Section 133-6.
  - (2) The Planning Director may approve, upon the request of the eligible participant, a one-time one (1) year extension, provided proof that the green building certification agency's review remains pending to determine final certification.
- (c) Building permit applications for a green building project submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the City's departments reviewing such applications.
- (d) All building inspections requested for green building projects shall be given priority over projects that are not green building projects.

### **Sec. 133-8 - Deposit of funds; account.**

- (a) The City has established a Sustainability and Resiliency Fund. The revenue generated through the Sustainability Fee Program shall be deposited in the Sustainability and Resiliency Fund.
  - (1) Interest earned under the account shall be used solely for the purposes specified for funds of such account.

- (2) Sustainability fees deposited and credited to the Sustainability and Resiliency Fund account, and credited to the eligible participant, pursuant to 133-7, shall be identified, within the City's Sustainability and Resiliency Fund.
  - (3) Appropriation of deposited funds in the Sustainability and Resiliency Fund shall not be permitted until the applicable refund period, established in Section 133-7(b), for those funds has lapsed.
  - (4) Should the eligible participant provide a bond, rather than pay the sustainability fee, then, the City shall safeguard the bond, to ensure compliance with this Chapter. The City shall return the bond, or make a claim for a portion of the bond, depending on the eligible participant's compliance with Section 133-7(b) and 133-6(a).
- (b) Earned fees in the Sustainability and Resiliency Fund shall be utilized to provide public improvements that increase the sustainability and resiliency of the City. Expenditures from these funds shall require prior City Commission approval. Prior to any expenditure, the City Manager shall provide a recommendation to the City Commission.
- (c) Such improvements that increase the resiliency of the City may include:
- (1) Environmental restoration projects;
  - (2) Environmental remediation projects;
  - (3) Environmental monitoring;
  - (4) Green infrastructure;
  - (5) Enhanced storm water quality and quantity improvements; and/or
  - (6) Sustainability planning efforts.

**SECTION 2.** That Chapter 100, entitled "Sustainability," of the City Code of Ordinances, is hereby amended as follows:

**Chapter 100 - Sustainability Reserved**

**Sec. 100-1. – 100-27. Reserved**

**ARTICLE I. – GREEN BUILDING ORDINANCE**

**Sec. 100-1. – Definitions.**

~~The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time.~~



~~Building means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.~~

~~City means City of Miami Beach.~~

~~Construction means any project associated with the creation, development, or erection of any building eligible for the program.~~

~~Current means the standard in place at the time a program participant submits a project application form with the city.~~

~~Green building means a building whose design, construction and operation promote the preservation of resources and environmentally sensitive construction practices, systems and materials. In making the determination of whether a structure is a green building, the city shall rely on the review, evaluation and registration, certificate and/or verification of the design by U.S. Green Building Council, or other recognized green building rating system approved by resolution of the city commission, subject to the requirements of this chapter.~~

~~Green building program means the program outlined in this chapter for obtaining incentives for green buildings and developments.~~

~~Green development means the use of sustainable building and development planning methods utilized in a way that result in minimum impact on natural resources, energy consumption, use of water, use of raw materials and waste generation, thereby affording inhabitants a potentially higher quality of life.~~

~~LEED means Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council, or other recognized green building rating system approved by resolution of the city commission.~~

~~Participant means private property owners.~~

~~Private means property not owned by the city or any of its related agencies.~~

~~Program means the city's green building program.~~

~~Program certification means the final designation awarded to a person participant for satisfying all requirements associated with the program for a particular project.~~

~~Program participant means any person or entity seeking program certification for a particular project.~~

~~Project means any construction associated with the creation, development, or erection of any building eligible for the program.~~

~~Project application form means the form submitted to the city indicating that a program participant is interested in participating in the program for a particular project.~~

~~Structure means anything constructed or erected, the use of which requires permanent location on the ground. Among other things, structures include buildings or any parts thereof, walls, fences, parking garages, parking lots, signs and screen enclosures.~~

~~Sub-program means any area of construction covered by the program.~~

~~Substantial renovation means a renovation at a cost exceeding 50 percent of the value of the building as determined by the building official.~~

~~Sustainable construction means the process of environmentally sensitive, resource efficient site selection, preparation, design, construction, and operation of buildings.~~

~~Any word not defined herein shall be construed as provided in section 114-1 of this Code, or in the Florida Building Code, if provided therein, and if in conflict, the most restrictive shall apply.~~

**~~Sec. 100-2. Purpose and intent.~~**

~~The purpose of this chapter is to establish and promote programs and procedures that will help the city become a more sustainable community. This program shall define and establish new environmental goals and standards for a LEED certification-based green building program with incentives. This program will promote economic and environmental health in the city, through sustainable and environmentally friendly design and construction.~~

**~~Sec. 100-3. Government leadership.~~**

~~To demonstrate the city's commitment to a green building program, the city shall comply with the green building program established in this article for all government buildings when new construction as provided for in this chapter occurs.~~

**~~Sec. 100-4. Designation of responsibility for administration and implementation.~~**

~~The program shall be administered by the city manager or designee, who shall be responsible for:~~

- ~~(a) Funding administration of the city's green building program through annual funds budgeted and appropriated by the city commission;~~
- ~~(b) Marketing the program to the community by any reasonably effective means, including but not limited to, press releases, television advertising, or advertising in electronic or print mailers;~~
- ~~(c) Developing any appropriate or necessary application procedures, including but not limited to, the program application form;~~
- ~~(d) Writing policies and procedures for staff implementation of the green building program;~~
- ~~(e) Providing and implementing an incentive award as herein provided to any program participant who has committed to and/or successfully satisfied the requirements associated with that program; and~~
- ~~(f) Resolving disputes that may arise from implementing the program.~~

