

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: June 25, 2025 1:35 p.m. First Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 54 OF THE MIAMI BEACH CITY CODE, ENTITLED "FLOODS," BY AMENDING ARTICLE III, ENTITLED "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION," TO AMEND THE APPLICABILITY OF THIS ARTICLE, MODIFY DEFINITIONS, AND STRENGTHEN CONSTRUCTION STANDARDS FOR NEW AND EXISTING SEAWALLS AND OTHER TIDAL FLOOD BARRIERS TO STRENGTHEN COASTAL RESILIENCE AND MITIGATE THE EFFECTS OF TIDAL FLOODING AND SEA LEVEL RISE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission approve the subject ordinance at First Reading Public Hearing and schedule a Second Reading Public Hearing for July 23, 2025.

BACKGROUND/HISTORY

On January 13, 2021, the Mayor and City Commission adopted Chapter 54, entitled "Floods," Article III, entitled "Resilience Standards for Tidal Flood Protection," commonly referred to as the "Seawall Ordinance" to codify minimum elevations for new seawalls and require seawalls that are in disrepair and are causing flooding on adjacent properties be maintained. The item was sponsored by Commissioner Mark Samuelian.

On October 30, 2024, the Mayor and City Commission referred a discussion item (C4 G) to the Land Use and Sustainability Committee and Public Safety and Quality of Life Committee to explore amendments to Chapter 54, entitled "Floods," Article III, entitled "Resilience Standards for Tidal Flood Protection" that would enhance short-term and long-term enforcement mechanisms to address public safety and quality of life concerns related to tidal flooding. This item is sponsored by Commissioners Alex Fernandez and Laura Dominguez.

On November 25, 2024, the item was discussed at the Land Use and Sustainability Committee. The Committee passed a motion for the administration to recommend draft ordinance changes to improve the enforcement mechanisms for compliance with the standards set forth in the ordinance. This item is sponsored by Commissioners Alex Fernandez and Laura Dominguez.

On December 13, 2024, the item was discussed at the Public Safety and Quality of Life Committee. The Committee concurred with the direction of the November Land Use and Sustainability Committee and recommended the item be concluded for this committee. In addition, Commissioner Dominguez noted the importance of the Private Property Adaptation program to help fund seawall improvements. This item is sponsored by Commissioners Alex Fernandez and Laura Dominguez.

On April 15, 2025, the item was discussed at the Land Use and Sustainability Committee. Due to

concerns with the increase in cost for seawalls, Commissioner Fernandez and Commissioner Suarez requested further research exploring the possibility of increasing the threshold for non-substantial repairs to approximately \$1,000 per linear foot at the First Reading of the Ordinance.

ANALYSIS

The purpose of this memo is to provide proposed draft legislation amending Chapter 54 Article III titled “Resiliency Standards for Tidal Flood Protection” to strengthen compliance and enforcement of the ordinance to create a more resilient waterfront. The existing seawall ordinance provides the city the enforcement ability to address overtopping and the City’s seawall elevation requirements in Chapter 54 Floods. The ordinance established overtopping as a trigger for seawall elevation and seawall maintenance requirements. It requires that seawalls be maintained in good repair as to not allow soil to erode into the bay or waterway or to allow tidal waters to flow through the seawall and impact adjacent private property(s). In addition, the ordinance requires that seawalls must be maintained to prevent tidal waters from flowing overland and leaving their property.

Multiple departments work together to monitor and enforce the City’s seawall ordinance: Code Compliance, Environment and Sustainability, Planning and Public Works. Environment and Sustainability led the development of the Ordinance in 2020. Code Compliance leads the enforcement of the Ordinance through field complaints and conducting inspections and issuing notices for properties that do not meet the requirements. The Public Works Department enforces the standards for construction through the Building Plan Review process.

The city has innovative tools to facilitate compliance of the seawall ordinance. For example, the Public Works Department created a geospatial information system (GIS) platform utilizing drone LIDAR technology that contains the elevation of seawalls around the city that can be accessed by the community and all departments. In addition, the city also provides information regarding the Seawall Ordinance through the MB Rising Above webpage: Seawalls | Miami Beach – Rising Above to assist the public in understanding the requirements of the ordinance and allows them to access the GIS seawall elevation tool. To target the outreach, the Environment and Sustainability Department has twice mailed approximately 1,900 letters directly to seawall owners with seawall elevations less than 4.0’ NAVD to advise of the Ordinance, the tools available, and the Private Property Adaptation grant program opportunity.

The Administration has taken steps to improve awareness by creating a one-page document for Code Compliance Officers to distribute to property owners listing the requirements of the Ordinance and the common next steps required. Any department can access and share this one-pager, and it is located online at the MB Rising Above webpage: Seawalls | Miami Beach – Rising Above.

Ordinance Improvements

To improve compliance and clarify the requirements of the ordinance, the following modifications are recommended:

- 1) Currently, the Ordinance requires property owners to initiate seawall repair or improvement and be able to demonstrate progress toward addressing the cited concern within 60 days of receiving notice from the City. However, “demonstrating progress toward addressing the concerns” can be unclear for property owners. The Administration recommends that demonstrating progress within 60-days can include obtaining proposals from seawall contractors, securing financing, and/or applying for permits. This adjustment to define a “demonstration of progress” is included in the draft ordinance.

