

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: November 20, 2024 First Reading

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) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 2025.

BACKGROUND/HISTORY

On July 24, 2024, at the request of Commissioner David Suarez, the Mayor and 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 for First Reading.

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

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 the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for January 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 David Suarez

Co-sponsor(s)

Condensed Title

1st Rdg, Understory Requirements in Single Family Districts. (Suarez) PL

Understory Requirements in Single Family Districts

ORDINANCE NO. _____

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.

WHEREAS, in 2023, the City Commission adopted comprehensive updates to the Land Development Regulations of the City Code (LDRs) and established the City’s first Resiliency Code to enhance community sustainability and resilience; and

WHEREAS, although the proposal for administrative review of understory homes was not included in the final adoption of the updated LDRs, the City Commission approved an increase in the allowable height for these homes up to 31 feet, ensuring climate-responsive ceiling heights; and

WHEREAS, the proposed amendment to Section 7.2.2.3 of the LDRs seeks to eliminate mandatory DRB or HPB approval for understory homes, while still requiring DRB review for applications seeking waivers or variances; and

WHEREAS, the amendment clarifies maximum height allowances for understory homes based on specific zoning districts and maintains consistency with previous DRB approvals; and

WHEREAS, the existing development regulations provide a foundational framework for new construction, ensuring that the DRB process allows for community input on waivers and variances, thus protecting neighborhood integrity; and

WHEREAS, detailed regulations governing understory homes ensure that any deviations from the established requirements necessitate DRB review, thereby upholding standards while promoting flexibility in design; and

WHEREAS, enabling administrative review for compliant understory homes is expected to increase the adoption of this design type and significantly advance the City’s resiliency goals and objectives; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. Chapter 7 of the Resiliency coded, 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 Sub-Section 7.2.2.3, entitled “Development Regulations (RS)” is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

DIVISION 2. RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

* * *

7.2.2.3 Development Regulations (RS)

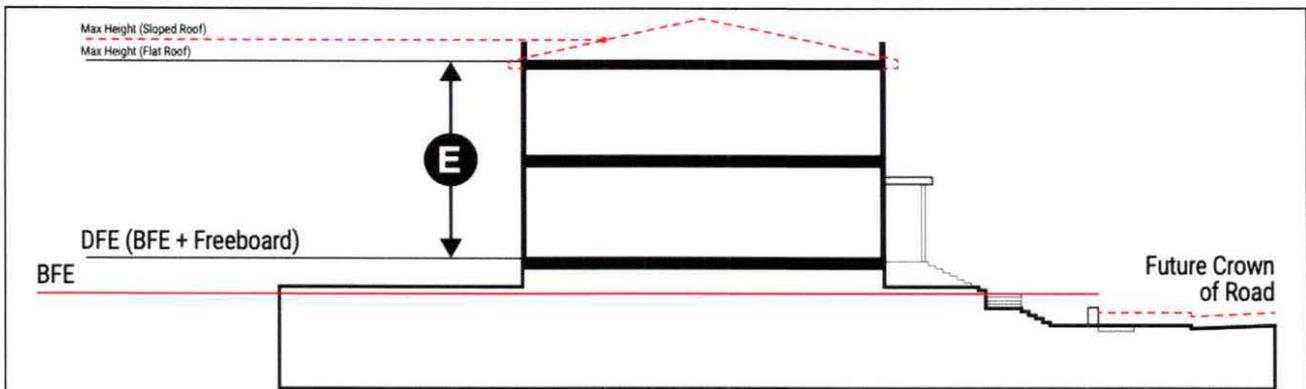
* * *

- b. The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:
 - 1. *The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

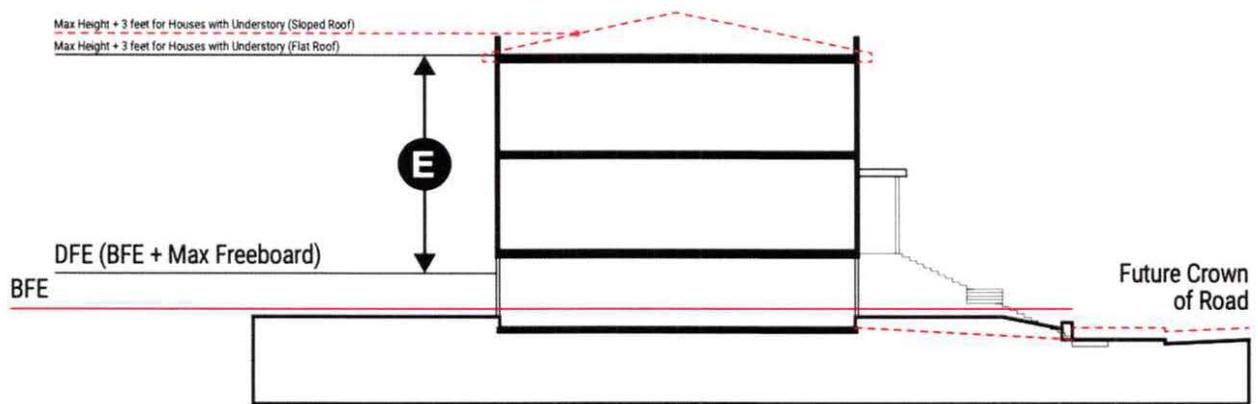
DEVELOPMENT REGULATIONS TABLE (RS)

* * *

BUILDING HEIGHT	RS-1	RS-2	RS-3	RS-4
Maximum Height (stories)	2 stories			
Maximum Height (feet) (3) (8) <u>No Understory</u>	28 ft - flat roofs (3) (8) 31 ft – sloped roofs (3) (8)		24 ft – flat roofs (3)-(4) (8) 27 feet – sloped roofs (3) (4) (8)	24 ft – flat roofs (3) (8) 27 feet – sloped roofs (3) (8)
Maximum Height (feet) (3) <u>Understory Home</u>	31 ft - flat roofs 34 ft – sloped roofs		28 ft – flat roofs (7) 31 feet – sloped roofs (7)	28 ft – flat roofs 31 feet – sloped roofs