**~~Sec. 100-5. Green building program applicability.~~**

~~This program shall be voluntary for all private buildings involving new construction or substantial renovation. This program shall be mandatory for city-owned buildings involving new construction and the architectural plans for which were commenced after July 1, 2008.~~

**~~Sec. 100-6. Green building standards.~~**

~~In addition to the Florida Building Code's minimum standards, the program shall be administered using the then current standards developed by the U.S. Green Building Council ("USGBC"). These standards shall apply to each sub-program as follows:~~

- ~~(a) New buildings: The program participant shall satisfy all of the requirements associated with the then current USGBC LEED SILVER certification for new construction or derived USGBC LEED rating system (e.g., LEED for schools, LEED for health care) program; and~~
- ~~(b) Renovation of existing buildings: The program participant shall satisfy all of the requirements associated with the then current USGBC LEED SILVER certification for existing buildings, maintenance and operations, or derived USGBC LEED rating system (e.g., LEED for schools, LEED for health care) program.~~

~~If there is a conflict between the USGBC standards and the Florida Building Code ("FBC") or Florida Fire Prevention Code ("FFPC"), the FBC and FFPC take precedence.~~

**~~Sec. 100-7. Incentives and bond requirements.~~**

- ~~(a) The program shall consist of the following incentives designed to reward owners for green building.
  - ~~(1) Building permit applications for a green building project submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the city's departments reviewing such applications;~~
  - ~~(2) All building inspections requested for green building projects shall be given priority over projects that are not green building projects; and~~
  - ~~(3) Subject to, and within the limits of, funds appropriated annually by resolution of the city commission for the purposes set forth herein, owners or developers of green buildings shall receive a refund of the actual application and review fees for green building program certification and an amount not greater than one percent of the value of the construction, or alternatively 20 percent of the annual allocation, whichever is less, within 180 days of proof of certification by USGBC being submitted in writing to the city. The actual amount of financial incentives to which the applicant might qualify for shall be estimated at the time of issuance of the building permit for the quality project, and held in reserve. The final financial incentives shall be calculated at the time of LEED certification.~~~~
- ~~(b) In addition to the foregoing, the city shall provide the following marketing incentives:
  - ~~(1) Allowing a plaque not to exceed two square feet to be attached to the building designating a project under the program, subject to the review and approval of the city manager or designee and the planning department; such plaque shall be treated as a governmental information sign exempt from permitting but subject to other regulations, as provided in subsection 138-4(1), city Code;~~
  - ~~(2) The inclusion of program participants on a city webpage dedicated to the program;~~
  - ~~(3) Press releases; and~~
  - ~~(4) An award called the "Green Building Award" to be awarded annually to one program participant in each sub-program (e.g., new construction and renovation).~~~~
- ~~(c) Prior to filing an application for a building permit, or any award of incentives, the participant shall register their intent with the USGBC for LEED certification and obtain in writing a~~

~~proposed checklist of certification points that may be attainable for the project. The participant shall then be required to attend a pre-application meeting with the city manager or designee for the proposed credits for certification and incentives. The checklist and certification details shall be confirmed in writing by the applicant to the city manager or designee, on form established by the city, and through a covenant, recorded in the public records, form approved by the city attorney, between the property owner and the city that the proposed manner of compliance with LEED certification as provided by the program guidelines, policies and procedures will be incorporated into the development and maintained unless released by the city as provided for in the covenant. The participant will provide a performance bond or other security, in a form approved by the city attorney, as follows:~~

- ~~(1) The bond or security shall be in an amount equal to one percent of the value of the proposed construction as determined by the building official;~~
- ~~(2) The bond or security shall be submitted at the time of filing of any application for review of the project by a city board or department, if the applicant seeks any of the incentives provided in subparagraph (a) above;~~
- ~~(3) This bond or security shall be subject to call by the city 180 days from issuance of the certificate of occupancy or certificate of completion, whichever occurs first, if LEED certification has not been achieved by that time. Reasonable extensions of time may be granted by the city manager or designee;~~
- ~~(4) The applicant may request that up to 75 percent of the bond or security be released to the applicant for the purpose of completing improvements necessary for LEED certification, if a good faith effort toward completion is shown, and reasonable assurance provided on the success of plans to complete the LEED certification process, and a failure to complete the improvements is proven to the city manager or designee was no fault of the property owner, or for other good cause shown;~~
- ~~(5) If the applicant takes advantage of any of the incentives provided for herein, and fails to complete LEED certification as committed to, then the city manager or designee, in his or her sole discretion, shall deem such bond or security forfeited to the city as a contribution to the funding of the city's green building program, designated to fund the LEED program objectives as provided for herein, or any other lawful governmental purpose identified by the city commission; and~~
- ~~(6) If the project receives LEED certification prior to the expiration of the 180-day period for above, or extensions of time granted by the manager or designee, and the bond has not been forfeited as provided above, then the bond may be released following submittal to the city of written proof of LEED certification by the USGBC.~~

**~~Sec. 100-8. Certification.~~**

~~The project shall be subject to certification by a qualified independent third party who has been trained and certified as a LEED green building certifier. For the purpose of this section of the program, "third party" means any person or entity authorized according to the requirements of the standards in this article for a particular project.~~

