

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: December 11, 2024 1:30 p.m. First Reading Public Hearing

TITLE: VISIBILITY TRIANGLE REQUIREMENTS FOR OCEANFRONT PROPERTIES –  
LDR AMENDMENT  
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” ARTICLE III, ENTITLED “OVERLAY DISTRICTS,” DIVISION 1, ENTITLED “DUNE PRESERVATION AND OCEANFRONT OVERLAYS,” SECTION 7.3.1.2, ENTITLED “OCEANFRONT,” BY REFERENCING COMPLIANCE WITH NEWLY CREATED SECTION 14-1 OF THE MIAMI BEACH CODE, ENTITLED “BEACHWALK ACCESS AND VISIBILITY,” AND ADOPTING CORRESPONDING AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for February 2025.

### **BACKGROUND/HISTORY**

On May 15, 2024, at the request of Commissioner Tanya K. Bhatt, the City Commission referred an item pertaining to visibility sight lines from private property and street ends entering the beach walk (C4 AE) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On July 9, 2024 the LUSC discussed and continued the item to the September 5, 2024 LUSC meeting with direction to the Administration to develop options for addressing safety and visibility at access points to the beach walk.

September 5, 2024, the LUSC discussed and continued the item to the October 14, 2024 meeting with direction to the Administration to prepare graphics and amend the text of the proposed code section to better reflect a visibility triangle. On October 14, 2024, the LUSC recommended that the City Commission approve the proposed amendment to Chapter 14 of the General Ordinances of the City Code (City Code), with the following modifications:

1. The 10-foot visibility triangle shall apply to properties with at least 100 feet of frontage on the beach walk.
2. The 6-foot visibility triangle shall apply to properties with less than 100 feet of frontage on the beach walk.
3. The measurement of the visibility triangle shall be taken from the western edge of the beach walk.
4. The regulations shall also apply to future sections of the bay walk and cut walk, as well as

city owned properties.

The LUSC also recommended that the Planning Board transmit a companion amendment to the Land Development Regulations of the City Code (LDRs), amending the Oceanfront Overlay regulations to reference compliance with Chapter 14 of the City Code.

## **ANALYSIS**

Currently, fences and gates located in the rear of oceanfront properties are limited to a maximum height of seven (7') feet if they are setback at least four feet from the property line. If placed along a property line, the maximum height cannot exceed five (5') feet. All fences and gates require certificate of appropriateness or design review, depending on the location of the property, as part of the permit process and are generally required to consist of an open design, such as aluminum picket.

Regarding shrubbery and hedges, pursuant to section 7.5.3.2 of the LDRs, there is no height limitation for hedge material located within a required yard in any district. However, since new development along the ocean requires either Design Review Board (DRB) or Historic Preservation Board (HPB) approval, these boards have the latitude to regulate the dimensions and design (including overall height) of all landscape material.

A separate amendment to Chapter 14 of the City Code has been proposed, which would establish regulations for structures and landscape within 6-10 feet (depending on beach frontage) of a street-end or public access point to the beach walk. The purpose of these regulations is to ensure pedestrian visibility between a height of 2 feet and 10 feet above the adjacent grade.

To ensure that future development projects are consistent with the standards and regulations contained in Chapter 14, the attached amendment to Section 7.3.1.2 of the LDRs, which provides a reference to the applicable requirements of Chapter 14 in the development regulations of the Oceanfront Overlay, is also proposed.

## **PLANNING BOARD REVIEW**

On November 26, 2024, the Planning Board is scheduled to hold a public hearing and transmit the proposed ordinance to the City Commission. The Administration will advise the City Commission on the recommendation of the Planning Board at the Commission meeting.

## **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact Expected

**Does this Ordinance require a Business Impact Estimate?** Yes  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for February 2025.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

### **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

### **Department**

Planning

### **Sponsor(s)**

Commissioner Tanya K. Bhatt

### **Co-sponsor(s)**

**Condensed Title**

1:30 p.m. 1st Rdg PH, Visibility Triangle Requirements for Oceanfront Properties-LDR  
Amendment. (Bhatt) PL 5/7