

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
 FROM: Alina T. Hudak, City Manager
 DATE: February 1, 2023

5:01 p.m. Second Reading Public Hearing

SUBJECT: RESILIENCY CODE AND LDR UPDATE

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ESTABLISHING A COMPREHENSIVE ZONING ORDINANCE, HEREAFTER KNOWN AS THE "RESILIENCY CODE," FOR THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO THE REQUIREMENTS OF SECTION 163.3202, FLORIDA STATUTES AND CONSISTENT WITH THE MIAMI BEACH 2040 COMPREHENSIVE PLAN; TO REGULATE AND RESTRICT THE ERECTION, RECONSTRUCTION, ALTERATION, LOCATION, PRESERVATION, SUBDIVISION, RESILIENCY, DESIGN, AND USE OF BUILDINGS, STRUCTURES, LAND, AND WATER, FOR COMMERCE, INDUSTRY, RESIDENCE, OR OTHER PURPOSES; TO REGULATE AND RESTRICT THE SIZE OF BUILDINGS AND OTHER STRUCTURES HEREAFTER ERECTED OR ALTERED; TO REGULATE THE SIZE AND DIMENSIONS OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS; TO REGULATE AND RESTRICT BUILDING LINES AND THE PERCENTAGE OF LOTS THAT MAY BE OCCUPIED, UNIT SIZES, AND THE DENSITY OF POPULATION; TO REGULATE SIGNAGE; TO ESTABLISH MINIMUM STANDARDS FOR LANDSCAPING; TO PROVIDE FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS AND WATERBODIES; TO ESTABLISH REQUIREMENTS FOR PARKING, TRANSPORTATION AND MOBILITY FEES, CONCURRENCY, AND INFRASTRUCTURE; AND FOR SAID PURPOSES TO ESTABLISH A ZONING ATLAS THAT DIVIDES THE CITY OF MIAMI BEACH INTO DISTRICTS OF SUCH NUMBER, SHAPE AND AREA AS MAY BE DEEMED BEST SUITED TO CARRY OUT THESE REGULATIONS, AND FOR EACH SUCH DISTRICT TO IMPOSE REGULATIONS AND RESTRICTIONS DESIGNATING THE KINDS OR CLASSES OF COMMERCE, INDUSTRIES, RESIDENCES, OR OTHER PURPOSES AS DESCRIBED ABOVE; TO PROVIDE A METHOD FOR AMENDMENT, SUPPLEMENT, CHANGE, MODIFICATION AND REPEAL OF REGULATIONS, RESTRICTIONS AND BOUNDARIES; TO PROVIDE FOR A DESIGN REVIEW BOARD, A PLANNING BOARD, A BOARD OF ADJUSTMENT, AND A HISTORIC PRESERVATION BOARD, AND TO PRESCRIBE THEIR POWERS AND DUTIES; TO PROVIDE PROVISIONS FOR APPEAL; AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE AND ALSO TO PROVIDE FOR ITS ENFORCEMENT; REPEALING ZONING ORDINANCE 89-2665, AS AMENDED, IN ITS ENTIRETY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, APPLICABILITY AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission adopt the subject Ordinance.

BACKGROUND/HISTORY

HISTORY

On June 5th, 2019, City Commission authorized the issuance of a Request for Qualifications (RFQ) for a firm to analyze and update the City's Land Development Regulations (LDR's) to better meet the City's present regulatory needs with a primary focus on resiliency. On October 16th, 2019, the City Commission accepted the recommendation of the City Manager and authorized the Administration to enter into negotiations with Perkins & Will Architects, Inc., the top ranked proposer. On August 21st, 2020, the City awarded the contract to the firm of Perkins & Will.

On May 4, 2022, the City Commission referred the subject Ordinance to the Land Use and Sustainability Committee (LUSC) and the Planning Board (C4W). The sponsor of the proposal is Commissioner Ricky Arriola.

On June 3, 2022, and June 17, 2022, the Planning Department conducted Community Workshops with the Planning Board. On June 6, 2022 the item was discussed by the LUSC and continued to the July 7, 2022 LUSC meeting. On July 7, 2022, the LUSC recommended that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation.

BACKGROUND

In 2019, at the recommendation of the Matrix Group, the City Commission directed the Administration to issue an RFP for a new Resiliency Code. The drafting of this code, using a form-based approach, would also be a long-needed update of our current Land Development Regulations (LDR's), which have not been holistically evaluated since adoption in 1989.

As previously directed by the City Commission, the Administration negotiated a scope of services with the top ranked firm, Perkins and Will, and the contract was executed in 2020. The consultant began work on the revised code, which included a full review of the Land Development Regulations (LDR's). The consultants were also tasked with assessing potential impacts of flooding, climate change and sea level rise city-wide and to recommend mitigation strategies within the updated LDR's as part of the new Resiliency Code.

After contract award in August 2020 the consulting team commenced the code update process by engaging in substantive scenario planning with City staff. This included an analysis of future trends, projected impacts of climate change and sea level rise, as well as other factors such as population growth, transportation and mobility, hazard mitigation and the preservation and protection of cultural and architectural resources. This scenario planning has resulted in an ideal framework for the recommendations that will be included as part of the draft of the Resiliency Code.

In 2021, City staff organized a number of focus group workshops involving stakeholders from a wide variety of interests and disciplines, including residents, developers, property owners, attorneys, design professionals and neighborhood groups. Because of the size of the workshops, multiple meetings were held, primarily using virtual platforms, due to the pandemic.