**~~Sec. 100-9. Education and training.~~**

- ~~(a) The city shall conduct or participate in at least one free training workshop per year in Miami Beach for the purpose of educating potential or current program participants about the program.~~

~~(b) The city shall encourage not less than two members each of the building, planning department and public works staff to attend at least eight hours of green building training a year.~~

~~**Sec. 100-10. Index and report.**~~

~~The city manager shall semi-annually analyze and report to the city commission on the satisfaction of the green building program's goals and objectives as outlined in this article.~~

~~**Sec. 100-11. Program review.**~~

~~(a) Staff review. The city shall provide for a review of the program to determine the need for changes in the program to increase its effectiveness.~~

~~(b) Frequency. The program shall be subject to review one year after the effective date of this chapter and thereafter at a frequency of not less than once per year.~~

~~(c) Purpose. The purpose of reviewing the program includes, but is not limited to, updating program standards and incentives, recommending program or marketing changes, reviewing suggestions made by program participants, and annually awarding the green building awards of the program.~~

~~**Secs. 100-12—100-20. Reserved.**~~

~~**ARTICLE II. ENERGY ECONOMIC DEVELOPMENT ZONE PILOT PROGRAM**~~

~~**Sec. 100-21. Purpose.**~~

~~The energy economic development zone pilot program was created in 2009, pursuant to F.S. § 377.809, to help communities such as the City of Miami Beach cultivate green economic development, encourage renewable electric energy generation, and manufacture products that contribute to energy conservation and green jobs. The City of Miami Beach is a high-density urban city, which has implemented many sustainability and energy efficiency initiatives. The energy economic development zone pilot program provides the city with additional resources and support to continue implementation of the city's sustainability plan, and it is in the best interest of the city and its citizens to participate in the pilot program.~~

~~**Sec. 100-22. Definitions.**~~

~~The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time.~~

~~City commission means the Miami Beach City Commission.~~

~~Clean technology sector business means a business that produces products, services, and processes that harness renewable materials and energy sources, dramatically reduce the use of natural resources, and cut or eliminate emissions and wastes.~~

~~Green business means a business that is managed to minimize adverse environmental impacts regardless of the product or services the business offers or a business that has been designated as a Green Business by Miami Dade County's Green Business Certification.~~

~~Green lodging establishment means a hotel that has been designated as a green lodging establishment by the Florida Department of Environmental Protection.~~

~~LEED means the Leadership in Environmental and Energy Design program administered by the United States Green Building Council.~~

**~~Sec. 100-23. – Energy economic development zone boundaries.~~**

~~The energy economic development zone shall be comprised of the entirety of the City of Miami Beach.~~

**~~Sec. 100-24. – Eligibility criteria.~~**

~~In order for a business within the City of Miami Beach to be eligible to apply for an energy economic development zone incentive, it must satisfy the following criteria:~~

- ~~(a) The business is located within the boundaries of the energy economic development zone, as defined in section 100-23; and~~
- ~~(b) The business is either a clean technology sector business or a green business, as both are defined in section 100-22, and meets or exceeds the energy efficiency standards set forth in section 100-25; or~~
- ~~(c) The business is LEED certified; or~~
- ~~(d) The business is a green lodging establishment, as defined in section 100-22.~~

**~~Sec. 100-25. – Energy efficiency standards.~~**

~~A business within the City of Miami Beach applying for an energy economic development zone incentive must meet one of the following standards:~~

- ~~(a) The business must achieve an Energy Star Rating of 50 or higher in each of the buildings that are the subject of the energy economic development zone application, and attach to the application a report from the Energy Star Portfolio Manager Program verifying the Energy Star Rating; or~~
- ~~(b) The business must achieve the energy efficiency standards of one of the following programs:
  - ~~(i) The green lodging program administered by the Florida Department of Environmental Protection; or~~
  - ~~(ii) The Leadership in Environmental and Energy Design Program, administered by the U.S. Green Building Council.~~
  - ~~(iii) The Green Business Certification Program, administered by Miami-Dade County.~~~~

**~~Sec. 100-26. – Program guidelines.~~**

~~The city commission may adopt, by resolution, its own energy economic development zone program guidelines, which may include, among other provisions, prioritization of the eligibility criteria; allocation of incentives based on eligibility criteria; and the process for application review and incentive approval, including, but not limited to, a competitive selection process. The~~

~~sustainability committee shall review the city's proposed energy economic development zone program guidelines no later than six months from the date of adoption of this article, and at least annually thereafter throughout the duration of the program, to determine if any revisions should be recommended to the city commission. If the city commission does not adopt the initial guidelines by July 1, 2012, then the city shall implement the program as provided pursuant to the state's guidelines.~~

~~**Sec. 100-27. Program administration.**~~

~~The energy economic development zone program and the incentives provided by the State of Florida to businesses participating in the program will be reviewed and administered by the city's economic development division.~~

**SECTION 3. REVIEW.**

A progress report shall be presented to the City Commission within fifteen (15) months of the effective date of this Ordinance in order to review the success of the regulations contained within. The review shall at a minimum address the following:

1. The effectiveness of the sustainability requirements to reduce demand for energy and greenhouse gas emissions in Miami Beach. .
2. The effectiveness of the Sustainability Fee at encouraging sustainable development.
3. The effectiveness of review procedures.

**SECTION 4. APPLICABILITY.**

This Ordinance shall not apply to developments that have an approved Order from the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board issued prior to the effective date of this Ordinance, developments that have submitted a complete application for hearing before the Board of Adjustment, Design Review Board, Historic Preservation Board, or Planning Board prior to the effective date of this Ordinance, or that have been issued a building permit process number prior to the effective date of this Ordinance.

