

**DEVELOPMENT REGULATIONS – GRADE ELEVATIONS AND HEIGHT**

**ORDINANCE NO. 2016-4010**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," AT SECTION 114-1, "DEFINITIONS," BY AMENDING THE DEFINITIONS FOR GRADE, FUTURE ADJUSTED GRADE, AND BUILDING HEIGHT, AND TO ESTABLISH BY REFERENCE TO CHAPTER 54-35 DEFINITIONS FOR BASE FLOOD ELEVATION, CROWN OF ROAD, FUTURE CROWN OF ROAD, FREEBOARD, MINIMUM FREEBOARD, MAXIMUM FREEBOARD, GREEN INFRASTRUCTURE, FUTURE ADJUSTED GRADE, AND SURFACE STORMWATER SHALLOW CONVEYANCE; BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," DIVISION 2, "RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS," BY AMENDING AND CLARIFYING THE MAXIMUM ELEVATION WITHIN A REQUIRED YARD AND PROVIDING A MINIMUM ELEVATION REQUIREMENT FOR NEW CONSTRUCTION, AND AMENDING HOW MAXIMUM BUILDING HEIGHT IS CALCULATED; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, sea level rise and flooding is an ongoing concern of the City; and

**WHEREAS**, the City hired AECOM to produce a report relating to Enhancing Resiliency and to Review the City of Miami Beach's code of ordinances and regulations to assist the City in enhancing sustainability and resiliency in the face of climate change and increased flooding events; and

**WHEREAS**, the FEMA FIRM panels indicate a base flood elevation in certain areas of the City of 7.0 feet NGVD, and AECOM indicates that a large storm event would create a flood risk situation even at a flood elevation of 8.0 feet NGVD; and

**WHEREAS**, due to the foregoing, it is within the police powers of the City, for the health, safety and welfare of the City of Miami Beach, that existing low-lying infrastructure and future construction projects for structures, including buildings, be elevated in order to reduce risk or maintain low risk from potential flood damage; and

**WHEREAS**, in 2015, as one of the City's efforts to combat flooding and sea level rise, the City has previously implemented increased height requirements for sea walls in order to more fully protect the City and its residents from flooding; and

**WHEREAS**, the City is also implementing "freeboard," the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management, which factor is to be utilized in future construction projects in developing first floor elevations, in order to protect the structures from flooding events; and

**WHEREAS**, it is appropriate consistent with the "freeboard" amendments to the Code, and the desire to develop enhanced stormwater retention procedures for all properties, as well as the implemented increased heights of sea walls, the Administration recommends amending to amend the maximum elevation requirements within required yards of single family districts to eliminate or mitigate any conflict with the City's efforts corresponding legislation enacted to address sea level rise and flood mitigation measures; and

**WHEREAS**, the regulation of grade elevations in single family districts is necessary in order to ensure compatible development within the built character of the single-family neighborhoods of the City; and

**WHEREAS**, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City.

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

**SECTION 1.** Section 114-1, "Definitions", is amended as follows:

\* \* \*

Base flood elevation, for the City of Miami Beach shall be as defined in Section 54-35.

\* \* \*

Crown of road, shall be as defined in Section 54-35.

Crown of road, future, shall be as defined in Section 54-35.

\* \* \*

Freeboard shall be as defined in Section 54-35.

Freeboard, mimimum shall be as defined in Section 54-35.

Freeboard, maximum shall be as defined in Section 54-35.

\* \* \*

Green Infrastructure shall be as defined in Section 54-35.

\* \* \*

*Grade means the city sidewalk elevation at the centerline of the front of the property. If there is no sidewalk, the elevation of the crown of the road at the centerline of the front of the property shall be used. ~~the public works director shall establish the city sidewalk elevations.~~*

*Grade, adjusted means the midpoint elevation between grade and the minimum required flood elevation for a lot or lots.*

\* \* \*

Grade, future adjusted, means the midpoint elevation between the future crown of the road as defined in the ~~Public Works Manual~~ CDM Smith Stormwater Plan, and the base flood elevation plus minimum freeboard for a lot or lots.

