

10. 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.

Applicable Area:

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)
EN

C4 G REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE AND THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS 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.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024

TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE AND THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS 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

BACKGROUND/HISTORY

ANALYSIS

Please place on the agenda a referral to both the Land Use and Sustainability Committee ("LUSC") and the Public Safety and Neighborhood Quality of Life Committee ("PSNQLC") 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.

Miami Beach continues to face increasing risks associated with tidal flooding due to rising sea levels. Chapter 54 of the City Code sets forth resilience standards for tidal flood protection to mitigate these impacts. However, enforcement of these standards has presented challenges, particularly in terms of addressing immediate public safety concerns and the long-term implications for neighborhood quality of life.

Tidal flooding, especially during king tide events, poses risks such as roadway flooding, compromised infrastructure, and potential health hazards. The City's resilience measures are crucial in managing these impacts, but there is a need for more effective enforcement tools to ensure compliance and protect the public. Strengthening these enforcement mechanisms will help ensure the City's long-term resilience and safeguard the safety and quality of life of residents and visitors alike.

The Land Use and Sustainability Committee and the Public Safety and Neighborhood Quality of Life Committee are requested to explore the following areas for potential amendments to Chapter 54:

1. Enhanced Short-Term Enforcement Mechanisms:
 - Evaluate the current tools available for immediate enforcement of resilience standards during and after tidal flooding events.

- Explore the possibility of requiring property owners to implement temporary measures, such as the installation of flood barriers. Example of temporary barriers: <https://usfloodcontrol.com/flood-barriers>.
 - Discuss options for improving the coordination of City departments responsible for monitoring and enforcing these standards.
 - Discuss potential policy that would enable the City to repair private seawalls that are causing public flooding nuisances within the right of way, particularly after the property owner has failed to conduct the necessary repairs. This policy would include provisions for billing the private property owner for the costs incurred by the City in carrying out these necessary repairs.
2. Long-Term Enforcement Strategies:
- Review the effectiveness of existing regulations in promoting long-term resilience and preventing chronic issues associated with tidal flooding.
 - Consider requiring regular inspections and maintenance of private properties and public infrastructure to ensure continued compliance with resilience standards.
 - Explore incentives or other mechanisms to encourage property owners to invest in long-term flood mitigation measures.
3. Public Safety and Quality of Life Considerations:
- Assess how enforcement deficiencies contribute to public safety hazards, such as vehicular accidents, property damage, and pedestrian risks during flood events.
 - Evaluate the impact of tidal flooding on the quality of life in vulnerable neighborhoods, including the effects on property values, mobility, and environmental conditions.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (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

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

No

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

City Attorney

Sponsor(s)

Commissioner Alex Fernandez
Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

Ref. LUSC and PSNQL: Enhance Enforcement Mechanisms Related to Tidal Flooding.
(Fernandez/Dominguez) CA

Seawalls



Seawalls protect properties along the coast from tides, waves, and sea level rise. Miami Beach has approximate 55 miles of seawalls in Miami Beach and about 5 miles are publicly owned. Private seawalls are our first line of defense against rising tides on the Bay side of the island and along canals. Seawalls prevent flooding provide stability and prevent erosion.

Seawall Ordinance Highlights

- New seawalls are required to be built to a minimum elevation of 5.7 ft NAVD, or 4 ft NAVD if designed to support future elevation of 5.7 ft NAVD. This applies to new seawalls as well as properties with new construction or substantial seawall improvements.
- Overtopping causes flooding and triggers elevation and maintenance requirements. Seawalls must be in good repair to prevent soil erosion and flooding onto adjacent properties or overland. Enforcement is handled by the floodplain administrator, a Code Compliance officer, or a police officer.
- Property owners have 60 days to demonstrate progress toward addressing the cited concern and 730 days to complete repairs after a citation. Violators can appeal within 10 days of receiving notification.
- Establishes a \$250 fine for the first offense and \$500 per day fine for subsequent violations.
- The City Commission may consider ordinance updates.

Received a Seawall Violation? Here are some next steps:

Obtain quotes and hire a licensed engineer, contractor, or other construction professional.

- It is highly recommended to consult with a professional (e.g., an environmental consultant or coastal engineer) who is familiar with local regulations and permitting processes.

Consider financing and payment options.

- Call your local banker and apply for a home equity loan or construction loan if that is the right fit.
- Private property owners may be eligible for a limited matching grant for seawall upgrades, please visit MBRisingAbove.com/PPA to learn more.

