

17. PB24-0723, FAR Exception for Gender Neutral Restrooms.

# MIAMIBEACH

## PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: [www.miamibeachfl.gov/planning](http://www.miamibeachfl.gov/planning)

### LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER PB24-0723		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
<b>Board of Adjustment</b> <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		<b>Design Review Board</b> <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<b>Planning Board</b> <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input checked="" type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		<b>Historic Preservation Board</b> <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY N/A			
FOLIO NUMBER(S)			
Property Owner Information			
PROPERTY OWNER NAME N/A			
ADDRESS		CITY	STATE
			ZIPCODE
BUSINESS PHONE		CELL PHONE	EMAIL ADDRESS
Applicant Information (if different than owner)			
APPLICANT NAME City of Miami Beach			
ADDRESS 1700 Convention Center Drive		CITY Miami Beach	STATE FL
			ZIPCODE 33139
BUSINESS PHONE 3056737550		CELL PHONE	EMAIL ADDRESS N/A
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST SEE AFFIDAVIT			

<b>Project Information</b>			
Is there an existing building(s) on the site?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.		SQ. FT.	
Provide the gross floor area of the new construction (including required parking and all usable area).		SQ. FT.	
<b>Party responsible for project design</b>			
NAME		<input type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE      ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
<b>Authorized Representative(s) Information (if applicable)</b>			
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE      ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE      ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE      ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

**Please note the following information:**

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

**Please read the following and acknowledge below:**

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
  - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☐ Owner of the subject property

☒ Authorized representative

**SIGNATURE**

David Martinez

**PRINT NAME**

11/13/24

**DATE SIGNED**

**AFFIDAVIT**

I, David Martinez, being duly sworn, depose and say that I am the (Interim Assistant) City Manager of the City of Miami Beach and as such, have been authorized by the city, to file the following application for a Planning Board public hearing:

**PB24-0723, FAR Exception for Gender Neutral Restrooms. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "MIAMI BEACH RESILIENCY CODE," CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," SECTION 1.2.1, ENTITLED "GENERAL DEFINITIONS," BY AMENDING THE DEFINITION FOR FLOOR AREA; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

This instrument is executed pursuant to the requirements of the Planning Department and attests to the accuracy of the above statement. Execution hereof does not constitute approval or disapproval of the application which it addresses.



\_\_\_\_\_  
ASSISTANT CITY MANAGER'S SIGNATURE

STATE OF FLORIDA )

) SS

COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 13<sup>th</sup> day of November, 2024. The foregoing instrument was acknowledged before me by David Martinez, who is personally known to me and who did/did not take an oath.

My commission expires:



\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF FLORIDA  
(Type, print or stamp name)



NAIMA DE PINEDO  
Notary Public  
State of Florida  
Comm# HH284392  
Expires 9/26/2026

# MIAMIBEACH

## PLANNING DEPARTMENT


### Staff Report & Recommendation

### PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: November 26, 2024

FROM: Thomas R. Mooney, AICP  
Planning Director

<sup>DS</sup>  
 for TRM

SUBJECT: **PB24-0723. FAR Exemption for Gender Neutral Restrooms**

#### **RECOMMENDATION**

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

#### **HISTORY/BACKGROUND**

On June 26, 2024, at the request of Commissioner Alex Fernandez, the Mayor and City Commission referred an item pertaining to an FAR exception for gender neutral restrooms (C4 T) to the Land Use and Sustainability Committee (LUSC) and the LGBTQIA+ Advisory Committee. On September 5, 2024 the LUSC discussed the proposal and recommended that the City Commission refer an ordinance to the Planning Board. On September 10, 2024, the LGBTQIA+ Advisory Committee discussed and unanimously endorsed the proposal to amend the definition of "Floor Area" to exempt Unisex/Gender Neutral Restrooms from the definition of "Floor Area."

On October 30, 2024, at the request of Commissioners Alex Fernandez and Joseph Magazine, the Mayor and City Commission referred the subject ordinance to the Planning Board.