The following is a summary of all meetings held to date:

- May 27, 2021
 - o Resiliency Code Focus Group Meeting Homeowner Associations
- June 2, 2021
 - o Resiliency Code Focus Group Meeting - CMB Chamber of Commerce
 - o Resiliency Code Focus Group Meeting CMB Convention Center & GMCVB
 - o Resiliency Code Focus Group Meetings Land Use and Sustainability Committee
- June 3, 2021
 - o Resiliency Code Focus Group Meeting HPB – MDPL
 - o Resiliency Code Focus Group - Design Review Board
 - o Resiliency Code Focus Group - Land Use Attorneys
- June 10, 2021
 - o Resiliency Code Focus Group - Landowner and Developer
 - o Resiliency Code Focus Group Meeting PB & BOA- Board Members
 - o Resiliency Code Focus Group Meeting – Architects
- February 10, 2022
 - o Tom Mooney – Brief to Miami Beach Chamber of Commerce
- o June 1, 2022
 - o Resiliency Code to Land Use and Sustainability
- June 3, 2022
 - o Community Meeting/Workshop- PB
- June 17, 2022
 - o Community Meeting/Workshop- PB

ANALYSIS

PLANNING ANALYSIS

The current Land Development Regulations (LDRs) were adopted as Ordinance 89-2665 on September 21, 1989 and took effect on October 1, 1989. Over the years the LDR's have been updated many times in order to authorize specific developments, address changing conditions, and address environmental concerns. As a result of over 32 years of updates, the Code has become cumbersome to read and comprehend.

Since the current LDRs were adopted there have been many changes in the way zoning codes are drafted to improve their transparency, facilitate interpretation, and achieve better development results. This includes incorporating graphics and diagrams that detail how the written text is to be interpreted, providing graphical standards as to the expected form of a building, and including tables to describe requirements as opposed to paragraphs.

Finally, there is now a better understanding of climate change and sea level rise. Given the City of Miami Beach's location and geography, it is experiencing the impacts of sea level rise today during continuously increasing King Tide events. As a result of this knowledge, it is imperative to embed regulations to mitigate against these impacts in the LDRs to ensure that new buildings are resilient well into the future.

As a result of these issues, the proposal herein will replace Zoning Ordinance 89-2665 with a new Resiliency Code. The Resiliency Code will not noticeably alter the scale of development, allowable uses, parking requirements, or development patterns. The following are the goals of the code update:

- Address climate adaptation and resilience
- Modernize, simplify and update the Code while protecting quality of life
- Safeguard historic preservation
- Ensure clarity and transparency in Code, Land Use Boards and permitting process
- Allow flexibility for Code updates over time

The proposed Miami Beach Resiliency Code and LDR Update utilize a form-based approach to better describe to architects, property owners, and residents the intent and standards within the Code. The proposed Code maintains all existing land use boards and maintains their jurisdiction of review. Feedback from the LUSC, Planning Board, and focus groups has been incorporated into the draft.

PROPOSED CHANGES BY CHAPTER

Below is a summary of the more substantive changes proposed for each chapter of the Code and should be read with the draft Code document, which was provided under separate cover at First Reading. Due to the length of the document, it was printed separate from the Commission Agenda booklet. The update document may be accessed digitally at the following direct link:

<https://www.miamibeachfl.gov/city-hall/planning/resiliency-code/>

In addition to the proposed changes noted below, a number of minor changes have been made such as reordering of content for better readability, the removal of redundant regulations and ambiguities, citation corrections, the memorialization of past interpretations, and compliance with recently adopted State Laws. Additionally, amendments that have been recently adopted by the City Commission have been incorporated into the Code.

Chapter 1: General Provisions (formerly Chapter 114: General Provisions)

- Article II: Definitions
 - o All definitions currently distributed throughout the Code have been consolidated in Article II (Definitions) and have been categorized for easier reference.
 - o Use definitions have been categorized to correspond to new use tables introduced in Chapter 7 (Zoning Districts and Regulations)
 - o New and revised definitions are highlighted in the draft Code document.
 - o New definition for Neighborhood Impact Lot - Developments on properties greater than 20,000 square feet of lot area.
 - o New definition for Neighborhood Impact Structure - New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards.
 - o New definition for Gross Floor Area – Clarifying that it shall not be considered or construed as Floor Area.
 - o Definition clarification pertaining to Historic District Suites Hotel to include non-contributing structures.
- 1.3.5 – Text regarding building permit expiration in relation to land use board approvals has been updated and clarified.
- New section: 1.3.6 Administration of Regulations. This section clarifies the role of the planning director to interpret the land development regulations, the standards for administrative interpretation and the appeal process for administrative determinations.

Chapter 2: Administration and Review Procedures (formerly Chapter 118: Administration and Review Procedures)

- Consolidated and standardized provisions for appointment and conduct of Land Use Boards.
- Consolidated, standardized and updated application and hearing procedures for land use approvals.
- Created a new annual 4-time per year zoning cycle.
- Created a new process and standards for commission warrants, which can allow modifications up to 25% from design parameters for specific projects, in order to minimize the need for future code amendments and provide better control of development proposals.
- No changes to historic preservation regulations.
- Created a new Conditional Use criterion for pedestrian safety and comfort.
- Clarified that traffic studies as part of DRB or HPB applications are required for new square footage.
- Incorporated timeframes for appeals and stay of work provisions, as recently adopted by the City Commission.
- Corrected typos in boundaries for established historic districts.
- Provided for the ability of the City Commission to grant a waiver of applicable fees for Code Amendments based upon a finding of the Commission that the amendment is has unique circumstances. Currently the City Commission can only grant a fee waiver for if it is requested by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association. All other fee waiver requests for Code amendments must first be recommended by the City Manager.