\* \* \*

*Height of building* means the vertical distance from the lowest floor according to the following, as applicable:

- (a) When the minimum finished floor elevation is located between grade and base flood elevation plus *freeboard*, height shall be measured from the minimum finished floor elevation to the highest point of the roof;
- ~~(b) When enclosed commercial or residential space is located at or below grade, height shall be measured from grade to the highest point to the roof;~~
- ~~(c)~~ (b) When the minimum finished floor elevation is located above the base flood elevation plus *freeboard*, height shall be measured from the base flood elevation plus freeboard.

The highest point of a roof is as follows:

1. The highest point of a flat roof;
2. The deck line of a mansard roof;
3. The average height between eaves and ridge for gable hip and gambrel roofs; or
4. The average height between high and low points for a shed roof.

~~(c)~~ As all rights-of-way have not yet been elevated, for commercial properties, height shall be measured from the base flood elevation, plus *freeboard*, provided that the height of the first floor shall be tall enough to allow the first floor to eventually be elevated to base flood elevation, plus minimum freeboard, once the adjacent right of way is elevated as provided under the City's Public Works Manual.

\* \* \*

Surface stormwater shallow conveyance shall be as defined in Section 54-35.

\* \* \*

**SECTION 2.** Section 142-105, "Development regulations and area requirements", is amended as follows:

\* \* \*

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) Lot area, lot width, lot coverage, unit size, and building height requirements. The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

Zoning District	Minimum Lot Area (square	Minimum Lot Width (feet)*	Maximum Lot Coverage for a 2-story Home (%)	Maximum Unit Size (% of Lot	Maximum Building Height, which shall not exceed two stories above the <u>minimum base flood elevation, plus freeboard</u> in all

	feet)		of lot area)**	Area)	districts***
RS-1	30,000	100	30%	50%	28 feet - flat roofs. 31 feet - sloped roofs.
RS-2	18,000	75	30%	50%	
RS-3	10,000	50 - Oceanfront lots. 60 - All others	30%	50%	24 feet - flat roofs. 27 feet - sloped roofs. May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.
RS-4	6,000	50	30%	50%	24 feet - flat roofs. 27 feet- sloped roofs.
		*Except those lots fronting on a cul-de-sac or circular street as defined in lot width	**Single story homes shall follow the requirements of section 142- 105(b)(4)b.		*** Height shall be measured from the <u>minimum required base</u> flood elevation for the lot, <u>plus</u> <u>freeboard</u> , measured to the top of the structural slab for a flat roof and to the mid-point of the slope for a sloped roof. Single story homes shall follow the requirements of section 142- 105(b)(4)b

(2) *Maximum number of stories.* The maximum number of stories shall not exceed two above the minimum base flood elevation, plus freeboard.

\* \* \*

(4) *Unit size requirements.*

\* \* \*

d. Non-air conditioned space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor is required to be located six feet or more above existing grade in order to meet minimum flood elevation requirements, including freeboard, the following shall apply:

1. The height of the area under the main structure may have a maximum floor to ceiling clearance of seven feet six inches from grade the lowest level slab

~~provided. Except that in the event that the minimum flood elevation requires the underside of the slab of the first habitable floor to exceed seven feet six inches from grade, such slab shall not exceed the minimum flood elevation as measured from grade.~~

2. Up to, but not exceeding, 600 square feet of segregated parking garage area may be permitted under the main structure.
3. The area under the first habitable floor of the main structure shall consist of non-air conditioned space, ~~which is at least 50 percent open.~~ Such area shall not be subdivided into different rooms, with the exception of the parking garage area, and required stairs and/or elevators.
4. The parking garage area and the open, non-air-conditioned floor space located directly below the first habitable floor, shall not count in the unit size calculations, ~~provided it remains open in perpetuity.~~

\* \* \*

(8) *Exterior building and lot standards.* The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single-family residential districts:

a. Exterior bars on entryways, doors and windows shall be prohibited on front and side elevations, which face a street or right-of-way.

b. Minimum yard elevation requirements.