**SECTION 5. 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 6. 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 reentered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 7. SEVERABILITY.**

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

**SECTION 8. EFFECTIVE DATE.**

This Ordinance shall take effect on April 1, 2016 following adoption.

PASSED and ADOPTED this 10 day of February, 2016

Philip Levine, Mayor

ATTEST:

[Signature]  
Rafael E. Granado, City Clerk



APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

[Signature] 2-11-2016  
City Attorney Date

First Reading:  
Second Reading:

First Reading: January 13, 2016  
Second Reading: February 10, 2016

Verified by: [Signature]  
Thomas R. Mooney, AICP  
Planning Director

Underscore denotes new language  
~~Strikethrough~~ denotes deleted language

(Sponsored by Commissioner Micky Steinberg)

T:\AGENDA\2016\February\Planning\Sustainability and Resiliency Ordinance - SECOND Reading ORD - Adopted.docx



**Condensed Title:**

An Ordinance establishing Chapter 133 in the Land Development Regulations of the City Code entitled "Sustainability and Resiliency," authorizing property owners and developers to pay a Sustainability Fee or post a bond, in the amount of five percent (5%) of the total construction cost into the City's Sustainability Fund, which is reimbursable pursuant to the level of Green Building compliance achieved; establishing a Sustainability and Resiliency Fund for the deposit of the sustainability fees; and repealing Chapter 100, entitled "Sustainability."

**Key Intended Outcome Supported:**

Increase satisfaction with neighborhood character. Increase satisfaction with development and growth management across the City.

**Supporting Data (Surveys, Environmental Scan, etc** 48% of residential respondents and 55% of businesses rate the effort put forth by the City to regulate development is "about the right amount."

**Item Summary/Recommendation:**

**SECOND READING – PUBLIC HEARING**

The subject Ordinance would encourage the development of Sustainable Buildings by requiring eligible projects to pay a Sustainability Fee or post a bond in the amount of 5% of total construction costs. The funds would be deposited into the "Sustainability and Resiliency Fund." Within a year, with a possible six (6) month extension, of obtaining a Certificate of Occupancy or Certificate of Completion, the applicant may apply for a refund of all or a portion of the fee contingent on the level of Green Building Certification achieved.

On July 29, 2015, the Land Use and Development Committee recommended in favor of the ordinance and that the City Commission refer the attached Ordinance Amendment to the Planning Board. On September 2, 2015, the City Commission referred the item to the Planning Board (Item C4E).

On January 13, 2016, the City Commission: 1) accepted the recommendation of the Land Use and Development Committee via separate motion; 2) approved the attached Ordinance at First Reading; and 3) scheduled a Second Reading Public Hearing for February 10, 2016.

The Administration recommends that the City Commission adopt the Ordinance.

**Advisory Board Recommendation:**

On December 15, 2015, the Planning Board reviewed the proposed ordinance and endorsed it with a favorable recommendation (Vote of 7-0). Due to a change in the Title, the matter must be re-noticed for final Planning Board action and transmittal. The Planning Board ratified its recommendation after a public hearing on January 26, 2016 and transmitted the item to the City Commission with a favorable recommendation, inclusive four modifications that were suggested by staff (Vote of 7-0)

**Financial Information:**

Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center;"> <span style="font-size: 8px;">OBPI</span> </div>	1		
	2		
	3		
	Total		


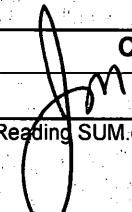
**Financial Impact Summary:**

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there will be no measurable impact on the City's budget.

**City Clerk's Office Legislative Tracking:**

Thomas Mooney

**Sign-Offs:**

Department Director	Assistant City Manager	City Manager
		

T:\AGENDA\2016\February\Planning\Sustainability and Resiliency Ordinance - SECOND Reading SUM.docx

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

## COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 10, 2016

SECOND READING – PUBLIC HEARING

SUBJECT: **Ordinance Amendment – Sustainability and Resiliency**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY ESTABLISHING CHAPTER 133, ENTITLED "SUSTAINABILITY AND RESILIENCY;" ESTABLISHING REQUIREMENTS FOR GREEN BUILDING CERTIFICATION AS A REQUIREMENT DURING ZONING REVIEW OF NEW PROJECTS OVER A CERTAIN SIZE ("ELIGIBLE PROJECT(S)"); ESTABLISHING A SUSTAINABILITY FEE PROGRAM FOR PROJECTS THAT DO NOT ACHIEVE THE REQUIRED GREEN BUILDING CERTIFICATION LEVEL; AUTHORIZING PROPERTY OWNERS AND DEVELOPERS TO PAY A SUSTAINABILITY FEE, OR, IN THE ALTERNATIVE, POST A BOND, IN THE AMOUNT OF FIVE PERCENT (5%) OF THE TOTAL CONSTRUCTION COST FOR THE ELIGIBLE PROJECT(S), INTO THE CITY'S SUSTAINABILITY FUND, WHICH BOND OR FUNDS ARE REIMBURSABLE TO THE PROPERTY OWNER OR DEVELOPER PURSUANT TO THE LEVEL OF GREEN BUILDING COMPLIANCE ACHIEVED BY THE "ELIGIBLE PROJECT"; ESTABLISHING A SUSTAINABILITY AND RESILIENCY FUND FOR THE DEPOSIT OF THE SUSTAINABILITY FEES GENERATED THROUGH THE SUSTAINABILITY FEE PROGRAM, AND PROVIDING THE USES FOR WHICH THE FEES DEPOSITED IN THE SUSTAINABILITY AND RESILIENCY FUND CAN BE USED; AND REPEALING CHAPTER 100, ENTITLED "SUSTAINABILITY" AS DUPLICATIVE AND CONTRADICTORY TO THE SUSTAINABILITY AND RESILIENCY REVISIONS OF CHAPTER 133; PROVIDING FOR REVIEW; APPLICABILITY; CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

### ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the ordinance with modifications.

### BACKGROUND

On April 15, 2015, at the request of Commissioner Micky Steinberg, the City Commission referred an item to the Sustainability and Resiliency Committee, regarding the provision of renewable energy sources in new construction projects (Item C4G). On May 6, 2015, at the request of Commissioner Micky Steinberg, the City Commission referred the item to the Land Use and

Development Committee (Item C4H).

On June 24, 2015, the Sustainability and Resiliency Committee discussed the item and continued it to the July 22, 2015 meeting. On July 22, 2015, the Sustainability and Resiliency Committee discussed the item and recommended in favor of the item with a modification that LEED requirements apply to large scale single-family residences, as well as commercial new construction. Staff was also directed to research the average square footage of a single-family residence to determine the appropriate threshold.

On June 17, 2015, the Land Use and Development Committee continued the item to the July 29, 2015 meeting. On July 29, 2015, the Land Use and Development Committee recommended that the City Commission refer the attached Ordinance Amendment to the Planning Board, with a modification that the applicable square footage be reduced to 7,000 square feet. The Land Use Committee also requested that focus groups be convened for additional input, prior to the matter being considered by the Planning Board.

On September 2, 2015, the City Commission referred the item to the Planning Board (Item C4E).

On November 4, 2015, upon the recommendation on the Land Use and Development Committee, a focus group meeting was held with developers and other affected parties to discuss the impact of the proposed Ordinance amendment on development in the City.

On October 27, 2015, the Planning Board continued the item (File No. 2290) to the November 24, 2015 meeting. On November 24, 2015, the Planning Board continued the item to the December 15, 2015 meeting.

On December 15, 2015, the Planning Board withdrew File No. 2290A and replaced it with File No. 2290B, in order to incorporate an updated title for the proposed Ordinance amendment. The Planning Board then discussed File No. 2290B, provided a tentative favorable recommendation, and continued the item to January 26, 2016 for final ratification of the recommendation.

On January 13, 2016, the City Commission 1) accepted the recommendation of the Land Use and Development Committee via separate motion; 2) approved the attached Ordinance at First Reading; and 3) scheduled a Second Reading Public Hearing for February 10, 2016.

**ANALYSIS**

According to the U.S. Environmental Protection Agency (EPA), existing buildings are one of the biggest contributors to environmental pollution in the U.S., accounting for 40 percent of total energy use, 72 percent electricity consumption, 39 percent of the carbon dioxide emissions, and 13 percent of total water consumption.

The U.S. Green Building Council (USGBC) has developed Leadership in Energy and Environmental Design (LEED) green building rating system to address design and construction activities to improve energy efficiency and sustainability of residential and commercial buildings. LEED certified buildings save money and resources and have a positive impact on the health of occupants, while promoting renewable, clean energy.

Additionally, the International Living Future Institute developed an international sustainable building certification program called the Living Building Challenge. The Living Building Challenge is the built environment's most rigorous performance standard, which calls for the creation of building projects at all scales that operate as cleanly, beautifully and efficiently as nature's architecture.

Staff has developed a draft ordinance, establishing regulations and procedures that will help the city become more resilient and strongly encourage green building. Green Building Certification promotes efficient design, construction, operation, maintenance and deconstruction of buildings and site development. The green building provisions are designed to achieve the following objectives:

- (1) Increase energy efficiency in buildings;
- (2) Encourage water and resource conservation;
- (3) Reduce waste generated by construction projects;
- (4) Reduce long-term building operating and maintenance costs;
- (5) Improve indoor air quality and occupant health;
- (6) Contribute to meeting state and local commitments to reduce greenhouse gas production and emissions; and
- (7) Encourage sound urban planning principles.

There were concerns regarding the impact of this program on single-family residential properties. An analysis of the single family homes that have been approved by the Design Review Board or have an approved building permit over the six months prior to September indicates that the average size of new homes is expected to be 6,452 square feet; the median size is 5,165 square feet; and the top 25% of homes are larger than 7,186 square feet. It is suggested that larger homes, which will have the greatest environmental impact, be built to Green Building standards in order to mitigate their impact. As a result, the proposed ordinance proposes applies to the following types of development:

- (1) All new construction that proposes over 7,000 square feet of construction of a structure; or
- (2) Ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area.

#### Sustainability Fee Program

In order to achieve green building standards, the proposed ordinance requires the payment of a Sustainability Fee for eligible buildings prior to obtaining a Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO), or Certificate of Completion (CC). This fee is set as a five (5%) percent of the construction valuation. The proposed fee is based on research that indicates that this is the average cost of achieving LEED Gold Certification. The proposed ordinance then provides for refunds of the fee based upon the level of green building certification achieved. The level of the refund is detailed in the following table:

Certification Compliance Schedule

Level of Certification Achieved	Sustainability Fee Reimbursement to Participant for meeting certain Green Building certification levels
Failure to obtain Certification	0% refund of bond or payment of Sustainability fee
LEED Certified	50% refund of bond or payment of Sustainability Fee
LEED Silver Certified	66% refund of bond or payment of Sustainability Fee
LEED Gold Certified or International Living Future Institute Petals or Net Zero Energy Certified	100% refund of bond or payment of Sustainability Fee
LEED Platinum Certified or International Living Future Institute Living Building Challenge Certified	100% refund of bond or payment of Sustainability Fee

The level of the refund is based upon the estimated cost of achieving the indicated LEED green building certification levels. The participant is required to obtain green building certification within a year of obtaining a Certificate of Occupancy (CO) or Certificate of Completion (CC), with the possibility of a one year extension, in order to obtain the refund.

