

DISCUSSION ITEMS 10

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: March 11, 2025

TITLE: DISCUSSION REGARDING POSSIBLE AMENDMENTS TO CHAPTER 54, ENTITLED "FLOODS," ARTICLE III, ENTITLED "RESILIENCE STANDARDS FOR TIDAL FLOOD PROTECTION" TO ENHANCE ENFORCEMENT MECHANISMS FOR PUBLIC SAFETY AND QUALITY OF LIFE.

RECOMMENDATION

The Administration recommends discussion on the proposed amendments based on the direction from the Land Use and Sustainability Committee and recommends providing a favorable recommendation to the full City Commission.

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 to 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.

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.

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 the monitoring and enforcement of the seawall ordinance. For example, the Public Works Department created a geospatial information system (GIS) platform that documents 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: MBRisingabove.com/Seawalls to assist the public in understanding the requirements of the ordinance and allows them to access the GIS seawall elevation tool. In addition, the Environment and Sustainability Department 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.

The Administration has taken steps to improve coordination 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 can be located online at the MB Rising Above webpage: MBRisingabove.com/Seawalls.

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 six (6) months for property owners to submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) Coastal Resources Section. This can act as an additional demonstration of progress 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.

- Increased the monetary threshold for “substantial improvements” to \$500 or more per linear foot for seawall construction or repairs. This is to adjust for current market costs for seawall construction to better align with cost increases. In addition, more applicants may fall below the new threshold if they are conducting non-substantial repairs and would need to have a minimum elevation of 4.0' NAVD.
- Limited maintenance work unrelated to elevation or seawall work, such as rip-rap placement can be an exemption to the ordinance. This exemption means property owners would not be required 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 may 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 to increase 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 is 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)

The Business Impact Estimate (BIE) was published on .

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

FINANCIAL INFORMATION

N/A

CONCLUSION

In light of flood risks associated with sea level rise projections, King Tides, and storm surge, the Administration recommends improvements to the current seawall ordinance. The recommendations will further reduce risk and build resilience to current and future tidal flooding.

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 Laura Dominguez
Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

Discussion Regarding Possible Amendments to Chapter 54, Article III (Fernandez/Dominguez)
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