Chapter 3: Concurrency Management and Mobility Fees (formerly Chapter 122 Concurrency Management and Mobility Fees)

- No major changes proposed

Chapter 4: Landscape Requirements (formerly Chapter 126: Landscape Requirements)

- General enhancements to promote drought tolerant and salt tolerant species suitable for Miami Beach, and soil volume requirements have been added for street trees to improve street tree health.
- Permanent, temporary and provisional parking lot standards have been adjusted slightly.
- New requirements to promote permeability for stormwater management have been incorporated.

Chapter 5: Off-Street Parking (formerly Chapter 130: Off-Street Parking)

- Existing parking districts 1-9 have been re-organized into parking tiers 1-3, with subdistricts to maintain the existing boundaries and requirements associated with parking districts 1-9. Additionally, maps are included to clarify the locations of parking tier sub-districts (formerly known as parking districts).
- Tier 1 (highest parking requirements)
 - o Tier 1 is composed of former parking district 1 and applies to all areas outside of other parking districts/tiers.
 - o Parking requirements have been consolidated for some uses but no changes have been made.
- Tier 2 (intermediate parking requirements)
 - o Tier 2 is composed of former parking districts 5, 6 and 9, which are maintained.
 - o Modified minimum parking requirements are specified for some uses.
 - o Tier 1 requirements apply for uses for which no parking requirements are specified.
 - o Conflicts in the minimum parking requirements for districts 5, 6 and 9 were reconciled.
 - o Geographic exceptions preserve the specific requirements of former districts 5, 6 and 9.
- Tier 3 (lowest parking requirements)
 - o Tier 3 is composed of former parking districts 2, 3, 4, 7 and 8, which are maintained.
 - o Modified minimum parking requirements are specified for some uses.
 - o Conflicts in the minimum parking requirements for districts 2, 3, 4, 7 and 8 were reconciled.
- All parking regulations formerly in Chapter 142 have been consolidated within chapter 5.
- Creation of a structure of areas for future reduced parking requirements that can be expanded to align further with transit corridors and hubs as identified by the City's Comprehensive Plan and Transportation Master Plan.
- Parking requirements are provided in tables organized by use, like the use tables in Chapter 7 (Zoning Districts and Regulations).
- New Section 5.2.5 - Minimum Bicycle requirements:
 - o Short term and long-term bicycle parking requirements have been applied city-wide for commercial non-retail, retail, restaurants, bars,

nightclubs, hotel and multifamily residential.

- Section 5.2.8 - Off-site parking facilities:
 - o Made maximum distance for offsite parking consistent across the city at 1,200 feet from the property.
- New Section 5.2.9 - Non-conforming parking lots:
 - o New regulations for the repair and/or rehabilitation of nonconforming parking lots.
- Removed Supplementary Convention Center Parking Article as authority to issue supplementary convention center parking permits expired in 1993.

Chapter 6 Signs (formerly Chapter 138: Signs)

- Clarified design review requirements and interpretation of maximum sign sizes.
- Standardized terminology for different types of signs and added definitions.
- Updated graphic exhibits.
- Removed obsolete special conditions for wall signs related to corner buildings.

Chapter 7: Zoning Districts and Regulations (formerly Chapter 142: Zoning Districts and Regulations and Chapter 133 Sustainability and Resiliency)

* Denotes changes relating to the relocation of content only

7.1 GENERAL TO ALL ZONING DISTRICTS

7.1.2 Resilience and Adaptation Standards

- Placed in the first section and combined with 'Exterior building and lot standards', which regulates yard height and adaptation responses (These standards are currently located in Chapter 133 – Sustainability and Resiliency).
- Whenever possible clarified and streamlined vertical measurements and tied them to Base Flood Elevation (BFE). Because vertical measurements change over time, this allows the code to remain up to date as Base Flood Elevation migrates upwards over time.
- New and Updated Definitions:
 - o Pedestal definition (Chapter 1) was updated from '50 feet measured from the sidewalk elevation' to '50 feet measured from BFE'.
- Created a new hierarchy of regulations supported by exhibits in the following order:
 - o 7.1.2.2 Resilience and Adaptation Standards for Buildings (formerly Sec 142-870.17. Design and Resilience Standards). These include:
 - Subterranean
 - Understory
 - Residential First Habitable Level (FHL)
 - Non-Residential First Habitable Level (FHL)
 - The minimum floor-to-ceiling height has been increased to 12 feet for residential FHL and 14 feet for non-residential FHL in the new 'First Habitable Level Standards' section, in order to create a longer lifespan/looser fit which will ease the retrofit process.
 - o 7.1.2.3 Resilience and Adaptation Standards for Exterior Building and Lot. These include:
 - Minimum and Maximum Yard Elevations (Relocated some of the Exterior building and lot standards and yard standards in the RS zoning districts as well as RM-1, and RM-2). Standards were converted to tables.
 - Updated elevation of minimum required yards from 5 feet NAVD to Future Adjusted Grade (if Future Crown of the Road is known), and BFE minus 1 foot (if Future Crown of the Road is not known) to keep up with a portion of IPCC's projections.