The base Living Building Challenge certification provides for a very high level of sustainable practices that are equivalent, if not more stringent than LEED Gold Certification. Because the Living Building Challenge provides no equivalent standard to LEED Silver or LEED Certified, no refund is indicated for the Green Building Challenge at those levels.

Sustainability and Resiliency Fund

The fees collected as part of this program will be used to establish a Sustainability and Resiliency Fund. These funds will be used to include improvements that increase the resiliency of the City such as:

- (1) Environmental restoration projects;
- (2) Environmental remediation projects;
- (3) Environmental monitoring;
- (4) Green infrastructure;
- (5) Enhanced storm water quality and quantity improvements; and/or
- (6) Sustainability planning efforts.

The Sustainability and Resiliency Fund could therefore be used to fund resiliency projects such as living shorelines, water quality monitoring, soil remediation, and establishing alternative forms of energy. It could also be used to supplement resiliency elements of existing capital improvement

projects including incorporating bioswales and urban trees into existing street scape projects, water conservation irrigation systems, and enhanced water quality elements into future storm water and greywater projects.

### Review

The proposed ordinance would require that within 15 months of the effective date of the Ordinance a progress report be submitted to the City Commission to review the success on the regulations. Such review at minimum shall address the following:

- (1) Whether the sustainability requirements sufficiently respond to the climate of Miami Beach;
- (2) The effectiveness of the Sustainability Fee; and
- (3) The effectiveness of the review procedures.

### PLANNING BOARD REVIEW

On December 15, 2015, the Planning Board reviewed the proposed ordinance and endorsed it with a favorable recommendation. Due to a change in the Title, the matter was re-noticed for final Planning Board action and transmittal. The Planning Board ratified its recommendation after a public hearing on January 26, 2016 and transmitted the item to the City Commission with a favorable recommendation, inclusive four modifications that were suggested by staff. The modifications are identified in the update section of the memorandum.

### FISCAL IMPACT

In accordance with Charter Section 5.02, which requires that the “City of Miami Beach shall consider the long term economic impact (at least five years) of proposed legislative actions,” this shall confirm that the City Administration City Administration evaluated the long term economic impact (at least five years) of this proposed legislative action. The proposed ordinance is not expected to have a negative fiscal impact upon the City.

### UPDATE

At first reading approval of the proposed ordinance on January 13, 2016, the City Commission requested that staff research the cost and timeframes associated with the review for green building certification. The USGBC’s current fee for LEED Certification standard review of a building that is less than 50,000 square feet, excluding parking, is approximately \$3,150 for USGBC members. The current fee for buildings over 50,000 square feet, excluding parking, is \$0.045 per square foot, in addition to a \$900 registration fee. Therefore, a 100,000 square foot building could expect a fee of \$5,400 from the USGBC. There may be additional costs should the applicant wish to hire a green building consultant; however, many architects are already certified by green building agencies and are able to design sustainable and resilient buildings without the need for additional consultants. The standard review time for plans is 20 to 25 business days; however, the applicant may request an expedited review of 10 to 12 business days for an additional \$10,000.

As it relates to the overall cost to the overall project, the implementation of LEED standards can vary widely, depending upon the credits sought. In addition, the cost of achieving certain credits can vary depending on the size of the building, location, and uses provided. Research indicates that the overall estimated cost of achieving LEED Gold certification varies between 0.3 and five percent above the cost of a project that did not seek any certification.

Additional research was performed regarding the credits that will be available to developers in the City. By virtue of the walkable, mixed-use nature of Miami Beach and existing zoning, building,

plumbing, and stormwater requirements, many developers will find that they will automatically be eligible for 15 to 16 credits out of the 60 required credits (25 to 27 percent) along with several of the prerequisites necessary to achieve LEED Gold Certification.

Finally, the Commission also requested that local green building certification options be identified. Since the City does not have the authority to amend the Florida Building Code, such an option would involve an amendment to the Land Development Regulations. The City could adopt standards similar to those used by the USGBC; however, the City's departments involved in land development presently do not have the expertise necessary should such an option be desired. This includes experts in energy modeling, energy optimization, refrigerant management, indoor/outdoor water efficiency, product and raw material sourcing, building material reuse, and indoor air quality. Additional staff would also be necessary for environmental site assessment and remediation. In addition, as technology is constantly changing, there would be a need for continuing education and updating of the adopted standards.