1. The minimum elevation of a required yard shall be no less than five (5) feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c. below, the minimum elevation requirements shall still apply.

2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing single family homes individually designated as historic structures, or to properties with single-family homes designated as 'contributing' within a local historic district.

bc. Maximum yard elevation requirements. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:

1. *Front Yard.* The maximum elevation within a required front yard shall not exceed adjusted grade, ~~or 30 inches above grade,~~ or future adjusted grade, whichever is greater. In this instance the maximum height of any fence(s) or wall(s) in the required front yard, constructed in compliance with Section 142-1132 (h), "Allowable encroachments within required yards", shall be measured from existing grade.

2. *Interior Side Yards* (located between the front setback line and rear property line). The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:
  - a. When the average grade of an adjacent lot along the abutting side yard is equal or greater than adjusted grade, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.
  - b. When abutting a vacant property, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.
  - c. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both side yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from the new average grade of the required side yards.
  
3. *Side Yard Facing a Street*. The maximum elevation within a required side yard facing a street shall not exceed adjusted grade or 30 inches above grade, or future adjusted grade, whichever is greater. In this instance the maximum height of any fence(s) or wall(s) in the required side yard facing a street, constructed in compliance with Section 142-1132 (h), "Allowable encroachments within required yards", shall be measured from existing grade.
  
4. *Rear Yard*. The maximum elevation for a required rear yard, (not including portions located within a required sideyard or sideyard facing the street), shall be calculated according to the following:
  - a. *Waterfront*. The maximum elevation shall not exceed the minimum required base flood elevation, plus freeboard.
  - b. *Non-waterfront*. The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:
    - i. When the average grade of an adjacent lot along the abutting rear yard is equal or greater than adjusted grade, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.
    - ii. When abutting a vacant property, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.
    - iii. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both rear yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with Section 142-1132 (h), *Allowable encroachments within required yards*, shall be measured from the new average grade of the required rear yards.

5. Stormwater retention. In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.
6. Retaining wall and yard slope requirements. Within the required front yard and within the required sideyard facing a street the following shall apply:
  1. Within the first four (4) feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.
  2. When setback a minimum of four (4) feet from the property line, the maximum height of retaining walls shall not exceed 30 inches above adjacent grade.
  3. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria of Section 142-105.
  3. The maximum slope of the required front and sideyard facing a street shall not exceed 11% (5:1 horizontal:vertical).

#### **SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

#### **SECTION 5. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

#### **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. EXCEPTIONS.**

This ordinance shall not apply to anyone who filed a completed application package for Board of Adjustment, Historic Preservation Board or Design Review Board Approval with the Planning Department on or before June 8, 2016; or anyone who obtained a Building Permit Process Number from the Building Department on or before June 8, 2016.

#### **SECTION 8. EFFECTIVE DATE.**

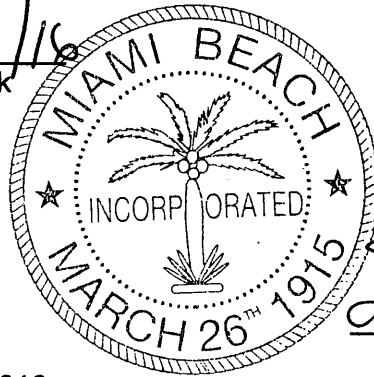
This Ordinance shall take effect on June 8, 2016.

PASSED AND ADOPTED this 11 day of May, 2016.

\_\_\_\_\_  
Philip Levine, Mayor

ATTEST:

7/13/16/16  
Rafael E. Granado, City Clerk



APPROVED AS TO FORM  
AND LANGUAGE  
AND FOR EXECUTION

[Signature]  
City Attorney

5/12/16  
Date

First Reading: April 13, 2016  
Second Reading: May 11, 2016

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

Underline = new language  
~~Strikethrough~~ = deleted language

[Sponsored by Commissioner Joy Malakoff]

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