



**Miami  
FL**

**Ordinance  
4943**

NO ACTION TAKEN  
Nov 15, 2018 2:00 PM

**AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING ORDINANCE NO. 13114, THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, MORE SPECIFICALLY BY AMENDING ARTICLE 1, SECTION 1.2, ENTITLED "DEFINITIONS OF TERMS," ARTICLE 3, SECTIONS 3.5, ENTITLED "MEASUREMENT OF HEIGHT," ARTICLE 5, SECTION 5.3, ENTITLED "SUB-URBAN TRANSECT ZONES (T3)," AND ARTICLE 7, SECTION 7.2.3, ENTITLED "ALTERATIONS AND EXPANSIONS OF NONCONFORMING STRUCTURES," TO INCORPORATE ADDITIONAL HEIGHT ALLOWANCES AND FREEBOARD IN THE FLOODPLAIN AND CLARIFY LANGUAGE FOR RAISING STRUCTURES WITHIN THE FLOODPLAIN; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

## Information

**Department:** Department of Planning      **Sponsors:**  
**Category:** Planning and Zoning

## Links

**Link** [PZAB-R-18-047 : A RESOLUTION OF THE PLANNING, ZONING AND APPEALS BOARD RECOMMENDING APPROVAL OF AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING ORDINANCE NO. 13114, THE ZONING ORDINANCE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, MORE SPECIFICALLY BY AMENDING ARTICLE 1, SECTION 1.2, ENTITLED "DEFINITIONS OF TERMS", ARTICLE 3, SECTIONS 3.5, ENTITLED "MEASUREMENT OF HEIGHT", ARTICLE 5, SECTION 5.3, ENTITLED "SUB-URBAN TRANSECT ZONES \(T3\), AND ARTICLE 7, SECTION 7.2.3, ENTITLED "ALTERATIONS AND EXPANSIONS OF NONCONFORMING STRUCTURES", TO INCORPORATE ADDITIONAL HEIGHT ALLOWANCES AND FREEBOARD IN THE FLOODPLAIN AND CLARIFY LANGUAGE FOR RAISING STRUCTURES WITHIN THE FLOODPLAIN; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.](#)

## Attachments

[4943 - PZAB \(4490\) Resolution](#)  
[4943 - Ordinance 13640](#)  
[4943 - R-17-0146](#)

## Body/Legislation

WHEREAS, on October 22, 2009, the City Commission adopted Ordinance No. 13114, the Zoning Ordinance of the City of Miami, as amended ("Miami 21 Code"); and

WHEREAS, on March 23, 2017 the City Commission passed Resolution No. 17-0146, which recommended the City of Miami ("City") formally join the Southeast Florida Regional Climate Change Compact ("SFRCCC"); and

WHEREAS, the SFRCCC establishes the Unified Sea Level Rise projection for Southeast Florida, which is currently projected at fourteen (14) to thirty-four (34) inches by year 2060; and

WHEREAS, the City will consider and incorporate future sea level rise projections from the SFRCCC;  
and

WHEREAS, on October 13, 2016, the City Commission adopted Ordinance 13640, which established the Sea Level Rise Committee, to study the effects of sea level rise; and

WHEREAS, twenty-four percent (24%) of the City is within the Coastal High Hazard Area ("CHHA"), as defined in Coastal Management Policy CM-4.1.2 of the Miami Comprehensive Neighborhood Plan ("MCNP") and Section 163.3178(2)(h)9, Florida Statutes; and

WHEREAS, the City has over 12,000 properties within the CHHA, comprising roughly 5,716 acres within the City; and

WHEREAS, the majority of land within the CHHA is designated Civic Institutional on the Miami 21 Zoning Atlas, due to the large amount of land in Port of Miami; due to the reclaimed nature of the Port of Miami, much of the island is actually above the CHHA; and