#### Proposed Modifications

Additional feedback was sought out from developers and green building consultants in regards to the impacts of the proposed ordinance. Based on the feedback, the following modifications are suggested to the proposed ordinance, which were transmitted to the City Commission with a favorable recommendation by the Planning Board:

- (1) **Modify the definition of “LEED” from the “most recent” edition to an “effective” edition.** This modification will ensure that there are no discrepancies when a new version of LEED standards is released and a prior version is still active.
- (2) **Clarify the titles for the International Living Future Institute certifications in the Certification Compliance Schedule.** This modification corrects the names for the certification types available from the International Future Living Institute.
- (3) **Modify when the Sustainability Fee is due from prior to obtaining “Building Permit” to prior to obtaining “Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever comes first.”** Subsequent to discussions with stakeholders, it became apparent that obtaining financing for the Sustainability Fee prior to obtaining a building permit may prove difficult, as several financial institutions do not release funds until a building permit is issued. The proposed modification addresses that concern. In addition, it may be possible for green building certification to be obtained prior to the TCO, CO or CC application, allowing for the possibility that collection of a Sustainability Fee not be necessary or that the fee be reduced based on the level of compliance achieved.
- (4) **Increase the length of the extension of refund period from six months to one year.** This modification is recommended in case there any unforeseen events in the construction process that may extend the certification timeframe.

#### CONCLUSION

The Administration recommends that the City Commission adopt the ordinance with the following amendments:

- (1) **Modify the definition of “LEED” from the “most recent” edition to an “effective” edition, as follows:**

Sec. 133-1 – Definitions.

\* \* \*

LEED means the most recent an effective edition of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System for Building Design and Construction or Homes, as applicable, of the United States Green Building Council (USGBC).

- (2) **Clarify the titles for the International Living Future Institute certifications in the Certification Compliance Schedule, as follows:**

Sec. 133-6. – Sustainability Fee Calculation.

\* \* \*

Certification Compliance Schedule

<u>Level of Certification Achieved</u>	<u>Sustainability Fee Reimbursement to Participant for meeting certain Green Building certification levels</u>
<u>Failure to obtain Certification</u>	<u>0% refund of bond or payment of Sustainability fee</u>
<u>LEED Certified</u>	<u>50% refund of bond or payment of Sustainability Fee</u>
<u>LEED Silver Certified</u>	<u>66% refund of bond or payment of Sustainability Fee</u>
<u>LEED Gold Certified or Living Building Challenge Certified</u> <u>International Living Future Institute</u> <u>Petals or Net Zero Energy Certified</u>	<u>100% refund of bond or payment of Sustainability Fee</u>
<u>LEED Platinum Certified or</u> <u>International Living Future Institute</u> <u>Living Building Challenge Certified</u>	<u>100% refund of bond or payment of Sustainability Fee</u>

- (3) **Modify when the Sustainability Fee is due from prior to obtaining “Building Permit” to prior to obtaining “Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever comes first,” as follows:**

Sec. 133-6. – Sustainability Fee Calculation.

- (a) In order to obtain a building permit Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO), or Certificate of Completion (CC), whichever comes first, the eligible participant must first post a Sustainability Fee payment bond or issue full payment of the Sustainability Fee to the City. The Sustainability Fee shall be valued at five percent (5%) of the total construction valuation of the building permit. However, the eligible participant may be entitled to a refund or partial refund, of the bond, or payment of the Sustainability Fee, based upon achieving the program certification levels in the compliance schedule below:

\* \* \*

If the proof of green building certification is provided prior to the obtaining a CC or CO,



the “Sustainability Fee” shall be in the full amount identified above, minus the refund for the level of green building certification achieved identified in the Certification Compliance Schedule.

- (b) The Sustainability Fee shall be valued upon the eligible participant’s submittal at time of application for building permit Temporary Certificate of Occupancy (TCO), Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever comes first, upon review by the planning department during zoning review of the permit certificate. The Sustainability Fee bond or full payment shall be provided by participant prior to obtaining a Temporary Certificate of Occupancy (TCO), Certificate of occupancy (CO) or Certificate of Completion, whichever comes first, building permit.

\* \* \*

Sec. 133-7 – Review Procedures.

- (a) Prior to obtaining a building permit Temporary Certificate of Occupancy, Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever comes first, the qualifying projects shall post a bond with the City, or in the alternative, provide a payment to the City, in the amount of the “Sustainability Fee” identified in Section 133-6(a).

- (4) **Increase the length of the extension of refund period from six months to one year, as follows:**

Sec. 133-7 – Review Procedures.

\* \* \*

- (2) The Planning Director may approve, upon the request of the eligible participant, a one-time ~~six (6) month~~ one (1) year extension, provided proof that the green building certification agency’s review remains pending to determine final certification.

JLM/SMT/TRM/ESW/FCT/RAM

# MIAMI BEACH

## CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARINGS

February 10, 2016

**NOTICE IS HEREBY** given that the following public hearings will be held by the Mayor and City Commissioners of the City of Miami Beach, Florida, in the Commission Chambers, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **February 10, 2016**, at the times listed, or as soon thereafter as the matter can be heard:

**10:00 a.m.**

An Ordinance Amending The Land Development Regulations (LDRs) Of The City Code, By Establishing Chapter 133, Entitled "Sustainability And Resiliency," Establishing Requirements For Green Building Certification As A Requirement During Zoning Review Of New Projects Over A Certain Size ("Eligible Projects"); Establishing A Sustainability Fee Program For Projects That Do Not Achieve The Required Green Building Certification Level; Authorizing Property Owners And Developers To Pay A Sustainability Fee, Or, In The Alternative, Post A Bond, In The Amount Of Five Percent (5%) Of The Total Construction Cost For The Eligible Project(s), Into The City's Sustainability Fund, Which Bond Or Funds Are Reimbursable To The Property Owner Or Developer Pursuant To The Level Of Green Building Compliance Achieved By The "Eligible Project"; Establishing A Sustainability And Resiliency Fund For The Deposit Of The Sustainability Fees Generated Through The Sustainability Fee Program, And Providing The Uses For Which The Fees Deposited In The Sustainability And Resiliency Fund Can Be Used; And Repealing Chapter 100, Entitled "Sustainability" As Duplicative And Contradictory To The Sustainability And Resiliency Revisions Of Chapter 133; Providing For Review; Applicability; Codification; Repealer; Severability; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

