

## COMMERCIAL HEIGHT STANDARDS

ORDINANCE NO. 2017-4124

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, "DEFINITIONS," AND BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS", BY AMENDING DIVISION 4, "CD-1, COMMERCIAL, LOW-INTENSITY DISTRICT," SECTION 142-276, "DEVELOPMENT REGULATIONS, AND DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPEMENT REGULATIONS," AND DIVISION 6, "CD-3, COMMERCIAL, HIGH-INTENSITY DISTRICT, "SECTION 142-336, "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," AND DIVISION 13, "MXE, MIXED USE ENTERTAINMENT DISTRICT," SECTION 142-545, "DEVELOPMENT REGULATIONS," AND DIVISION 18, "PS, PERFORMANCE STANDARD DISTRICT," SECTION 142-698, "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," AND DIVISION 20, "TC NORTH BEACH TOWN CENTER DISTRICTS," SECTION 142-737, "DEVELOPMENT REGULATIONS," TO MODIFY ALLOWABLE HEIGHTS FOR THE PURPOSE OF SEA-LEVEL RISE MITIGATION; AND BY AMENDING ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 5, "HEIGHT REGULATIONS," SECTION 142-1161, "HEIGHT REGULATION EXCEPTIONS," TO ALLOW FOR SOLAR PANELS, WIND TURBINE AND SUSTAINABLE ROOFING SYSTEMS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Miami Beach seeks to encourage and incentivize new development and the preservation and restoration of structures located within the City; and

**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**, the City of Miami Beach recognizes Sea level rise and its responsibility to the citizens to adapt to meet those needs; and

**WHEREAS**, the City of Miami Beach understands how important it is to build resilient buildings that will be able to survive Sea Level Rise; and

**WHEREAS**, to mitigate the impacts of Climate Change the City must allow for the residents and buildings to reduce their vulnerability; and

**WHEREAS**, the City of Miami Beach understands that to combat the harmful effects of Climate Change, Local Municipalities are the front line of adaptation and must if there is no example to follow; and

**WHEREAS**, it is in the best interest of the City to promote the economic 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**, studies have indicated that green buildings have lower maintenance costs associated with low energy consumption, which will improve the City's long-term economic well-being; 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**, the amendment set forth below is necessary to accomplish all of the above objectives.

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

**SECTION 1.** Amending Chapter 114 of the City Code, entitled "General Provisions," Section 114-11, "Definitions," of the Land Development Regulations, is hereby amended to read as follows:

**Chapter 114 – GENERAL PROVISIONS**

**Sec. 114-1 – Definitions**

Blue roof means a non-vegetated source control to detain storm-water. A blue roof slows or stores storm-water runoff by using various kinds of flow controls that regulate, block, or store water instead of vegetation.

\* \* \*

Cool roof see white roof

\* \* \*

Green roof means a green space created by layers of growing medium and vegetation added on top of a traditional roofing system. It may also include additional layers such as a root barrier and drainage and irrigation systems.

\* \* \*

*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 "City of Miami Beach Freeboard", height shall be measured from the minimum finished floor elevation to the highest point of the roof;

(b) When the minimum finished floor elevation is located above the base flood elevation plus Freeboard, height shall be measured from the base flood elevation plus Freeboard.

The highest point of a roof is as follows:

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

(c) ~~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, with a future minimum interior height of at least twelve (12) feet as measured from the height of the future elevated ~~once the adjacent right-of-way, is elevated as provided under the City's Public Works Manual.~~

\* \* \*

Roof top farm means a garden on the roof of a building including roof plantings that may provide food, temperature control, hydrological benefits, architectural enhancement, recreational opportunities, and in large scale ecological benefits.

\* \* \*

White roof means a roof that has been painted white or is surfaced with some other light or reflective material.