WHEREAS, the majority of properties within the CHHA are designated "T3," Sub-Urban Transect Zone," and "T6," Urban Core Transect Zone; and

WHEREAS, for the safety, wellbeing, and long-term sustainability of life and property, the City is pursuing changes to the Miami 21 Code to address sea level rise; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") encourages the incorporation of Freeboard, as defined herein, into the construction and reconstruction of properties within areas prone to flooding, with consideration of future risk due to sea level rise; and

WHEREAS, the addition of Freeboard to height requirements has many benefits, including reducing the amount of at-risk property from flood damage and reducing National Flood Insurance Program ("NFIP") premiums for property owners; and

WHEREAS, increased ground-floor height allowances in flood prone areas provide ground-floor retail establishments the flexibility to respond to changing infrastructure needs while preserving and enhancing a quality pedestrian environment; and

WHEREAS, the Planning, Zoning and Appeals Board ("PZAB"), at its meeting on September 24, 2018, following an advertised public hearing, adopted Resolution No. PZAB-R-18 -047, by a vote of seven to zero (7 - 0), Item No. PZAB.7, recommending approval of the Zoning Text Change; and

WHEREAS, the City Commission gave full consideration to the Director's recommendations; and

WHEREAS, the City Commission has conducted a public hearing on the proposed text amendment; and

WHEREAS, the City Commission has considered the relationship of the proposed amendment to the goals, objectives and policies of the MCNP, with appropriate consideration as to whether the proposed change will further the goals, objectives and policies of the MCNP, the Miami 21 Code, and other City regulations; and

WHEREAS, the City Commission has considered the need and justification for the proposed change, including changed or changing conditions that make the passage of the proposed change necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. The Miami 21 Code is further amended by amending Article 1, Section 1.2, entitled "Definition of Terms," in the following particulars:[\[1\]](#)

## **"ARTICLE 1. DEFINITIONS**

\* \* \*

**1.2 DEFINITIONS OF TERMS**

\* \* \*

**Base Flood Elevation (BFE):** The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year, as determined by FEMA. The BFE is shown on the FEMA Flood Insurance Rate Map (FIRM).

\* \* \*

**Freeboard:** The additional height above the Base Flood Elevation at which the lowest finished floor is built.

\* \* \*

**Special Flood Hazard Area:** The land area, as determined by FEMA and shown on the FEMA Flood Insurance Rate Map (FIRM), covered by the floodwaters of the base flood.

\* \* \*\*

Section 3. The Miami 21 Code is further amended by amending Article 3, Section 3.5, entitled "Measurement of Height," in the following particulars:<sup>1</sup>

**3.5 MEASUREMENT OF HEIGHT**

**3.5.1** Unless otherwise specified herein, the Height of Buildings shall be measured in Stories. The height of Fences and walls shall be measured in feet. The Height of Buildings, Fences and walls shall be measured from the Average Sidewalk Elevation or, where no sidewalk exists, the average of the record profile grade elevation of the street Abutting the Principal Frontage of the Building, as determined by the Public Works Department. In the event that the ~~Base Flood~~ Elevation, as established by FEMA, plus Freeboard, is higher than the sidewalk or grade elevations, the total Height of the first Story Building but not the height of Fences and walls shall be measured from the ~~Base Flood~~ Elevation plus Freeboard.