Permits

- **Apply** for a building permit with the City of Miami Beach Building Department. Submit the required documentation including site plans showing location and design of seawall, structural design plans, elevation certification, signed application form, and associated permit fees.
 - For more information on the permit application process and required documents please navigate to the City's website at www.miamibeachfl.gov/city-hall/building/permits/interactive-permit-guide/.
- **Approval** from Miami-Dade County's Division of Environmental Resources Management's Coastal Resources Section is required for seawall construction.
 - For more information, please visit their website at miamidade.gov/permits/class-1.asp or contact them directly at dermcr@miamidade.gov or 305-372-6575.



- If your property is located adjacent to protected water bodies or environmentally sensitive areas, you may need additional permits:
 - **Florida Department of Environmental Protection (FDEP):** If the work affects state-owned land or water bodies, you may need an FDEP permit.
 - For more information, please visit their website at floridadep.gov/southeast/se-permitting/content/permitting-resources-and-faqs.
 - **U.S. Army Corps of Engineers (USACE):** If your work impacts navigable waters, you may need a **Section 404** permit for dredging or filling in U.S. waters.
 - For more information, please visit their website at www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/.
- **Review by Authorities**
 - The Miami Beach Building Department will review your application for zoning and construction code compliance. Local, state, and federal agencies may conduct additional reviews.

Frequently Asked Questions (FAQs)

1. What do I have to do if I am cited for a seawall in disrepair?

- Upon receiving a citation, property owners must begin addressing the seawall violation within 60 days. This includes demonstrating progress such as obtaining quotes, hiring a contractor, or applying for permits. Owners have up to 730 days to fully complete the necessary repairs. Violators can appeal within 10 days of receiving notification.

2. What is considered a substantial seawall repair?

- A substantial repair is defined as any improvement and/or repairs to the existing seawall with a cost of \$300 or more per linear foot. Substantial repairs must meet the required seawall height, which in Miami Beach is 5.7 feet NAVD. If the repairs are not substantial, the seawall must have a minimum elevation of 4 feet NAVD if designed to support a future elevation of 5.7 feet NAVD.

3. What happens if my seawall allows tidal waters to flow over or through it?

- If your seawall is allowing tidal waters to flow over or through it, you must take corrective action, which could include raising the seawall or adding a retaining wall. If your seawall is damaged and causing flooding on adjacent properties or public rights-of-way, it must be repaired within the designated timeline.

4. Can I repair my seawall instead of replacing it?

- In many cases, repairing a seawall is possible without raising it to 5.7 feet NAVD if the repairs do not meet the "substantial repair" threshold. For minor damage, you may only need to repair the affected areas. However, if the repairs are substantial, the seawall must be brought up to the required elevation of 5.7 feet NAVD.

5. What are the consequences if I don't comply with the seawall ordinance?

- If a property owner does not comply within the required time frame after receiving a citation, Miami Beach can issue fines starting at \$250 for the first offense, and \$500 per day for subsequent violations. Property owners will have the opportunity to appeal citations, but failure to correct the issues within the given period could lead to additional enforcement actions or fines.

6. What if I don't have a seawall?

- If you don't have a seawall and tidal waters are flowing onto adjacent properties, you may still be cited. You will need to install a seawall or other shoreline protection to prevent tidal waters from leaving your property.

For more information on the City's Seawall Ordinance, steps to upgrade your seawall, and a list of contractors previously utilized on City projects, visit our website at MBRisingabove.com/Seawalls.

Please send any questions to mbrisingabove@miamibeachfl.gov



ORDINANCE NO. _____

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 MODIFY DEFINITIONS AND CONSTRUCTION STANDARDS THAT ENSURE THAT SEAWALLS AND OTHER TIDAL FLOOD BARRIERS STRENGTHEN COASTAL RESILIENCE AND MITIGATE THE EFFECTS OF TIDAL FLOODING AND SEA LEVEL RISE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, sea level rise is one of the effects of climate change and is a result of different factors, including an increase in water volume that is added by melting land ice and the thermal expansion of sea water as it warms up; and

WHEREAS, sea level rise experts project an estimated increase in sea level of approximately 10 to 17 inches by 2040; 21 to 40 inches by 2070; and 40 to 92 by 2120, adopted by the City Commission on July 24, 2020 through Resolution No. 2020-31315; and

WHEREAS, seawalls and similar tidal flood barriers strengthen coastal resilience when constructed in a manner that is substantially impermeable, and when they meet a minimum height standard that effectively addresses existing tidal flooding and future sea level rise for the expected lifetime of the seawall or structure; and