\* \* \*

**SECTION 2.** Amending Chapter 142 of the City Code, entitled "Zoning Districts and Regulations," Article II. "District Requirements," Section 142-276, "Development Regulations," of the Land Development Regulations, is hereby amended to read as follows:

**Chapter 142 - ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II. - SUPPLEMENTARY DISTRICT REGULATIONS**

\* \* \*

**DIVISION 4. – CD-1 COMMERCIAL, LOW INTENSITY DISTRICT**

\* \* \*

**Sec. 142-276. - Development regulations.**

The development regulations in the CD-1 commercial, low intensity district are as follows:

\* \* \*

Maximum  
Building  
Height  
(Feet)

40 (except as provided in section 142-1161)

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

\* \* \*

**DIVISION 5. – CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT**

\* \* \*

**Sec. 142-306. - Development regulations.**

The development regulations in the CD-2 commercial, medium intensity district are as follows:

\* \* \*

Maximum  
Building  
Height  
(Feet)

50 (except as provided in section 142-1161).

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height, not to exceed a maximum height of 55 feet. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing

as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

Self-storage warehouse - 40 feet, except that the building height shall be limited to 25 feet within 50 feet from the rear property line for lots abutting an alley; and within 60 feet from a residential district for blocks with no alley

Mixed-use and commercial buildings that include structured parking for properties on the west side of Alton Road from 6th Street to Collins Canal - 60 feet.

\* \* \*

**DIVISION 6. – CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT**

\* \* \*

**Sec. 142-337. - Development regulations and area requirements.**

(a) The development regulations in the CD-3 commercial, high intensity district are as follows:

(1) Max FAR: Lot area equal to or less than 45,000 sq. ft.—2.25; Lot area greater than 45,000 sq. ft.—2.75; Oceanfront lots with lot area greater than 45,000 sq. ft.—3.0.

(2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.

(3) Notwithstanding the above, lots located between Drexel Avenue and Collins Avenue and between 16th Street and 17th Street shall have a maximum FAR of 2.75.

(4) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 sq. ft.

(b) However, the floor area ratio maximum for residential development, inclusive of hotels, in the architectural district shall be 2.50.

(c) The lot area, lot width, unit size and building height requirements for the CD-3 commercial, high intensity district are as follows:

\* \* \*

Maximum  
Building  
Height  
(Feet)

75 feet.

Lots within the architectural district: 50 feet.

Lots fronting on 17th Street: 80 feet.

City Center Area (bounded by Drexel Avenue, 16th Street, Collins Avenue and the south property line of those lots fronting on the south side of Lincoln Road): 100 feet.

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

Notwithstanding the foregoing requirement for City Center Area, the following additional shall apply:

The height for lots fronting on Lincoln Road and 16th Street between Drexel Avenue and Washington Avenue are limited to 50 feet for the first 50' of lot depth.

The height for lots fronting on Drexel Avenue is limited to 50 feet for the first 25' of lot depth (except as provided in section 142-1161).

\* \* \*

**DIVISION 13. – MXE MIXED USE ENTERTAINMENT DISTRICT**

\* \* \*

**Sec. 142-545. - Development regulations.**

The development regulations in the MXE mixed use entertainment district are as follows:

\* \* \*

Maximum  
Building  
Height  
(Feet)

Architectural district:

Oceanfront—150

Non-oceanfront— 50 (except as provided in section 142-1161)

All other areas—75 (except as provided in section 142-1161)

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to

the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

\* \* \*

**DIVISION 18. – PS PERFORMANCE STANDARD DISTRICT**

\* \* \*

**Sec. 142-698. – Commercial Performance standard area requirements.**

(b)The commercial performance standard area requirements are as follows:

\* \* \*

**C-PS1**

Maximum  
Building  
Height

40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties, and Block 1 Properties

**C-PS2**

Maximum  
Building  
Height

50 feet—East of Lenox Avenue

75 feet—West of Lenox Avenue

**C-PS3**

Maximum  
Building  
Height

Non-oceanfront—80 feet

Oceanfront—100 feet

**C-PS4**

Maximum  
Building

Height

150

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

\* \* \*

## **DIVISION 20. - TC NORTH BEACH TOWN CENTER DISTRICTS**

### **Section 142-737. Development Regulations.**

(a) The development regulations in the TC-1, TC-2 and TC-3 town center districts are as follows:

TC-1 Town Center Core: 125 feet / 12 stories.

TC-2 Town Center Mixed-use: 50 feet / 5 stories

TC-3 Town Center Residential Office: 45 feet / 4 stories. Waterfront lots—50 feet / 5 stories

Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may allow up to an additional five (5) feet of height. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately adjacent to residential districts not separated by a street. However, an applicant may seek approval from the Historic Preservation Board or Design Review Board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017.