\* \* \*

**3.5.2** A Story is a Habitable level within a Building of a maximum fourteen (14) feet in Height from finished floor to finished floor. Basements are not considered Stories for the purposes of determining Building Height. A ground level retail Story may exceed this limit up to a total height of twenty-five (25) feet, or up to a total Height of thirty (30) feet when a retail establishment is located in the Special Flood Hazard Area, given that the finished floor of the ground level meets the Average Sidewalk Elevation. A single floor level exceeding fourteen (14) feet, or twenty-five (25) feet at ground level retail (or thirty (30) feet at ground level retail within the Special Flood Hazard Area), shall be counted as two (2) Stories; except for T6-36, T6-48, T6-60, T6-80, and D1, where a single floor level exceeding fourteen (14) feet may count as one (1) story if the building height does not exceed the maximum height, including all applicable bonuses, allowed by the transect at fourteen (14) feet per floor. Where the first two stories are retail, their total combined Height shall not exceed thirty-nine (39) feet (forty-four (44) feet in the Special Flood Hazard Area) and the first floor shall be a minimum of fourteen (14) feet in Height (nineteen (19) feet in the Special Flood Hazard Area). Mezzanines may not exceed thirty-three percent (33%) of the Habitable Space Floor Area, except for D1, where mezzanines may not exceed fifty percent (50%) of the Habitable Space Floor Area. Mezzanines extending beyond thirty-three percent (33%) of the Floor Area, or fifty percent (50%) of the Floor Area in D1, shall be counted as an additional floor. The Height of a Parking Structure concealed by a Liner may be equal to the Height of the Liner; this may result in a Liner Story concealing more than one level of Parking.

\* \* \*

Section 4. The Miami 21 Code is further amended by amending Article 5, Section 5.3, entitled "Sub-Urban Transect Zones (T3)," in the following particulars:<sup>1</sup>

**5.3 SUB-URBAN TRANSECT ZONES (T3)**

\* \* \*

**5.3.2 Building Configuration (T3)**

- a. Development within Private Frontages shall comply with Article 4, Tables 2 and 6 and Illustration 5.3. For T3-R and T3-L, second story lot coverage shall not exceed thirty percent (30%).
- b. Encroachments shall be allowed as follows: At the First Layer, stairs may encroach up to eight (8) feet of the depth of the Setback. In the event an existing Building is raised in order to bring the finished floor elevation above the Base Flood Elevation plus Freeboard, stairs and ramps required for vertical circulation may encroach one hundred percent (100%) of the Setback by process of Waiver. Open Porches shall be at a minimum seven (7) feet deep and may encroach up to eight (8) feet of the depth of the Setback. At the First Layer, cantilevered portions of Awnings, balconies, bay windows and roofs shall be a maximum three (3) feet deep and may encroach up to three (3) feet of the depth of the Setback. Other cantilevered portions of the Building shall maintain the required Setback. At the Second and Third Layers, Awnings, balconies, bay windows, chimneys, roofs and stairs may encroach up to fifty percent (50%) of the depth of the Side Setback or three (3) feet, whichever is less. At the Third Layer, Awnings and canopies may encroach up to fifty percent (50%) of the depth of the Rear Setback.

\* \* \*

- e. Building Heights shall be measured in Stories and shall conform to Article 4, Table 2 and be as shown in Illustration 5.3. The first-floor elevation of a Principal Building shall be a maximum of two and a half (2.5) feet above grade, or ~~as regulated by FEMA Base Flood Elevation with a minimum of one (1) foot to a maximum of five (5) feet of Freeboard,~~ whichever is higher. A flat roof shall be a maximum of two Stories and twenty-five (25) feet. A pitched roof shall be a maximum of twenty-five (25) feet to the eave and shall not exceed ten (10) feet overall Height above the second Story.

\* \* \*

Section 5. The Miami 21 Code is further amended by amending Article 5, Section 5.4, entitled "General Urban Transect Zones (T4)," in the following particulars: <sup>1</sup>