WHEREAS, In 2016, the Mayor and City Commission passed Resolution No. 2016-29454, which required that all new seawalls on private property, and seawalls constructed as part of public projects, have a minimum elevation of 5.7 feet NAVD88; however, applications for new or substantially rehabilitated seawalls not associated with new building construction or substantial improvements would be permitted at a minimum elevation of 4.0 feet NAVD88 if designed and constructed to accommodate a future minimum elevation of 5.7 feet NAVD88 (and not lower than the adjacent yard); and

WHEREAS, properties with low-lying seawalls can be the source of tidal waters flooding adjacent properties or public rights-of-way; and

WHEREAS, seawalls, bulkheads, living shorelines, or other shoreline protection structures need to be raised in a timely manner to reduce tidal flooding impacts on adjacent private properties and public rights-of-way; and

WHEREAS, in 2021, the City ~~set~~ established new seawall requirements to prevent erosion and/or drainage issues on rights-of-way and adjacent properties; and

WHEREAS, the City promotes and encourages the use of living shorelines to provide a natural alternative to "hard" shoreline stabilization methods and provide numerous benefits including nutrient pollution remediation, essential fish habitat structure, and buffering of shorelines from waves and storms; and

WHEREAS, the proposed changes in this Ordinance will result in a more resilient waterfront.

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

SECTION 1. Article III of Chapter 54 of the City Code, amended "Resilience Standards for Tidal Flood Protection," is hereby amended as follows:

CHAPTER 54

FLOODS

* * *

ARTICLE III. Resilience Standards for Tidal Flood Protection

Sec. 54-59. Purpose and intent.

The purpose of this article is to protect the public's health, welfare and safety by ~~setting~~ establishing minimum standards to be used in the design, construction and maintenance of waterfront structures. This article establishes a minimum elevation for new seawalls and requires failing and low seawalls, bulkheads, living shorelines, or other shoreline protection structures that cause tidal surface water flooding to adjacent properties to be maintained. The physical seawall improvements ensure new seawalls, bulkheads, living shorelines, or other shoreline protection structures are designed with application of consistent standards that account for future tidal flood conditions and coastal water levels predicted with sea level rise, in accordance with current regional sea level rise projections, as updated and adopted by the City Commission.

Sec. 54-60. Applicability.

Mandatory compliance with the requirements of this Article shall be required for ~~all~~ applicants with the following types of building permit applications that meet the following criteria:

1. All new waterfront construction and substantial improvements; or
2. All new seawalls; ~~and~~ or
3. Substantial improvements including repair or rehabilitation to shorelines and shoreline structures.

Each ~~a~~Applicants shall submit an itemized ~~breakdown of the~~ cost of construction specific to the seawall work to ~~allow City staff to~~ evaluate compliance with the minimum elevation requirements.

Mandatory compliance with the requirements of this Article shall be required for all ~~low~~ -seawalls, bulkheads, living shorelines, or other shorelines protection structures ~~that do not meet the minimum standards in this article, except as otherwise provided in this article;~~ and any other existing

conditions that cause s tidal surface water flooding ~~to~~ on adjacent properties and/or public right of way.

This article is not applicable to oceanfront beaches or shorelines seaward of the Coastal Construction Control Line.

Sec. 54-61. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bulkhead: A vertical or near-vertical, substantially impermeable structure erected along water or a waterway, designed and constructed in such manner as to be substantially impermeable and safely sustain any loads, both vertical and lateral, that may come upon it, such as earth fill, water, moving traffic, storage of materials alongside, and the like. coastal bulkheads are most often referred to as Seawalls; however, by definition, they are intended to act as a shoreline stabilization structure that primarily retains soil and provides minimal protection from waves.

Green-grey infrastructure or materials is a combination of engineered and natural features that provide environmental qualities and ecosystem value.

Living Shoreline: A green infrastructure technique using native vegetation alone or in combination with low sills (such as low elevation Seawalls or Bulkheads) to stabilize the shoreline as a natural alternative to "hard" shoreline stabilization methods like Riprap or Bulkheads. Living Shorelines may be more resilient than Bulkheads in protecting against the effects of hurricanes. A Living Shoreline may have its waterside face consist of plants and other natural elements that improve water quality, provide additional fish habitat, and fosters increased biodiversity. The landside interface may be located anywhere on an existing property fronting the Living Shoreline, as long as it is constructed in a manner and location that ensures any habitable structures on that property are protected from flooding from tidal waters and it prevents flooding of adjacent properties and the public right-of-way.