7.1.3 Environmental Mitigation Standards

- Placed Green Buildings and Rating Systems in this section to emphasize the close relationship between 'adaptation' which precedes this section, and 'mitigation.'
- Created a section for 'Original Green Standards' that would deal with passive cooling, daylighting, and other environmental measures that are not related to rating systems and higher tech solutions.

7.1.4 Frontages

- Created a new section which shows the cross-sections of new construction and future retrofit. This is inspired by Smart Code but illustrates how the frontage relates to the future crown of the road.

7.1.5 Minimum Unit Sizes

- Created a new section for minimum unit sizes that makes them consistent citywide, unless regulated in each district, overlay, or historic district. Most districts have the same minimum unit sizes.
- Removed 'Average Unit Sizes' to simplify calculations and enforcement of the code and to make the projects less exclusionary. This change does increase maximum allowable density requirements in each district.

7.1.6 Parking Screening Standards

- Relocated and enhanced 'Ground Floor Requirements' from RM and CD districts, and other districts and renamed it '7.1.6 Parking Screening Standards'. This enabled the code to be shortened and improves frontage quality.
- The provision requiring liner buildings for parking has been modified so that it is consistent with the terms 'understory' and 'First Habitable Level (FHL)' as used elsewhere in the proposed code.

7.1.7 Colors

- Clean up modifications for clarity, but no significant changes.

7.1.8 Prohibited Uses (formerly Section 142.1)

- Relocated Prohibiting Gambling and Casinos to Prohibited Uses to this section.*
- Relocated 'Assisted living facilities and medical uses' to supplementary use section.*
- Relocated prohibiting 'Rentals of Mopeds, Motorcycles and Motorized Bicycles, as well as prohibiting 'Neighborhood and Retail Fulfillment Centers' to this section.*

7.2 DISTRICT REGULATIONS

All Zoning Districts

- Cleaned up and created a consistent and clear District section structure. All Districts include:
 - Purpose
 - Uses (with tables)
 - Development Regulations (with tables and exhibits) and

- Additional Regulations if any
- Numbering throughout the code was made consistent and simplified so that the code can be amended and expanded without having to leave 'Reserved' sections.
- All zoning districts remain except for a few that were removed because they had not been deployed in the zoning map. Districts removed were RO-2 and RO-3.
- Districts were reorganized as a gradient from less intense (such as Single Family Residential and Townhome Districts) to more intense (such as Mixed-Use Entertainment and Town Center Districts) and Civic Districts (Government Use, Special Public Facilities Districts) and Special Districts (Golf Course and Waterway Districts) .
- Most Overlay Districts remain except for a few that were incorporated into the underlying zoning district, such as the 40th Street Overlay, which only affected a few properties in the RS-2 and RS-4 Districts).
- Converted permitted, conditional, accessory and prohibited use paragraphs into tables. Supplemental use regulations remain and are referenced on the tables. This makes the code more consistent and easier to interpret.
- Combined the existing Development Regulations Table or text with the Setback Requirements to create one larger table. All standards in all Districts now have the same table structure, which makes the code shorter and more user friendly.
- Added allowable intensity (FAR) and density (units per acre) from the Comprehensive Plan to all Development Regulations Tables. This allows the code to be more user friendly and clear.
- The minimum unit size and density bonus for workforce and affordable housing has been listed in all tables.
- Relocated and enhanced 'Ground Floor Requirements' and 'For New Construction' to General to All Districts and renamed it '7.1.6 Parking Screening Standards' and refer to that section in all applicable Districts. This enabled the code to be shortened and improves frontage quality.*
- Deleted setback requirements for At-Grade parking lots from all districts on the same lot because a table was added to the Parking Chapter which establishes general standards for surface parking lots.
- Whenever there is a mention of a geographic area in the district regulations a reference to a map key was added and mapped in GIS. This map appears on the Gridics Platform directly accessible through the text.
- Deleted Video Game Arcade from use regulations because this is not used anymore.
- Included Accessory Uses listed in the 'Article IV Supplementary District Regulations' to the District's Uses tables. Any specific supplementary regulations remain in '7.5.4 supplementary use regulations'.

7.2.2 RS

- Understories are allowed with administrative approval and would no longer require mandatory DRB review.
- Single-family homes utilizing an understory may be increased in height by up to 3 feet. An understory with a minimum height of 10 feet places the Residential First Habitable Level (FHL) above the maximum Design Flood Elevation. Therefore, up to 3 additional feet is permissible to ensure comfortable and climate responsive ceiling heights.
- Clarified that a 10-foot ground-level clearance is not required for understory homes.
- Consolidated setback table with other development standards to create one table, making the code more user friendly and clear.
- Eliminated parapet setbacks because they typically follow the line of the building.
- Relocated other yard requirements to the text and notes immediately following the table. (7.2.2.3 vii Exterior Building and Lot Standards RS)*
- In the Altos del Mar Historic District the maximum height of 37 feet remains, but the calculation of height was changed so that it is measured from DFE rather than from grade, to better accommodate future retrofits and promote a longer building lifespan, as well as be consistent in the way height is measured throughout the code.
- 'Commercial Use of Single-Family Homes Prohibited' (currently Sec. 142-109), was moved to supplemental uses section in RS.*
- Provisions for the demolition of single-family homes located outside of historic districts was moved to 7.2.2.4 and modified to be consistent with recently adopted State Law.*
- Modified the pre-1942 retention incentives to pre-1966 retention incentives.