**5.4 GENERAL URBAN TRANSECT ZONES (T4)**

\* \* \*

**5.4.2 Building Configuration (T4)**

\* \* \*

- b. Encroachments shall be allowed as follows: At the First Layer, stairs may encroach up to fifty percent (50%) of the depth of the Setback. In the event an existing Building is raised in order to bring the finished floor elevation above the Base Flood Elevation plus Freeboard, stairs and ramps required for vertical circulation may encroach one hundred percent (100%) of the Setback by process of Waiver. Open Porches shall be at a minimum

seven (7) feet deep and may encroach up to fifty percent (50%) of the depth of the Setback. At the First Layer, Cantilevered portions of Awnings, balconies, bay windows and roofs shall be at a maximum three (3) feet deep and may encroach up to thirty percent (30%) of the depth of the Setback. Other cantilevered portions of the Building shall maintain the required Setbacks. At the Second and Third Layers, Awnings, balconies, bay windows, chimneys, roofs, and stairs may encroach up to fifty percent (50%) of the depth of the Setback or three (3) feet, whichever is less. At the Third Layer, Awnings and canopies may encroach up to fifty percent (50%) of the depth of the Setback.

\* \* \*

- f. Building Heights shall be measured in Stories and shall conform to Article 4, Table 2 and be as shown in Illustration 5.4. The first-floor Elevation of a Principal Building shall be at average Sidewalk grade; a first-floor Residential or Lodging Function should be at a minimum Height of two (2) feet and a maximum Height of three and a half (3.5) feet for privacy reasons or as regulated by FEMA Base Flood Elevation with a minimum of one (1) foot to a maximum of five (5) feet of Freeboard, whichever is higher. The height of the building shall be up to three (3) Stories, and a maximum of forty (40) feet to the top of the roof slab.

\* \* \*\*

Section 6. The Miami 21 Code is further amended by amending Article 5, Section 5.5, entitled "Urban Center Transect Zones (T5)," in the following particulars:<sup>1</sup>

**5.5 URBAN CENTER TRANSECT ZONES (T5)**

\* \* \*

**5.5.2 Building Configuration (T5)**

\* \* \*

- b. Encroachments shall be as follows: At the First Layer, cantilevered Awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the Setback; except as may be further allowed by Chapter 54 of the City Code; above the first Story, cantilevered balconies, bay windows, roofs and Facade components promoting energy efficiency such as shading and Screening devices that are non-accessible, may encroach a maximum of three (3) feet into the Setback. Other cantilevered portions of the Building shall maintain the required Setback. In the event an existing Building is raised in order to bring the finished floor elevation above the Base Flood Elevation plus Freeboard, stairs and ramps required for vertical circulation may encroach one hundred percent (100%) of the Setback by process of Waiver. At the Second and Third Layers, no encroachments are permitted.

\* \* \*

- g. Building Heights shall be measured in Stories and shall conform to Article 4, Table 2 and be as shown in Illustration 5.5. The first floor elevation shall be at average Sidewalk grade. A first floor Residential or Lodging Function should be raised a minimum of two (2) feet and a maximum of three and a half (3.5) feet above average Sidewalk grade for privacy reasons, or Base Flood Elevation with a minimum of one (1) foot to a maximum of five (5) feet of Freeboard, whichever is higher. Existing one Story Structures shall be considered conforming and may be enlarged.

\* \* \*\*

Section 7. The Miami 21 Code is further amended by amending Article 5, Section 5.6, entitled "Urban Core Transect Zones (T6)," in the following particulars: <sup>1</sup>

**5.6 URBAN CENTER TRANSECT ZONES (T6)**

\* \* \*

**5.6.2 Building Configuration (T6)**

\* \* \*

- c. Encroachments shall be as follows: At the First Layer, cantilevered Awnings and entry canopies may encroach up to one hundred percent (100%) of the depth of the Setback, except as may be further allowed by Chapter 54 of the City Code. Above the first Story, cantilevered balconies, bay windows, roofs, or Facade components promoting energy efficiency, such as shading and Screening devices, that are non-accessible may encroach up to three (3) feet of the depth of the Setback. Other cantilevered portions of the Building shall maintain the required Setback. Above the eighth Story when additional setbacks are required as detailed in Illustration 5.6, Facade components promoting energy efficiency such as shading and Screening devices, that are non-accessible or balconies may encroach a maximum of three (3) feet. In the event an existing Building is raised in order to bring the finished floor elevation above the Base Flood Elevation plus Freeboard, stairs and ramps required for vertical circulation may encroach one hundred percent (100%) of the Setback by process of Waiver.
  