NO UNDERSTORY



WITH UNDERSTORY

- (1). Except those lots fronting on a cul-de-sac or circular street as defined in lot width.
- (2). Single story homes shall follow the requirements of section 7.2.2.3.b.7.B.
- (3). Height shall be measured from the required base flood elevation for the lot, plus freeboard. (See Height of Building definition). Single story homes shall follow the requirements of section 7.2.2.3.b.7.B.
- (4). May be increased up to 28 feet for flat roofs and 31 feet sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.
- (5). If an Understory is not provided, at least 50 percent (50%) of the required front yard and side facing a street yard areas (including portions of the rear and front yards) shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than 5 feet to the front of the building. When a pool is located in the side yard, facing a street the area of the water may count as part of the open space. Understory homes shall comply with the Understory Level Standards as outlined in subsection 7.2.2.3(b)(6)

In the event that an existing single-family home has an abutting street raised pursuant to an approved city project, and such home was previously permitted with less than 50 percent (50%) of the required front yard area consisting of sodded or landscaped pervious open space, such property may retain

the most recent, previously permitted pervious open space configuration, provided the front yard is raised to meet the new street elevation. However, in no instance shall less than 30 percent (30%) of the required front yard be sodded or landscaped pervious open space.

~~(6) If an Understory is provided, at least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.~~

~~(7). (6) At least 70 percent (70%) of the required rear yard shall be sodded or landscaped pervious open space; the water portion of a swimming pool may count toward this requirement, when located above adjusted grade, the water portion of a swimming pool may count towards 50 percent of this requirement, provided adequate infrastructure is incorporated into the design of the pool to fully accommodate on-site stormwater retention.~~

~~(8). (7) The Design Review Board (DRB) or Historic Preservation Board (HPB), as applicable, may approve Understory areas. For RS-3 zoned properties, with a minimum lot size of 18,000 square feet, the height limit may be increased by up to three (3') additional feet. If an Understory is provided, then the maximum height is increased to 31 feet for flat roofs and 34 feet for sloped roofs.~~

* * *

6. Understory Level Standards

The following regulations shall apply to on-air conditioned Understory space located below minimum flood elevation, plus freeboard, ~~shall require Design Review Board (DRB) or Historic Preservation Board (HPB) approval, as applicable.~~ The following regulations shall also apply to the understory area(s) Except as otherwise provided in this Code, homes with understories may be approved administratively, as provided herein:

- A. Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage. Such areas shall be designed and maintained to be free of obstructions and shall not be enclosed and/or air-conditioned at any time, with the exception of limited access areas to the first habitable floor. However, understory area(s) below the lowest habitable floor can utilize non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments, provided they are open a minimum of 50 percent (50%) on each side.
- B. All unenclosed, non-air-conditioned areas located directly below the first habitable floor shall not count in the unit size calculations.
- C. Understory building access. Enclosed, air-conditioned elevator and stair vestibules, for access to the first habitable level of the home, shall be permitted under the first habitable floor and shall be located as close to the center of the floor plan as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. The total area of enclosed and airconditioned building access shall be limited to no greater than 5 percent (5%) of the lot area. All airconditioned floor space located directly below the first habitable floor shall count in the total unit size calculations.

- D. Enclosed, non-air-conditioned areas, for parking and storage, may be permitted and shall not count in the unit size calculations, provided such areas do not exceed 600 square feet. Any portion of such enclosed parking and storage area exceeding 600 square feet shall count in the unit size calculations.
- E. All parking, including required parking, shall be provided within the understory area, and shall be clearly delineated by a different surface finish or bollards. No parking or vehicle storage shall be permitted within a required yard, unless approved by the DRB or HPB, in accordance with the applicable design review or certificate of appropriateness criteria.
- F. A continuous soffit shall be lowered a minimum of 2 feet from the lowest slab of the first level above the understory area in order to screen from view all lighting, sprinkler, piping, plumbing, electrical conduits, and all other building services, unless concealed by other architectural method(s).
- G. Understory ground elevation. The minimum elevation of the understory ground shall be constructed no lower than future crown of road as defined in chapter 54, of the city Code. All portions of the understory area that are not air-conditioned shall consist of pervious or semi-pervious material, such as wood deck, gravel or pavers set in sand. Concrete, asphalt and similar material shall be prohibited within the non-air-conditioned portions of the understory area.
- H. Understory edge. All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be set back a minimum of 5 feet from each side of the underneath of the walls of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area. The front and side understory edge shall be designed to accommodate on-site water capture from adjacent surfaces and expanded landscaping opportunities from the side yards.
- I. At least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.
- J. For single family homes utilizing an understory, the applicant shall mount a laminated posting, in a form prescribed by the planning director, at the front of the property in a manner and location clearly visible from the public right-of-way, indicating that an application for a home utilizing an understory has been filed. The applicant shall provide evidence to the planning director that the posting has been installed on site prior to the issuance of a building permit. The posting shall be for informational purposes only and the validity of any building permit shall not be affected by any failure to mount or continuously maintain the posting.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. APPLICABILITY.

This Ordinance shall not apply to land use board applications that paid an initial application fee, obtained a land use board file number, and presented a proposed design at a pre-application conference with Planning Department staff before October 29, 2024.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of 2025.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk.

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 11/12/2024

First Reading: November 20, 2024
Second Reading: January __, 2025

Verified by: _____
Thomas R. Mooney, AICP
Planning Director