7.2.3 TH

- Relocated public-private parking agreement paragraph and 'Sec. 142-607 Design Review' to '7.2.3.4 Additional Regulations (TH)'.*

7.2.4 RM-1

- Added Hostels as a prohibited use.
- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-1 and refer to that section.*
- Relocated standards for the 'Flamingo Park Local Historic District' to '7.2.4.4 Additional Regulations (RM-1)'**
- Relocated the 'North Beach Private and Public School Overlay District' to section 7.2.4.5 as part of the RM-1 District. This Overlay only affects a few properties in RM-1 and it is more appropriate as part of the District Regulations.*

7.2.5 RM-2

- Added Hostels as a prohibited use.
- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-2 and refer to that section.*
- Relocated regulations for properties that front the west side of Alton Road and Julia Tuttle Causeway to '7.2.5.4 Additional Regulations'*

7.2.6 RM-3

- Added Hostels as a prohibited use.
- Organized many of the remaining regulations into a section, 'Additional Development Regulations.'*

7.2.7 RM-PRD

- Added Supplemental minimum unit sizes because it differed from those found in Article 1.

7.2.8 RM-PRD-2

- Separated Sec. 142-187 'Purpose and Uses' into two sections, 'Purpose' and 'Uses' to be consistent with other zoning districts.
- Under uses, added a sentence regarding allowance of limited accessory ground floor retail to the Accessory Uses. The sentence had been located, previously, in a part of the document that does not pertain to uses.
- Created 'Additional Use Regulations' in order to gather the use regulations for the St. Francis Hospital Site and place these with other use regulations rather than at the end of the document.
- Reformatted 'Sec. 142-188. Development Regulations' so that the metrics are organized as a table 'RM-PRD-2 Development Regulations Table.'
- Created a new section 'Parking Standards' that organizes those regulations relating to parking.
- Deleted any use regulations, alternative setback or building metrics from Sec. 142-294 Urban and Architecture Design Guidelines and moved these to the master table, leaving only the regulations pertaining to Urban and Architecture Design.

7.2.9 RO

- Removed RO-2 and RO-3 from the District Regulations because they are not deployed in the zoning map. This makes the code shorter.

7.2.10 CD-1

- Removed Tower setbacks because the maximum height is 40 feet, therefore Tower setbacks do not apply. This helps clean up the code.
- 1.25 FAR for mixed use buildings is standardized and the previous RM-1 reference was removed. This makes the code easier to interpret and takes away the burden of having to go to multiple districts to find specific regulations.

7.2.11 CD-2

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-2)*'
- 2.0 FAR for mixed use buildings is standardized and the previous RM-2 reference was removed. This makes the code easier to interpret and takes away the burden of having to go to multiple districts to find specific regulations.
- Removed setbacks for Oceanfront Lots because there are no Oceanfront lots in CD-2. This helps clean up and make the code leaner.
- Created separate sections and development regulations for:
 - o Washington Avenue (CD-2)
 - o The Wolfsonian Arts District (CD-2)
 - o Alton Road Gateway Area (CD-2)
 - o Alton Road – Historic District Buffer (CD-2)
 - o Sunset Harbour (CD-2)
 - o Alton Road Office Development Overlay (CD-2) (This used to be an Overlay District but now is part of CD-2 regulations)

7.2.12 CD-3

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-3)*'
- Supplementary Minimum Unit Sizes specific to CD-3 were included in the development regulations table.
- Relocated 'Lincoln Road Hotel Incentives and Public Benefits Program' to '7.2.12.4 Additional Regulations (CD-3)*'
- Removed oceanfront lots references and metrics because there are no longer oceanfront lots in CD-3 districts.
- Clarified the maximum FAR requirements by removing obsolete text referencing oceanfront properties, as well as correcting a scrivener's error regarding FAR for residential development.

7.2.13 MXE

- Relocated 'Sec. 142-546 Additional restrictions for lots fronting Ocean Drive, Ocean Terrace and Collins Avenue' and 'Sec 142-546 Additional regulations' to '7.2.13.2 e Additional Use Regulations (MXE)' section after the uses table.*

7.2.14 TC

- Created a Use Table and a Development Regulations Table for each TC sub-district.
- Relocated 'Cultural Use' definition to general uses definitions chapter. This helps clean up the code and have all use definitions in one place.*
- Removed FAR for 'properties bounded by 69th Street on the south, Collins Ave on the east, 72nd St on the north and Indian Creek Drive/Dickens Ave on the west' from TC-1, TC-2 and TC-3 tables because this is now part of TC-C.
- Removed Video Game Arcades from uses list.
- Created separate development regulations tables for TC-1, TC-2 and TC-3.
- Removed 'Sec. 142-739 Parking' because it conflicted with the standards in parking district No. 8 (now in Tier 3).
- TC-C is now a subdistrict of TC.
- Supplemental minimum unit sizes for TC-C have been added to the development regulations table.
- Setback and encroachments are part of the development regulations table in TC-C.
- Relocated 'Sec. 142-746 Nonconforming structures within unified development sites', 'Sec. 442-747 Public Benefits Program' and 'Sec. 142-748 North Beach Public Benefits Fund' to 'Additional Regulations (TC-C)'.
- In the TC-C District provided that should there be a conflict with the elevations and FDOT roadway projects, the DRB may waive the requirement for a continuous level elevation for the clear pedestrian path.