**SECTION 3.** Amending Chapter 142 of the City Code, entitled “Zoning Districts and Regulations,” Article IV, “Supplementary District Regulations,” Division 5, “Height Regulations,” Section 142-1161, “Height Regulation Exceptions,” of the Land Development Regulations, is hereby amended to read as follows:

## **DIVISION 5. – HEIGHT REGULATIONS**

**Sec. 142-1161. - Height regulation exceptions.**



For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

- (a) The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure. For exceptions to the single-family residential districts, see subsection 142-105(e).
  - (1) Air conditioning, ventilation, electrical, plumbing equipment or equipment rooms.
  - (2) Chimneys and air vents.
  - (3) Decks, not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.
  - (4) Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below.
  - (5) Elevator bulkheads or elevator mechanical rooms.
  - (6) Flagpoles subject to the provisions of section 138-72.
  - (7) Parapet walls, not to exceed three and one-half feet above the main roofline unless otherwise approved by the design review board up to a maximum of 25 feet in height.
  - (8) Planters, not to exceed three feet in height above the main roofline.
  - (9) Radio, television, and cellular telephone towers or antennas, and rooftop wind turbines.
  - (10) Stairwell bulkheads.
  - (11) Skylights, not to exceed five feet above the main roofline.
  - (12) Stage towers or scenery lofts for theaters.
  - (13) Swimming pools, whirlpools or similar structures, which shall have a four-foot wide walkway surrounding such structures, not to exceed five feet above the main roofline.
  - (14) Trellis, pergolas or similar structures that have an open roof of cross rafters or latticework.
  - (15) Water towers.
  - (16) Bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (five feet, six inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.
  - (17) Solar Panels.
  - (18) Wind turbines on Oceanfront Properties.
  - (19) Sustainable roofing systems.
- (b) The height of all allowable items in subsection (a) of this section, unless otherwise specified, shall not exceed 25 feet above the height of the roofline of the main structure. With the exception of items described in subsection (a)(17)

and (a)(18) of this section, when any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district (except flagpoles which are subject to section 138-72).

- (c) Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.

**SECTION 4. REPEALER.**

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

**SECTION 5. SEVERABILITY.**

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

**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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

**SECTION 7. EFFECTIVE DATE.**

This ordinance shall take effect 10 days after adoption.

PASSED and ADOPTED this 26 day of July 2017.

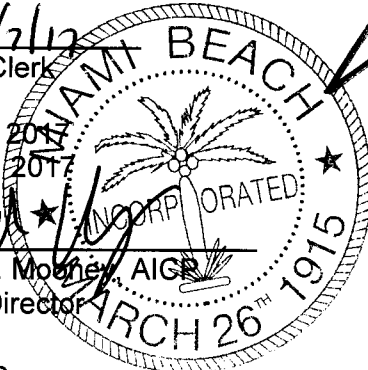
ATTEST:

[Signature]  
Rafael E. Granado, City Clerk

[Signature]  
Philip Levine, Mayor

First Reading: June 7, 2017  
Second Reading: July 26, 2017

Verified By: [Signature]  
Thomas R. Moneh, AIGP  
Planning Director



APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

[Signature] 7/27/17  
City Attorney Date

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

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: July 26, 2017

**10:55 a.m. Second Reading Public Hearing**

SUBJECT: COMMERCIAL HEIGHT STANDARDS:

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE, BY AMENDING CHAPTER 114, "GENERAL PROVISIONS," BY AMENDING SECTION 114-1, "DEFINITIONS," AND BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," BY AMENDING DIVISION 4, "CD-1, COMMERCIAL, LOW-INTENSITY DISTRICT," SECTION 142-276, "DEVELOPMENT REGULATIONS, AND DIVISION 5, "CD-2, COMMERCIAL, MEDIUM-INTENSITY DISTRICT," SECTION 142-306, "DEVELOPMENT REGULATIONS," AND DIVISION 6, "CD-3, COMMERCIAL, HIGH-INTENSITY DISTRICT," SECTION 142-336, "DEVELOPMENT REGULATIONS AND AREA REQUIREMENTS," AND DIVISION 13, "MXE, MIXED USE ENTERTAINMENT DISTRICT," SECTION 142-545, "DEVELOPMENT REGULATIONS," AND DIVISION 18, "PS, PERFORMANCE STANDARD DISTRICT," SECTION 142-698, "COMMERCIAL PERFORMANCE STANDARD AREA REQUIREMENTS," AND DIVISION 20, "TC NORTH BEACH TOWN CENTER DISTRICTS," SECTION 142-737, "DEVELOPMENT REGULATIONS," TO MODIFY ALLOWABLE HEIGHTS FOR THE PURPOSE OF SEA-LEVEL RISE MITIGATION; AND BY AMENDING ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS," DIVISION 5, "HEIGHT REGULATIONS," SECTION 142-1161, "HEIGHT REGULATION EXCEPTIONS," TO ALLOW FOR SOLAR PANELS, WIND TURBINE AND SUSTAINABLE ROOFING SYSTEMS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY, AND AN EFFECTIVE DATE.

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### **RECOMMENDATION**

The Administration recommends that the City Commission adopt the Ordinance.

### **ANALYSIS**

#### **BACKGROUND**

On January 17, 2017, the Mayor's Blue Ribbon Panel on Sea Level Rise discussed the attached Ordinance amendment and recommended that the City Commission refer it to the Land Use and Development Committee and Planning Board.

On February 8, 2017, the City Commission referred the proposed Ordinance amendment to the Land Use and Development Committee (Item C4 D). The amendment was simultaneously referred to the Planning Board. Commissioners John Elizabeth Alemán and Joy Malakoff are the sponsors of the item.

On February 15, 2017, the Land Use and Development Committee discussed the item and continued it to the March 8, 2017 meeting. On March 8, 2017, the Land Use and Development Committee recommended that the ordinance be transmitted to the Planning Board with revised language clarifying that additional height is specific to the first level.

**PLANNING ANALYSIS**

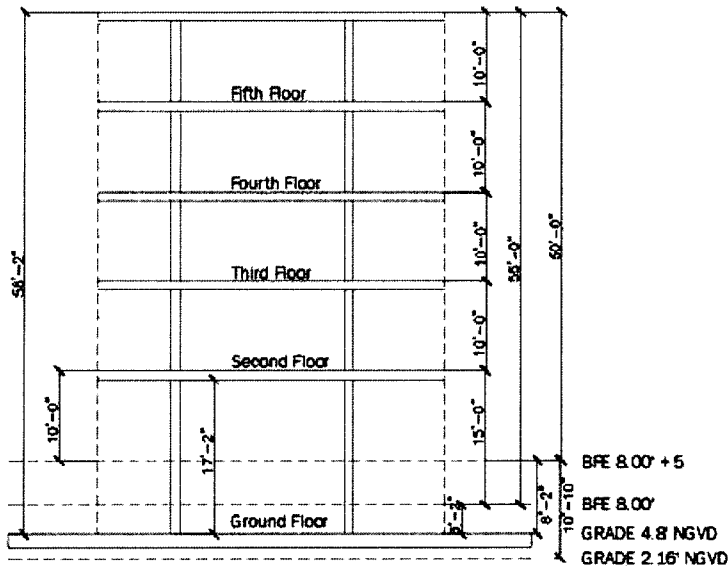
In an effort to adapt to the effects of climate change and sea level rise, the City has adopted regulations related to the Base Flood Elevation (BFE) and Freeboard to encourage the ground floor of new buildings to be developed at a higher elevation. In addition, the City is raising the levels of roads and sidewalks to ensure that they remain dry and passable. During this transition period, sidewalk and ground floors may be located at different elevations. Commercial buildings, however, rely on customers passing by the sidewalk and being drawn in by the view of the commercial uses inside.

As a result, the attached ordinance amendment would allow for buildings in commercial districts to be developed with up to an additional five (5) feet of height, provided the first floor has a minimum height of 12 feet from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This would provide for the ability of the ground floor to be placed at a lower level, while providing sufficient ceiling height for the ground floor to be raised at such time when roadways and sidewalks are raised. It should be noted that the additional height would NOT be applicable to the west side of Alton Road from 6th Street to Collins Canal, where the height limit was already recently raised from 50 feet to 60 feet for purpose of providing added resiliency.