- g. Building Heights shall be measured in Stories and shall conform to Article 4, Table 2 and be allocated as required in Illustration 5.6. First-floor elevation shall be at average Sidewalk grade. A first level Residential Function or Lodging Function should be raised a minimum of two (2) feet and a maximum of three and a half (3.5) feet above average Sidewalk grade for privacy reasons, or Base Flood Elevation with a minimum of one (1) foot to a maximum of five (5) feet of Freeboard, whichever is higher. Existing one Story Structures shall be considered conforming and may be enlarged.

\* \* \*\*

Section 8. The Miami 21 Code is further amended by amending Article 7, Section 7.1.2.5, entitled "Waiver," in the following particulars: <sup>1</sup>

**7.1.2.5 Waiver**

\* \* \*

- 28. Encroachment of stairs and ramps into the setback for existing buildings being raised above the Base Flood Elevation plus Freeboard. (Article 3, Sections 5.3.2.b, 5.4.2.b, 5.5.2.b, and 5.6.2.c)
  
- 29. As appropriate to the nature of the Waiver involved and the particular circumstances of the case, Waivers up to ten percent (10%) of any particular standard of this Code except Density, Intensity and Height, may be granted when doing so promotes the intent of the particular Transect Zone where the proposal is located; is consistent with the guiding principles of this Code; and there is practical difficulty in otherwise meeting the standards of the Transect Zone, or when doing so promotes energy conservation and Building sustainability. The inability to achieve maximum Density, Height, or floor plate for the Transect shall not be considered grounds for the granting of a Waiver. This Waiver cannot be combined with any other specified Waiver of the same standard.

\* \* \*\*

Section 9. The Miami 21 Code is further amended by amending Article 7, Section 7.2, entitled "Nonconformities: Structures; Uses; Lots; Site Improvements; and Signs," in the following particulars:<sup>1</sup>

**7.2 NONCONFORMITIES: STRUCTURES; USES; LOTS; SITE IMPROVEMENTS; AND SIGNS**

\* \* \*

**7.2.3 Alterations and Expansion of Nonconforming Structures**

- a. Single-Family Residences and Duplexes
  - 1. Interior alterations to a nonconforming Single-Family Residence or duplex for interior work such as repairs or interior remodeling shall be allowed.
  - 2. Alterations, additions, repairs and maintenance to a nonconforming Single-Family Residence or duplex shall be permitted as long as there is no enlargement of any nonconformity that affects the exterior of the Building or premises.
  - 3. Where alteration, addition, repair or maintenance enlarges a nonconformity affecting the exterior of the Building or premises, the enlargement may be permitted by Waiver from the Zoning Administrator.
- b. All other Structures
  - 1. Less than fifty percent (50%) of square footage of Structure.  
Alterations which enlarge the nonconformity of a nonconforming Structure to an extent of less than fifty percent (50%) of the total square footage of the nonconforming Structure may be permitted by Exception from the Planning, Zoning and Appeals Board.
  - 2. Fifty percent (50%) or more of square footage of the Structure.  
A nonconforming Structure may be altered to enlarge the nonconformity of the Structure by fifty percent (50%) or more of the total square footage of the nonconforming Structure only if the Structure thereafter conforms to the Transect Zone in which it is located.
  - 3. The raising of a nonconforming Structure, in order to bring the finished floor elevation above the Base Flood Elevation as determined by FEMA and does not enlarge the nonconformity, shall be permitted.

\* \* \*\*

Section 10. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance should not be affected.

Section 11. This Ordinance shall become effective immediately upon its adoption.

[1] Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

Meeting History

**Nov 15, 2018 2:00 PM** **City Commission** **Planning and Zoning**



**RESULT: NO ACTION TAKEN**

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