7.2.15 PS

- Created a new structure and sub-districts for R-PS, C-PS and RM-PS Districts.
- Made uses tables consistent with other district's uses tables and incorporated Accessory Uses to the uses tables.
- Removed oceanfront lots metrics in C-PS districts because there are no longer oceanfront lots in C-PS districts.
- Relocated 'Sec. 142-704 Minimum required yards in relation to minimum open space ratio' to '7.2.15 Additional Regulations (PS)'.*
- Removed 'Sec. 142-706 Supplemental Parking Regulations' and incorporate standards into Off-Street Parking Chapter 5.

7.2.16 GU

- No significant formatting or content changes.

7.2.17 CCC

- Changed one measurement for the 17th Street and Convention Center Drive Front Setbacks to be related to DFE rather than from grade.
- 'Sec. 142-367. Notice of public hearing; vote' and 'Sec. 142-368 Off-site parking' to Additional Regulations (CCC).*

7.2.18 SPE

- Converted Development Regulations and Uses into tables.

7.2.19 HD

- Reformatted the section for minimum yards and maximum height as part of the table.
- Deleted Sec. 142-454. Master plan for hospital development as this was supposed to have occurred by 1990.
- Relocated 'Sec. 142-455 Special use regulations' to '7.2.19.2 Uses (HD)'.*
- Removed setbacks for St. Francis, South Shore and Heart Institute because they are obsolete.

7.2.20 MR

- Removed tower setbacks because at a maximum height of 40 feet, tower setbacks do not apply.

7.2.21 WD

- Combined WD-1 and WD-2 and made them 2 separate sub-districts of WD with their separate uses and development regulations tables.

7.2.22 GC

- The regulations limiting waste collection hours of operation moved to the noise regulations section because they were formerly located in setback requirements and have nothing to do with building setbacks.
- Removed setbacks for properties fronting 17th Street and Convention Center Drive because the Miami Beach Golf Club is designated GU not

GC.

7.2.23 I-1

- Relocated 'Sec. 142-488. Special regulations for alcohol beverage establishments' to supplemental use regulations.*

7.3 OVERLAY DISTRICTS

- Overlay Districts did not change except for renumbering of sections and used a consistent section structure:

- o Location and Purpose
- o Compliance with Regulations

• 7.3.1 Dune Preservation and Oceanfront Overlays District

- o Combined into 1 overlay district with specific location and purpose and regulations for each.

• 7.3.2 Convention Hotel Overlay District

- o No significant formatting or content changes.

• 7.3.3 West Avenue Bay Front Overlay District

- o No significant formatting or content changes.

• 7.3.4 Collins Park Arts District Overlay District

- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

• 7.3.5 Faena District Overlay District

- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

• 7.3.6 Ocean Terrace Overlay District

- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

• 7.3.7 Art Deco MIMO Commercial Character Overlay District

- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

• 7.3.8 North Beach National Register Conservation Overlay District

- o No significant formatting or content changes.

• 7.3.7 Sunset Harbour Mixed-Use Neighborhood Overlay District

- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

7.4 NEIGHBORHOOD CONSERVATION DISTRICTS

• 7.4.1 Gilbert M. Fein Neighborhood Conservation Overlay District

- o Created a new category for Conservation Districts and placed it in the section.
- o Removed map from text and create an exhibit code to view map on Gridics platform.
- o No significant formatting or content changes.

7.5 SUPPLEMENTARY DISTRICT REGULATIONS

- No significant formatting or content changes.

• 7.5.2 Height Regulations

- o No significant formatting or content changes.
- o Regulations pertaining to height exceptions and roof top additions clarified to make it clear that unless otherwise noted roof top additions are limited to the maximum height of the underlying zoning district.

• 7.5.3 Supplementary Yard Regulations

- o No significant formatting or content changes.

• 7.5.4 Supplementary Use Regulations

- o Relocated 'Division 2. Accessory Uses' Under Supplementary Use Regulations.*
- o Relocated Use definitions to the General Use Definitions Chapter. This allows the code to be clearer.*
- o Removed 'Sec. 142-1104 Video Game and machines in commercial districts'.
- o Cleaned-up '7.5.4.13 Accessory Uses'
- o Added clarifying text regarding the percentage of allowable accessory uses in relation to the main permitted use. Under a decades old interpretation, the maximum percentage of an accessory use in relation to the main permitted use was 49%. The Code has been modified to clarify that the enclosed floor area of an allowable accessory use(s) shall not exceed 35% of the floor area of the main permitted use(s). This will apply primarily to RM districts.
- o Removed and Relocated 'Solar Panels' from the accessory use section, as these are not a use.
- o Clarified that the landing of or storage areas for helicopter, or other aircraft pads are only allowed in the HD District.
- o Clarified that temporary sales buildings are prohibited in RS districts.
- o Clarified standards for accessory outdoor bar counters.
- o Clarified that accessory health clubs in the RM-1 district may only be used by building residents.

PLANNING BOARD REVIEW

The Planning Board held a public hearing on July 26, 2022 and transmitted the Ordinance to the City Commission with a favorable recommendation (vote 6-0). Additionally, the Planning Board adopted a second motion (vote 6-0) recommending that the City Commission consider the following modifications:

1. Study reducing Neighborhood Impact Establishment (NIE) thresholds for Entertainment.

2. Reduce hotel occupancy to four (4) persons with no limits on children.
3. Reduce or eliminate existing mixed-use FAR bonuses for hotels.
4. Consider applying existing mixed-use FAR bonus only to workforce or affordable housing.
5. Address compatibility between new homes and existing homes.
6. Incentivize allowing property owners to keep existing homes.