#### **REVIEW CRITERIA**

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

**Consistent** – The proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

**Not applicable** – The proposed amendment does not modify district boundaries.

**3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

**Not applicable** – The proposed Ordinance does not affect the overall scale of development.

**4. Whether the proposed change would tax the existing load on public facilities and infrastructure.**

**Consistent** – The proposed amendment does not increase loads on public facilities or infrastructures.

**5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

**Not applicable** – The proposed change does not modify existing district boundaries.

**6. Whether changed or changing conditions make the passage of the proposed change necessary.**

**Consistent** – The proposed change is necessary in order to encourage the construction of gender neutral restrooms.

**7. Whether the proposed change will adversely influence living conditions in the neighborhood.**

**Consistent** – The proposed ordinance amendment will not affect living conditions in the neighborhood.

**8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

**Consistent** – The proposed change will not affect traffic congestion.

**9. Whether the proposed change will seriously reduce light and air to adjacent areas.**

**Consistent** – The proposed change will not reduce light and air to adjacent areas.

**10. Whether the proposed change will adversely affect property values in the adjacent area.**

**Consistent** – The proposed change will not adversely affect property values in the adjacent areas.

**11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Not applicable**

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not applicable –**

13. **Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

**Not applicable.**

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

**Consistent** – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Consistent** – The proposal does not affect the resiliency of the City.

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

**Consistent** – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

#### **ANALYSIS**

The attached draft ordinance amends the General Definitions Section (1.2.1) of the Land Development Regulations of the City Code (LDRs) to create an exception to the definition of floor area for gender neutral restrooms.

Gender neutral restrooms have several benefits, including creating a safe and accessible environment for all people. This includes accommodating people with special needs, families with small children, elderly individuals with a caregiver, as well as transgender and gender non-conforming individuals. Exempting such restrooms from floor area calculations is intended to encourage their use by allowing the square footage of such facilities to be allocated for other uses in a building.

#### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance to the City Commission with a favorable recommendation.

**FAR Exception for Gender Neutral Restrooms**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED “MIAMI BEACH RESILIENCY CODE,” CHAPTER 1, ENTITLED “GENERAL PROVISIONS,” ARTICLE II, ENTITLED “DEFINITIONS,” SECTION 1.2.1, ENTITLED “GENERAL DEFINITIONS,” BY AMENDING THE DEFINITION FOR FLOOR AREA; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and City Commission desire to amend definitions section in the City Code pertaining to floor area; and

**WHEREAS**, establishments providing gender neutral restrooms are highly desired in the City of Miami Beach; and

**WHEREAS**, providing incentives for gender neutral restrooms will promote the general health, safety and welfare of the residents of the City; and

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

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

**SECTION 1.** Chapter 1 of the Miami Beach Resiliency Code, entitled “General Provisions,” Article II, entitled “Definitions,” is hereby amended as follows:

**CHAPTER 1  
GENERAL PROVISIONS**

\* \* \*

**ARTICLE II. – DEFINITIONS**

\* \* \*

**SECTION 1.2.1. – GENERAL DEFINITIONS**

\* \* \*

Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. For the purpose of clarity, floor area includes, but is not limited to, stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), and mechanical chutes and chases at every floor (including mezzanine level).

For the avoidance of doubt, unless otherwise provided for in these land development regulations, floor area excludes only the spaces expressly identified below:

- a. Accessory water tanks or cooling towers.

- b. Uncovered steps.
- c. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- d. Terraces, breezeways, or open porches.
- e. Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- f. Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- g. Mechanical equipment rooms located above main roof deck.
- h. Exterior unenclosed private balconies.
- i. Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation in the following instances:
  - 1. Existing contributing structures that are located within a local historic district, national register historic district, or local historic site.
  - 2. Structures located within Block 1 Properties as more specifically defined in section 7.2.15.3.f.1.D.
- j. Enclosed garbage rooms, enclosed within the building on the ground floor level.
- k. Stairwells and elevators located above the main roof deck.
- l. Electrical transformer vault rooms.
- m. Fire control rooms and related equipment for life-safety purposes.
- n. Secured bicycle parking.
- o. Restrooms permitted and maintained as either unisex or general neutral, as more specifically defined under the applicable building code.

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter 2 article XIV for additional regulations that address floor area.

## **SECTION 2. REPEALER.**

All ordinances or parts of ordinances and all section 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.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Steven Meiner, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

First Reading: \_\_\_\_\_, 2025

Second Reading: \_\_\_\_\_, 2025

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

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