The following sections illustrate examples of current and proposed conditions related to the subject ordinance:

Example 1 / Existing Code

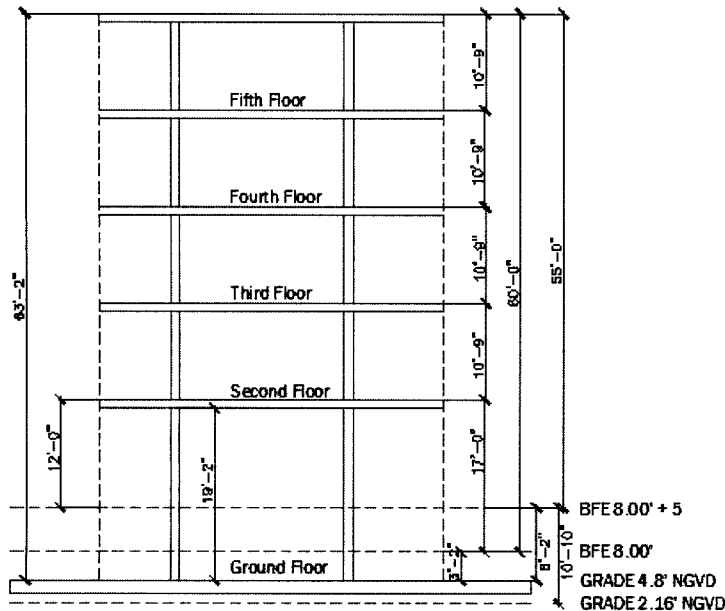
The following section shows an example of a typical 5-story commercial building located in a CD-2 district, with a maximum height of 50 feet, as measured from the maximum freeboard, which is BFE + 5 feet. In this example, if streets and sidewalks were raised to the elevation of BFE + 5 feet, it would result in an undesirable commercial ceiling height of less than 10 feet.



**SECTION**

Example 2 / Proposed Ordinance With 5 Foot Increase

The following section shows an example of the same 5-story commercial building located in a CD-2 district, with the proposed increased height of 5 feet and including a minimum height of 12 feet from BFE + 5 feet to the top of the second floor slab. This would allow a much more desirable future commercial height of at least 12 feet if streets and sidewalks are raised in the future to as high as BFE +5.



**SECTION**

The minimum 12 foot height requirement shown above also ensures that the bulk of the additional height will be incorporated into the first level for enhanced resiliency, and will encourage the construction of resilient buildings that will better adapt to flooding and rising sea levels.

The proposed ordinance also amends and expands allowable height exceptions for sustainable roofing systems and alternative forms of energy. This includes solar roofs, blue roofs, white roofs, cool roofs, green roofs, and rooftop farming systems, along with solar panels, wind turbines, and other alternative energy fixtures as allowable height exceptions in all districts except single-family districts.

**PLANNING BOARD REVIEW**

The Ordinance came before the Planning Board on April 25, 2017, and was continued to a date certain of May 23, 2017. On May 23, 2017, the Planning Board transmitted the proposed Ordinance Amendment to the City Commission, with a favorable recommendation. The Planning Board also recommended the following modifications:

1. Include the Town Center (TC-1, TC-2 and TC-3) Districts in the ordinance.
2. The allowable additional height shall be increased from the proposed five (5') feet to ten (10') feet, in order to provide more flexibility for interior floor heights on upper levels.
3. The allowance for an increase in height should not be discretionary on the part of the DRB or HPB, but instead should be an allowable increase as of right. Specifically, the Board has recommended the following change for each zoning district:

*Notwithstanding the above, the Design Review Board or Historic Preservation Board, in accordance with the applicable review criteria, may shall allow up to an additional five (5) feet of height.*