In addition to the existing 60-day requirement, the Administration recommends amending the language to require property owners to submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) Coastal Resources Section within six

(6) months. This would act as an additional demonstration of progress would and clarify the next steps upon receiving a violation. This adjustment is included in the draft ordinance.

2) Currently, the Ordinance states that all seawall construction or repairs that are \$300 or more per linear foot are considered substantial repairs and requires the seawall to be raised to a minimum elevation (5.7' NAVD/7.26' NGVD). Repairs that cost less than \$300 a linear foot are considered less than substantial and only require the seawall to have a minimum elevation of 4.0' NAVD/5.56' NGVD as long as it is constructed to accommodate the minimum elevation of 5.7' NAVD. Staff has encountered projects where the existing seawall does not meet the minimum elevation of 4.0' NAVD when the applicant is doing considerably less than substantial seawall work. At that point, the ordinance forces property owners to potentially conduct substantial repairs to increase the elevation of their seawalls to meet the minimum requirements or request a variance to the ordinance. In addition, staff has encountered projects where the applicant is conducting minor repairs to an existing seawall; however, the cost is either at or above \$300 per linear foot requiring them conduct more substantial work to raise the seawall to 5.7' NAVD. To minimize these situations, the below modifications were included in the draft ordinance.

1. Increased the monetary threshold for "substantial improvements" to \$500 or more per linear foot for seawall construction or repairs. The threshold increase from \$300 to \$500 is to adjust for current market costs for seawall construction to better align with cost increases. As such, more applicants may fall below the new threshold if they are conducting minor non-substantial repairs and would still need to have a minimum elevation of 4.0' NAVD.

Prior to First Reading, the Land Use and Sustainability Committee requested research to evaluate the possibility of increasing the threshold for non-substantial repairs from the staff recommended \$500 to approximately \$1,000 per linear foot. The Administration reviewed projects that included private property seawall work that required permits from the Building Department. Upon review of the costs reported on the permits, the costs per linear foot ranged from approximately \$214 to \$1,400 depending on the scope of work. On average, seawall work for projects permitted through the Building Department costs approximately \$831 per linear foot. It should be noted that 'seawall work' can include anything from installing a seawall cap overpour (less expensive) to full replacement and installation of a new seawall (most expensive) and its associated components (i.e. seawall cap, king piles, batter piles, and riprap). Due to the range in costs associated with the varying scopes of work, it's recommended that the threshold for non-substantial remain as recommended by the Administration at the Committee and be increased from \$300 to \$500 to account for increased market costs for minor work while still requiring properties conducting substantial work to increase their elevation to a minimum 5.7 feet NAVD. The Administration advises that the \$500 threshold recommendation remains (as in comparison to \$1000 threshold requested to be examined by the Committee) since based on the research, projects under \$500 generally applied to seawall cap overpours; whereas an entirely new concrete seawall is \$500 or more. It is advisable for any resident installing a new seawall to reach a minimum of 5.7 NAVD for an improved level of protection and return on investment for the lifespan of the asset and sea level rise projections.

2. Limited maintenance work unrelated to elevation or seawall work, such as rip-rap placement would be an exemption to the ordinance. This exemption would not require the property owners to meet the specific elevations set forth in the ordinance provided an engineering report is submitted that proves that the seawall is structurally sound. This exemption would only be considered for the issuance of a building permit.

If the seawall does not meet other standards of the ordinance during site inspection (i.e. overtopping, upland erosion, or transfer of material through the barrier/wall or allows tidal waters to flow unimpeded through and/or over the top of the

barrier/wall to adjacent properties or public right-of-way) the property owner is still subject to receiving a violation that would require increasing the elevation.

3) To assist with evaluating the substantial construction provision and ultimately enforcement during the plan review process, language was added requiring applicants to submit an itemized cost of construction specific to the seawall work.

4) If overtopping conditions are impacting the public right-of-way, the city may require temporary tidal barriers. The intent of the barriers would be to limit flooding while the applicant is within the city enforcement process and/or is within the process to upgrade the seawall. In the event the property owner does not employ a temporary barrier as required, the city may take action and install the barrier and further seek payment by the property owner.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(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-notice/>

FINANCIAL INFORMATION

CONCLUSION

In light of flood risks associated with sea level rise projections, King Tides, and storm surge, the Administration recommends the Mayor and City Commission approve the updates to the ordinance. The recommendations will further reduce risk and build resilience to current and future tidal flooding, while improving compliance capabilities and reflecting the costs of construction for non-substantial repairs.

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

Environment and Sustainability

Sponsor(s)

Commissioner Alex Fernandez
Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

1:35 p.m. 1st Rdg PH, Strengthen Construction Standards for Seawalls/Flood Barriers. (AF/LD)
EN

Previous Action (For City Clerk Use Only)