UPDATE

On September 14, 2022, the City Commission approved the subject Ordinance, inclusive of the proposed LDR updates and Resiliency Code, at First Reading, and set a date certain of October 26, 2022 for Second Reading. The City Commission approved the proposal with the addition of a registered Architect as a required membership category on the Board of Adjustment, as approved by the City electorate on the August 23, 2022 ballot. This adjustment is reflected in the updated Code.

Additionally, the City Commission referred the following initiatives to the Land Use and Sustainability Committee (LUSC) for further study, development, and potential action:

- The creation of a Transfer of Development Rights (TDR) program, including receiving and transfer districts. This will require voter approval due to increases in FAR.
- The identification and development of Transit Oriented Development (TOD) zones. This would ideally be conducted in concert with the development of a TDR program.
- A detailed analysis of current minimum parking requirements and the identification of specific areas of the city that either no longer need minimum parking requirements or need reduced minimum parking requirements.
- Identifying and incorporating tangible incentives for significant private property improvements that are sustainable and resilient. This should include, but not be limited to, creating living shorelines within commercial, multi-family and single-family properties, as well as self-sustaining energy within a property.

The City Commission also requested that a Commission Workshop be scheduled to further discuss the details of the proposed Resiliency Code and LDR updates, prior to Second Reading. This workshop took place on October 12, 2022 and the following is a summary of the substantive issues discussed and the recommendations of the Administration:

1. Warrant Process Sequencing. The sequencing of the proposed warrant process has been further studied. The following are additional potential options for the procedures required to approve a Warrant:

Proposed Sequence: Approved at First Reading on September 14, 2022 (5 Steps)

- Step One: Applicant Files Application
- Step Two: Planning Board Public Hearing and Recommendation
- Step Three: City Commission First Reading Public Hearing
- Step Four: DRB/HPB Review and Approval of Project with Hold Harmless
- Step Five: City Commission Public Hearing and Adoption

Option 1: Updated Review with Commission Action First (4 Steps)

- Step One: Applicant Files Application
- Step Two: City Commission First Reading Public Hearing
- Step Three: DRB/HPB Review and Approval of Project with Hold Harmless
- Step Four: City Commission Public Hearing and Adoption

This option provides for a shorter review process. It removes the requirement for a recommendation from the Planning Board on the Warrant and requires that the project be approved by the applicable Land Use Board prior to adoption of the Warrant by the City Commission.

Option 2: Streamlined Review Process with LUB Action First (3 Steps)

- Step One: Applicant Files Application
- Step Two: DRB/HPB Review and Approval of Project with Hold Harmless
- Step Three: City Commission Public Hearing and Adoption

This option provides for the shortest review process and requires only one City Commission review hearing, which would occur subsequent to the review and approval of the project by the applicable LUB.

In further analyzing the different sequencing options above, the Administration recommends option 2, as it includes the applicable review by the DRB or HPB, as well as final City Commission approval, but in a less complicated, more streamline manner. In practice this is likely to result in more applicants utilizing the warrant process, as opposed to the lengthier code amendment process.

2. Proposed Removal of Average Unit Size Requirements. The proposal to eliminate average unit size requirements for multi-family residential projects has been further studied, to better ensure that it does not result in an increase in short term rentals. In this regard the Administration recommends that the existing average unit size requirement remain in place for those districts that do not prohibit STR's and allow for a property owner to forgo the average unit size limits if they voluntarily proffer not to have any STR's. The following is draft text to effectuate this recommendation:

Voluntary average unit size incentive program. Developments located in zoning districts that do not prohibit the short-term rental of residential apartment units shall be eligible for an exemption from the applicable average unit size requirements set forth in the underlying district, subject to the following conditions:

- a. *Density. The development shall not be permitted to exceed the maximum residential density established in the Comprehensive Plan or Land Development Regulations.*

b. *Minimum Unit Size.* This incentive shall not be construed to permit any units that is smaller than the minimum allowable unit size for the type of unit being proposed.

c. *Covenant.* To be eligible for this voluntary average unit size incentive, the property owner, at the owner's sole discretion, shall voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day.

3. 35% Limit for Allowable Accessory Uses. Concern was expressed regarding the proposed cap on the size of allowable accessory uses only applying to interior floor area, and not including exterior areas of a property. Currently, under a decade's old interpretation, a rule of up to 49% is applied when calculating the maximum square footage of accessory uses. The proposed revised standard is more consistent with the nature of accessory uses and will provide an actual defined standard.

The Administration has concluded that the proposed 35% cap on accessory uses should be applicable to indoor areas only, for the following reasons:

- Exterior areas, in general, are limited, and contain other areas of the property not used for accessory uses. Including exterior areas will create challenges in calculating the square footage used for accessory uses, in relation to exterior areas not used for the accessory use.
- Exterior areas associated with an allowable accessory use will still be subject to the current Neighborhood Impact Establishment (NIE) thresholds, which is the primary safeguard to ensure neighborhood compatibility.
- If exterior areas become subject to the 35% limit proposed for allowable accessory uses, establishments will end up reducing interior space to achieve the desired exterior area. Having less interior space available can become problematic in the future and result in undesirable usage of outdoor spaces, particularly as it pertains to storage and back of house requirements.

