

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: February 3, 2025 9:15 a.m. Second Reading Public Hearing

TITLE: UNDERSTORY REQUIREMENTS IN SINGLE FAMILY DISTRICTS
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 II, ENTITLED "DISTRICT REGULATIONS," SECTION 7.2.2, ENTITLED "RS-1, RS-2, RS-3, RS-4 SINGLE FAMILY RESIDENTIAL DISTRICTS," AT SUBSECTION 7.2.2.3, ENTITLED "DEVELOPMENT REGULATIONS (RS)", TO AMEND THE REQUIREMENTS FOR UNDERSTORY HOMES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) adopt the ordinance.

BACKGROUND/HISTORY

On July 24, 2024, at the request of Commissioner David Suarez, the City Commission referred a proposed ordinance amendment pertaining to understory single family homes (C4 W) to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On September 5, 2024, the LUSC discussed the proposal and recommended that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation. Additionally, the LUSC recommended including a provision in the ordinance for the posting of a property for which an understory home is proposed; this provision has been included in the draft ordinance.

ANALYSIS

In 2023, the City Commission adopted comprehensive updates to the Land Development Regulations of the City Code (LDRs) and the City's first Resiliency Code. As part of the review process for the updated LDRs in 2022 and 2023, Planning staff recommended that mandatory review by the Design Review Board (DRB) or Historic Preservation Board (HPB) for single family homes designed with an understory no longer be required and that such homes be reviewed for permit administratively.

The administrative review of understory homes was not included in the final adoption of the updated LDRs, but the City Commission did approve an increase in the allowable height of up to 31 feet, for single-family homes utilizing an understory. Previously, the maximum height was 28 feet for RS-1 and RS-2 properties, and 24 feet for RS-3 and RS-4 properties. The additional height is intended to ensure livable and climate responsive ceiling heights for the understory area, while allowing the same floor to ceiling heights for the habitable floors that can be achieved in non-understory homes.

Although this increased height limit for understory homes applied uniformly to all RS districts, the DRB has consistently limited the additional height on smaller RS-3 and RS-4 zoned properties to not more than 3 feet above the maximum permitted height of 24 feet for flat roofs. Since RS-1 and RS-2 districts already had a higher maximum height allowance of 28 feet, the DRB has typically allowed understory homes on these properties to add up to an additional 3 feet, not to exceed 31 feet.

The attached ordinance is an amendment to Section 7.2.2.3 of the LDRs, pertaining to the development regulations for the RS-1, RS-2, RS-3, and RS-4 single-family residential districts. Specifically, the following is proposed:

1. Understory homes would no longer require mandatory approval from the DRB or HPB. Approval from the DRB or HPB would be required if waivers or variances are sought.
2. The maximum height for understory homes has been clarified, pursuant to the specific zoning district, and in a manner consistent with previous approvals by the DRB.
3. For RS-3 properties that have a minimum lot size of 18,000 square feet, the height may be increased by up to three (3) feet, which is commensurate with the maximum height limit of similar sized parcels in the RS-1 and RS-2 districts.
4. A provision for the posting of a property containing a future understory home has been included, to allow adjacent neighbors to be notified of a permit application.

The minimum requirements set forth under the development regulations for all single-family homes provide an established framework for new construction and are considered an expectation. The primary responsibility of the DRB and HPB would be to review applications involving waivers and variances, and the review process for both boards provides an opportunity for affected property owners to provide comment and feedback regarding such exceptions.

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

PLANNING BOARD REVIEW

On October 29, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (4-3). The Planning Board also recommended that an applicability provision be included, that would allow for single family homes currently in process to continue under the current regulations in the LDRs. This applicability provision is included in the draft ordinance.

UPDATE

The ordinance was approved at First Reading on November 20, 2024, with the following amendments:

1. Include property owner information in the posting requirement.
2. Include a revision to Section 2.7.2.2.3.b to allow RS-4 and RS-3 Zone properties with a lot size of more than 18,000 square feet to obtain approval from the Design Review Board or Historic Preservation Board, as applicable, for an increase in the height limit by up to three additional feet.

These modifications have been incorporated into the revised ordinance for Second Reading.

Additionally, the City Commission requested that a survey be conducted, of property owners experience with understory applications at the DRB. To this end, the attached survey was sent

(by regular mail and electronic mail) to homeowners and design professionals who have made an application to the DRB over the last five years. Also attached is a summary of the survey results, received as of January 14, 2025.

Finally, the City Commission referred the ordinance to the LUSC for additional discussion, prior to Second Reading. The City Commission requested that all homeowner associations (HOA) be notified of the LUSC meeting. On December 17, 2024, the LUSC discussed the proposed ordinance and reached a tie vote (2-2), resulting in an unfavorable recommendation. The LUSC also requested that the three (3) feet of additional height be applicable only to the understory portion of the home.

In response to the discussion at the LUSC, at the direction of the sponsor, the following additional adjustments are included in the ordinance for second reading:

1. A nine (9') foot minimum height requirement for understory areas. This is in response to the recommendation of the LUSC for three (3') feet of additional height being specific to the understory area.
2. Understory homes with a sloped roof are required to go before the DRB or HPB, as applicable, regardless of height.
3. A height exception of up to 12 inches for roof-top insulation needed for drainage on flat roofs.
4. DRB or HPB review of additional building height above the limits set forth in the regulations would be required, in accordance with the applicable review criteria for each board. This would replace variance requests for additional height.

Lastly, the following illustrations are attached:

1. A comparison of the current height regulations for conventional homes, which do not require mandatory DRB review.
2. A comparison of the current (24 feet) and proposed (28 feet) height regulations for understory homes located in the RS-3 and RS-4 districts.
3. A comparison of the current (28 feet) and proposed (31 feet) height regulations for understory homes located in the RS-1 and RS-2 districts.
NOTE: A reference to lots over 18,000 square feet in the RS-3 district is included, to reflect the ordinance text.

As it pertains to these illustrations, it is important to note that the floor heights of the habitable levels do not include applicable interior elements such as ventilation, air conditioning ducts, plumbing and electrical. These elements will reduce the actual height of the interior floor levels.

FISCAL IMPACT STATEMENT

No Fiscal Impact

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

If applicable, the Business Impact Estimate (BIE) was published on: 11/5/2024.
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Administration recommends that the City Commission adopt the ordinance.

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 David Suarez

Co-sponsor(s)

Condensed Title

9:15 a.m. 2nd Rdg, Understory Requirements in Single Family Districts. (Suarez) PL 5/7