

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: October 10, 2024

TITLE: ORDINANCE TO MODIFY THE HEIGHT OF ALLOWABLE FENCING AND SHRUBBERY OF OCEANFRONT PROPERTIES FACING THE BEACHWALK TO IMPROVE SIGHTLINES FOR PEDESTRIANS

### **RECOMMENDATION**

The Administration recommends that the Land Use and Sustainability Committee (LUSC) endorse the item and provide a recommendation to the Planning Board and the Mayor and City Commission (City Commission).

### **BACKGROUND/HISTORY**

On May 15, 2024, at the request of Commissioner Tanya K. Bhatt, the City Commission referred the item (C4 AE) to the LUSC and the Planning Board. On June 10, 2024 the item was deferred to a future date. 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.

On September 5, 2024, the LUSC discussed and continued the item to the October 10, 2024, LUSC meeting with direction to the Administration to prepare graphics and amend the text of the proposed code section to better reflect a visibility triangle.

### **ANALYSIS**

As indicated in the attached referral memorandum, the item sponsor has requested that the LUSC discuss an ordinance modifying the land use regulations governing the maintenance of oceanfront properties facing the Miami Beach Beachwalk. Specifically, the sponsor has requested that the proposed ordinance modify the maximum allowable height of fencing, walls, gates, shrubbery, hedges, and trees to ensure clear and unobstructed sightlines for all who are on or entering/exiting the Beachwalk.

Currently, fences and gates located in the rear of oceanfront properties are limited to a maximum of seven (7) feet in height, depending on the location. If placed along a property line, the maximum height cannot exceed five (5) feet. All fences and gates require a certificate of appropriateness or design review approval, depending on the location of the property, and are generally required to consist of an open design, such as aluminum picket. Lowering the heights of fences and gates could, potentially, create security issues for private properties.

Regarding shrubbery and hedges, pursuant to section 7.5.3.2 of the Land Development Regulations of the City Code (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.

Generally, landscape material can play a role in mitigating the impacts of artificial lighting on public property, particularly as it may impact environmental concerns such as sea turtle nesting. Also note that any modification to the landscape requirement should be able to be enforced by the Code Compliance Department. This should continue to inform any discussion regarding modifications to landscape design on oceanfront properties.

#### **UPDATE – October 10, 2024 LUSC**

Attached is an updated draft amendment to Section 14-1 of the City Code of Ordinances, prohibiting structures and landscape within 10 feet of a street-end or public access point to the beach walk that obstructs pedestrian visibility between a height of 2 feet and 10 feet above the adjacent grade. Essentially, this would require property owners to trim back any future or currently installed landscape (whether approved or not) in the identified areas, to ensure adequate visibility.

The text of the amendment has been updated slightly to better reflect the proposed site triangle. Additionally, two diagrams illustrating the proposed site triangle are attached. One has a ten (10') foot option, and the other a six (6') foot option. On balance, the Administration believes the ten (10') foot option is more effective.

Moving forward, any future physical (non-landscape) improvements, including fences and walls, would need to meet the visibility triangle requirements set forth in the draft amendment. The only exception to this would be aluminum picket fences, with gaps of at least four (4") inches, and trees or palms with a minimum clear trunk height of ten (10') feet. These amendments are also in accordance with Crime Prevention Through Environmental Design (CPTED) compliant landscaping design guidelines.

To ensure that future development projects are consistent with these proposed standards, a companion amendment to Section 7.3.1.2 of the LDRs, pertaining to development regulations in the Oceanfront Overlay, is also proposed. If there is consensus on these proposed amendments, a draft LDR amendment can be sent to the Planning Board. The proposed amendment to Section 14-1 of the City Code can be set for First Reading at the same City Commission meeting that the LDR amendment is reviewed at First Reading.

#### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

**Does this Ordinance require a Business Impact Estimate?** No  
(FOR ORDINANCES ONLY)

**The Business Impact Estimate (BIE) was published on .**

**See BIE at:** <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

#### **FINANCIAL INFORMATION**

N/A

#### **CONCLUSION**

The Administration recommends that the LUSC endorse the item and provide a recommendation to the Planning Board and City Commission.

#### **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**

Ordinance To Modify The Height Of Allowable Fencing And Shrubbery Of Oceanfront Properties  
Facing The Beachwalk To Improve Sightlines For Pedestrians