Finally, after the September 14, 2022, City Commission meeting, additional clarifications, minor modifications and adjustments were identified and incorporated into the Resiliency Code and LDR Updates that are non-substantive do not affect the title. The following is a summary of these non-substantive changes to the applicable chapters, which were also presented at the October 12, 2022 City Commission workshop:

- **Chapter 2: Administration and Review Procedures**
 - Section 2.1.5.2 is amended to include a registered architect as a required membership category on the Board of Adjustment.
- **Chapter 7: Zoning Districts and Regulations**
 - Section 7.2.2.3 pertaining to lot split regulations for single family lots was amended to be consistent with State Law.
 - Section 7.2.2.4 was further amended regarding the demolition procedures for single family homes to be consistent with State Law.
 - Section 7.2.2.6 pertaining to the 40th Street religious institution overlay, was amended slightly to allow existing parking spaces on a property to be discontinued, provided that there is one or more public parking lot(s) and/or garage(s) within 500 feet of the subject property. In the event that the religious institution should convert back to a single-family residence, the previously discontinued parking spaces would need to be re-activated.

Second Reading / Adoption of the proposed Ordinance was scheduled for October 26, 2022, at which time it was opened and continued to a date certain of November 16, 2022. On November 16, 2022 the City Commission discussed the proposal at Second Reading and continued final adoption to the December 14, 2022 City Commission meeting. Additionally, the City Commission referred the following items to the Land Use and Sustainability Committee (LUSC) for further discussion prior to Second Reading:

1. The proposal to remove average unit size requirements.
2. The proposal to allow new single family homes utilizing an understory to be reviewed by staff, instead of the current requirement for Design Review Board approval.

On November 18, 2022, the LUSC discussed the above noted items and recommended the following:

1. The proposal to eliminate average unit size requirements for multi-family residential projects should be modified in accordance with the recommendation of staff, to better ensure that it does not result in an increase in short term rentals (STR's). Specifically, existing average unit size requirements would remain in place for those districts that do not prohibit STR's and allow for a property owner to forgo the average unit size limits if they voluntarily proffer not to have any STR's.
2. The review of understory homes should be at staff level, and no longer require mandatory DRB review.

In furtherance of the recommendations of the LUSC, it needs to be noted that the minimum unit size for apartment units is, and has always been, 550 square feet. That is not changing, nor are the current maximum density caps in any district. The proposal to remove the average unit size requirement is intended to provide flexibility for attainable housing. From a practical standpoint, in low to medium intensity residential districts some units would still likely need to be larger than 550 square feet as the proposal does not permit an increase in the total number of units currently permitted under the comprehensive plan.

Regarding single family homes utilizing an understory component, the requirements set forth under the development regulations for single family homes provide an established framework for new construction and are considered an expectation. The primary responsibility of the DRB is to review applications involving waivers and variances, and the DRB process provides an opportunity for affected property owners to provide comment and feedback regarding such exceptions.

The development regulations specific to understory homes are very specific and any proposal to vary from these requirements, either in the form of a waiver or variance would still require DRB review. The proposal to allow administrative review of understory homes that comply with all of the requirements set forth in the Code would result in more homes utilizing this component and would significantly further the City's resiliency goals and objectives.

On December 14, 2022 the item was opened and continued to a date certain of February 1, 2023, with no discussion.

SUMMARY

The proposed Resiliency Code and LDR Updates will not noticeably alter the scale of development, allowable uses, parking requirements, or development patterns. The update will provide for a much more transparent code that clearly outlines regulations with graphics and diagrams and is easier to navigate. The Resiliency Code will also imbed standards throughout the document to ensure that resiliency is at the forefront of new development proposals as well as rehabilitation of existing structure.

The proposed Code maintains the four existing land use boards, as well as their jurisdiction of review, and respects all provisions of the City Charter, including sections related to Historic Preservation and Floor Area Ratio (FAR). However, it does codify pre-application processes and other procedures that are currently followed for improved transparency. Additionally, the code provides for a City Commission approved warrant

process that will minimize the need for future code amendments specific to a single site, while guaranteeing promised development outcomes. This proposed warrant process will also help ensure that future Code amendments are considered holistically through a quarterly amendment cycle.

If adopted, the Code will be incorporated into the Gridics online code platform that will give property owners the ability to quickly obtain zoning information about each property and provide increased transparency to residents. Ultimately, staff expects that this update will better facilitate the review of building permits when they are submitted to the City, as the expectations will be clear to architects, contractors, developers and City staff.

SUPPORTING SURVEY DATA

Improve and Enhance Residents Quality of Life

FINANCIAL INFORMATION

No Fiscal Impact Expected

CONCLUSION

The Administration recommends that the City Commission adopt the subject Ordinance, inclusive of the following modifications:

- 1. The warrant process shall be revised to incorporate the revised 3-step sequence identified in Option 2 herein (Streamlined Review Process with LUB Action First).
- 2. The average unit size requirements shall remain for those districts that permit the short-term rental of apartment units (STR's), in accordance with the following:

Developments located in zoning districts that do not prohibit the short-term rental of residential apartment units shall be eligible for an exemption from the applicable average unit size requirements set forth in the underlying district, subject to the following conditions:

- a. Density. The development shall not be permitted to exceed the maximum residential density established in the Comprehensive Plan or Land Development Regulations.*
- b. Minimum Unit Size. This incentive shall not be construed to permit any units that is smaller than the minimum allowable unit size for the type of unit being proposed.*
- c. Covenant. To be eligible for this voluntary average unit size incentive, the property owner, at the owner's sole discretion, shall voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day.*

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Planning

Sponsor

Commissioner Ricky Arriola

ATTACHMENTS:

Description

- ▢ [Ordinance](#)
- ▢ [Ad](#)