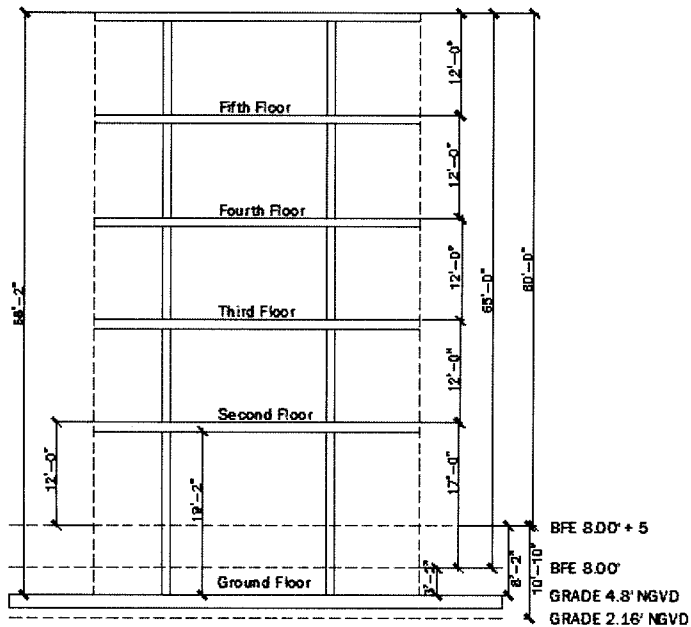
**SUMMARY**

The proposed modifications to allowable building heights within commercial districts will better adapt new commercial structures to future increases in roadways, sidewalks and right-of-ways. In this regard, as drafted, the additional five feet in height proposed will help ensure that the first level of new commercial buildings will be

constructed in a manner that will allow for viable space in the future, when streets and sidewalks are raised.

As it pertains to the Planning Board recommendations, the TC districts have been included in the revised draft; this corrects an oversight in the initial drafting of the ordinance. With regard to the proposal to allow for an increase of up to 10 feet in height, as opposed to 5 feet in height, as indicated previously, the Administration believes that is a better option. By giving the DRB or HPB additional latitude with regard to maximum height, more flexibility will be provided for the floor-to-floor height of upper level interior spaces. Further, the minimum interior height requirements for the first floor will ensure that the increase in height will not be top heavy.

The following section shows an example of a 5-story commercial building located in a CD-2 district, with an increased height of 10 feet and including a minimum height of 12 feet from BFE + 5 feet to the top of the second floor slab. In addition to allowing a much more desirable future commercial height of at least 12 feet if streets and sidewalks are raised in the future to as high as BFE +5, more flexibility for upper floor ceiling heights is provided.



**SECTION**

The Administration did not recommend that the discretion of the HPB or DRB to allow for an increase in height be removed. In this regard, the DRB or HPB should have the discretion to allow up to 10' in height, with minimum first floor standards as proposed. In some instances, depending upon the number of floors proposed, the existing grade of the site and the surrounding context, the entire additional height may not be needed.

**UPDATE**

On June 7, 2017, the City Commission approved the subject Ordinance at First Reading, as recommended by the Administration, inclusive of the following, which are included in the revised Ordinance:

1. A modification for the allowable additional height to be increased from the proposed five (5') feet to ten (10') feet;
2. The inclusion of Town Center Districts; and
3. Retention of the discretion of the Historic Preservation Board and the Design Review Board, as it pertains to the proposed increase in height.

The City Commission also directed the Administration to further study the proposed 25-foot exception for renewable energy systems, particularly wind turbines. In this regard, the revised ordinance has also been modified to limit the height exception for wind turbines to oceanfront properties. The reason for the proposed allowance of wind turbines as a height exception on oceanfront properties is two-fold:

1. In order to maximize the effectiveness of wind turbines, a continuous wind, at higher elevations, is required. Ocean front properties are the best suited lots for this.
2. Oceanfront properties are primarily zoned RM-3 and R-PS4, which have the highest residential height allowances. As such, when combined with current allowable height exceptions, such as mechanical rooms, cooling towers, and stair and elevator bulkheads, wind turbines are not expected to have a significant visual impact.

Finally, the Historic Preservation Board discussed the proposed ordinance on July 11, 2017 and recommended that any allowable increase in height be limited to five (5') feet within local historic districts.

#### **CONCLUSION**

The Administration recommends that the City Commission adopt the Ordinance.

#### **CONCLUSION**

The Administration recommends that the City Commission adopt the Ordinance.

#### **Legislative Tracking**

Planning

#### **Sponsor**

Commissioners John Elizabeth Aleman and Joy Malakoff

#### **ATTACHMENTS:**

##### **Description**

- FA Ordinance - 2nd Read