NAVD88 or the North American Vertical Datum ("NAVD 88") means the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Public nuisance means injurious to the safety or health of the entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any public right-of-way.

Rip-rap means a foundation of unconsolidated boulders, stone, rubble, concrete without protruding rebar or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

Seawall means the vertical or near vertical (often interlocking) structures placed between an upland area and a waterway or waterbody for erosion control.

Seawall cap means the concrete beam (usually cast-in-place and reinforced) which connects seawall panels, piles and anchoring system (if present) together at the top of the seawall structure.

Shoreline means the tidally influenced area where land meets water.

Substantial improvements (including repair or rehabilitation) means:

- a) Any improvement and/or repairs to the existing seawall and/or its associated components with a cost of ~~\$300~~ \$500 or more per linear foot.

Tidally-influenced areas means a waterway with water level changes in response to the daily tide.

Sec. 54-62. Minimum Elevations and Materials for New or Substantially Rehabilitated Coastal Infrastructure within Tidally-Influence Areas.

- a) All new seawalls or existing seawalls that require substantial improvements repairs; shall have a minimum elevation of 5.7 feet NAVD88. All existing seawalls that require ~~improvements repairs but the repairs that~~ are considered less than substantial shall have a minimum elevation of 4.0 feet NAVD88, but only if designed and constructed to accommodate a future minimum elevation of 5.7 feet NAVD88. Notwithstanding the foregoing sentence, the following work shall be exempt from the minimum elevation requirement in this section: limited maintenance work, such as the installation of rip-rap, shall be exempt from the minimum elevation requirement in this section, provided an engineering report is submitted that verifies-demonstrates, to the satisfaction of the City, that the seawall is structurally sound, and All existing seawalls that fall constructed at a height below an elevation that incurs allows flooding to incur onto an adjacent property and/or public right of way shall have a minimum elevation of 4.0 feet NAVD88 if designed and constructed to accommodate a minimum elevation of 5.7 feet NAVD88.
- b) To the extent practicable, seawalls shall be designed and constructed to adjoin immediately proximate seawalls to close gaps and prevent trespass of tidal surface water.
- c) Property owners are encouraged to consider approaches and materials that enhance the biological value of traditional (flat surface) seawalls with the incorporation of living shoreline features, the use of materials that encourage biodiversity, and the use of biological forms, where practicable.
- d) This section shall not be construed to require the installation of a seawall where other flood protection measures and living shorelines serve as an equally effective tidal flood barrier.

Sec. 54-63. Coastal Infrastructure Maintenance Requirements within Tidally-Influenced Areas.

- a) All property owners must maintain their seawalls, bulkheads, living shorelines, or other shoreline protection structures or elements in good repair. A shoreline protection structure is presumed to be in disrepair if it allows for upland erosion, 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 the upland property, or to adjacent properties or public right-of-way. Property owners with seawalls, bulkheads, living shorelines, or other shoreline protection structures or elements below the minimum required finished elevation- with permeable erosion barriers such as riprap, or land/water interface of another nature, are prohibited from allowing tidal waters to entering their property or to flow onto adjacent properties or public rights-of-way. Failure to maintain flood mitigation infrastructure shall be a citable offense. The citation-notice of violation shall require the property owner to initiate the seawall repair or improvement process and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving-the issuance of the notice of violation from the city. A demonstration of progress may include, but is not limited to, obtaining written proposals from seawall contractors, securing financing, and/or applying for permits. Within six (6) months of ~~receiving notice from the city~~ the issuance of the notice of violation, the property owner shall submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) for the necessary seawall repairs or

improvements. The owner of the seawall shall demonstrate progress towards repairing ~~the cited defect within sixty (60) days of receiving a citation.~~ If the required repair meets the substantial repair threshold, the property owner must design, obtain permits, and cause to be constructed seawall improvements that meet the minimum elevation and design requirements within seven hundred and thirty days (730) days of receipt of the citation.