**10:05 a.m.**

An Ordinance Amending Chapter 130 "Off Street Parking," Article IV, "Off-Street Loading," By Modifying The Requirements For Calculating And Providing Required Loading Spaces For Existing Buildings, Changes In Use And New Construction, Including Enclosed Structures Used For The Storage And Parking Of Vehicles; Providing For Repealer; Severability; Codification; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

**10:10 a.m.**

An Ordinance Amending Chapter 30 Of The Miami Beach City Code, Entitled "Code Enforcement," By Amending Article II, Entitled "Special Master," By Amending Section 30-37, Entitled "Terms Of Office; Compensation"; By Amending The Compensation Of The Special Master(s); Providing For Codification, Repealer, Severability, And An Effective Date. *Inquiries may be directed to the Office of the City Attorney at 305.673.7470.*

**10:15 a.m.**

An Ordinance Amending Chapter 78 Of The Code Of The City Of Miami Beach, Entitled "Personnel," By Amending Section 78-2, Entitled "In General"; By Amending Section 78-2, Entitled "Reserved"; To Codify Requirements For Criminal History Record Checks For Certain Municipal Employees, Appointees, Contractors, Employees Of Contractors, And Vendors, In Accordance With State Law; Providing For Repealer, Severability, Codification, And An Effective Date. *Inquiries may be directed to the Human Resources Department at 305.673.7524.*

**10:20 a.m.**

An Ordinance Amending Chapter 2 Of The Miami Beach City Code Entitled "Administration," By Amending Article IV Entitled "Officers And Employees," By Amending Section 2-191 Entitled "Enumeration Of Organizational Units," By Creating The Environment And Sustainability Department; And Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing For An Effective Date. *Inquiries may be directed to the Human Resources Department at 305.673.7524.*

**10:25 a.m. First Reading, Public Hearing**

An Ordinance Amending Subpart A - General Ordinances, Chapter 6 "Alcoholic Beverages" Of The Code Of The City Of Miami Beach, By Amending Article I, "General Provisions"; To Consolidate All Provisions Relating To Alcohol Regulation In One Chapter Of The City Code By Relocating Certain Alcoholic Beverage Establishing Regulations From Chapter 142 And Placing Those Provisions In Chapter 6; Providing For Hours Of Operation; Location And Use Restrictions; Patron Age Restrictions; Minimum Seats And Hotel Rooms Requirements; By Amending Article II, "Conduct," By Modifying And Creating Definitions; Providing For Repealer; Severability; Codification; Exceptions; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

**10:26 a.m. First Reading Public Hearing**

An Ordinance Amending Chapter 142 "Zoning Districts And Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Division 4, "CD-1 Commercial, Low Intensity District," Division 5, "CD-2 Commercial, Medium Intensity District," Division 6, "CD-3 Commercial, High Intensity District," Division 7, "CC Civic And Convention Center District," Division 8, "GC Golf Course District," Division 9, "GU Government Use District," Division 10, "HD Hospital District," Division 11, "I-1 Light Industrial District," Division 12, "MR Marina Recreation District," Division 13, "MX Mixed Use Entertainment District," Division 16, "WD-1 Waterway District," Division 17, "WD-2 Waterway District," Division 18, "PS Performance Standard District," Division 20 "TC North Beach Town Center Districts," To Delineate All Alcoholic Beverage Establishments As Related Main Permitted, Conditional, And Prohibited Uses By Zoning District; Modifying Chapter 142, Article IV, "Supplementary District Regulations," Division 2, "Accessory Uses," Article V, "Specialized Use Regulations," To Delete Division 4, And Section 142-1301, Entitled "Permitted Districts; Striking Alcohol Regulations Relating To Hours Of Operation, Minimum Seat And Hotel Rooms From Chapter 142 "Zoning Districts And Regulations," Article II "District Regulations," And Modifying Chapter 142, Article V "Special Use Regulations," At Division 4 "Alcoholic Beverages," By Striking Sections 142-1302 And 142-1303; Providing For Repealer; Severability; Codification; Exceptions; And An Effective Date. *Inquiries may be directed to the Planning Department at 305.673.7550.*

**10:30 a.m.**

A Resolution Adopting The Third Amendment To The Capital Budget For Fiscal Year 2015/16. *Inquiries may be directed to the Budget & Performance Improvement Department at 305.673.7510.*

**Dr. Stanley Sutnick Citizen's Forum** - Pursuant to Resolution No. 2013-28440, the times for the Dr. Stanley Sutnick Citizen's Forum are 8:30 a.m. and 1:00 p.m., or as soon as possible thereafter. Approximately thirty minutes will be allocated to each session, with individuals being limited to no more than three minutes or for a period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

**INTERESTED PARTIES** are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, Miami Beach, Florida 33139. Copies of these items are available for public inspection during normal business hours in the Office of the City Clerk, 1700 Convention Center Drive, 1<sup>st</sup> Floor, City Hall, Miami Beach, Florida 33139. This meeting, or any item herein, may be continued, and under such circumstances, additional legal notice need not be provided.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-day notice required), information on access for persons with disabilities, and/or any accommodation to review any document or participate in any City-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

Rafael E. Granado, City Clerk  
City of Miami Beach