- b) Property owners with seawalls below the minimum elevation set forth in section 54-62(a), or property owners with permeable erosion barriers such as riprap, living shorelines, or a land/water interface of another nature, shall not allow tidal waters to entering their property, ~~to impact adjacent properties,~~ or public rights-of-way. Property owners failing to prevent tidal waters from flowing overland onto the upland property and/or leaving their ~~subject property and entering an adjacent property or right-of-way~~ may be ~~cited~~ issued a notice of violation. ~~The citation-notice of violation shall require the property owner to initiate the seawall repair or improvement process and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving the issuance of the notice from the city of violation.~~ A demonstration of progress may include, but is not limited to, obtaining written proposals from seawall contractors, securing financing, and/or applying for permits. Within six (6) months of receiving the issuance of the notice from the city of violation, the property owner shall submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) for the necessary seawall repairs or improvements. The property owner shall complete the proposed remedy within seven hundred and thirty days (730) days of citation. The owner of the property is required to initiate a process including, but not limited to, hiring a contractor or submitting a building permit, and ~~be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving a citation from the city and must complete the proposed remedy within seven hundred and thirty days (730) days of citation.~~

Sec. 54-64. As-built Requirements and Resilience Standard Certification.

- a) Property owners are required to submit to the Building Department and Public Works Department an as-built survey that is prepared by a professional surveyor to show elevation of seawall (NAVD88) at the commencement of construction.
- b) Property owners are required to submit to the Building Department and Public Works Department certification by a professional engineer stating that shoreline protection structures have been designed and constructed in accordance with this ~~Article and Miami Beach's Resilience Standards for Tidal Flood Protection ordinance.~~

Sec. 54-65. Enforcement; Warnings; Civil Penalties.

- (a) Failure to maintain flood mitigation infrastructure as set forth in Section 54-63(a) or to prevent tidal waters from flowing overland onto the upland property and/or leaving their subject property and entering an adjacent property or right-of-way as set forth in Section 54-63(b) shall be enforced by a floodplain administrator or designee, a code compliance officer, or a police officer ("enforcement officer") in accordance with the procedures and penalties set forth in Section 54-65(b) through (j).
- (b) Warning. The first notice of violation issued by A~~a~~n enforcement officer shall first issue serve as a written warning to remedy the violation prior to issuing a subsequent notice of violation unless one written warning has been issued in the 12 months preceding the date of violation. The written warning shall require the property owner to initiate the seawall repair or improvement process and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of ~~receiving notice from the city~~ issuance of the written

warning. A demonstration of progress may include, but is not limited to, obtaining written proposals from seawall contractors, securing financing, and/or applying for permits. Within six (6) months of ~~receiving notice from the city~~ the issuance of the written warning, the property owner shall submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) for the necessary seawall repairs or improvements. The property owner shall complete the proposed remedy within seven hundred and thirty days (730) days of citation the written warning. The written warning shall be substantially in the same form as a notice of violation as identified in section 54-65(c). Failure to either demonstrate progress towards addressing the cited concern within (60) days of receiving notice from the City or upon failing to complete the proposed remedy within seven hundred and thirty days (730) days of citation shall result in subsequent violations set forth in this subsection. Each day such violation continues shall be considered a separate offense.

- (c) *Penalties.* If, subsequent to the initial written warning, an enforcement officer finds a violation, the officer shall issue a notice of violation to the violator as provided in chapter 30. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.
- (d) A violator who has been served with a notice of violation shall elect either to:
- (1) Pay the civil-fine as follows for violations of sections 54-63(a) and/or (b):
 - i. First offense\$250.00;
 - ii. Second and subsequent offenses\$500.00.
 - or
 - (2) Request an administrative hearing within ten days before a special master appointed as provided in article II of chapter 30 to appeal the decision of the enforcement officer which resulted in the issuance of the notice of violation.
- (e) If the named violator, after notice of violation, fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the enforcement officer. Failure of the named violator to appeal the decisions of the enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master. A waiver of the right or an administrative hearing shall be treated as an admission of the violation and penalties may be assessed accordingly. The special master shall be prohibited from hearing the merits of the notice of violation or consideration of the timeliness of the request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the issuance of the notice of violation.
- (f) A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes.
- (g) Any party aggrieved by the decision of the special master may appeal the decision in accordance with law.
- (h) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

- (i) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien.
- (j) The procedures for appeal of the notice of violation by administrative hearing shall be as set forth in sections 30-72 and 30-73.
- (k) In the event that tidal flooding entering the upland property, adjacent property, or a public right-of-way is not mitigated by a property owner in a timely manner, the City shall be authorized to install a temporary flooding barrier on the upland property, adjacent property, or public right-of-way, at the expense of the owner.

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith 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. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

This Ordinance shall take effect on the ____ day of _____, 2025.

PASSED AND ADOPTED this ____ day of _____, 2025.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk
Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Commissioner Alex Fernandez)
(Sponsored by Commissioner Laura Dominguez)