

R5 AA 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 AMEND THE APPLICABILITY OF THIS ARTICLE, MODIFY DEFINITIONS, AND STRENGTHEN CONSTRUCTION STANDARDS FOR NEW AND EXISTING SEAWALLS AND OTHER TIDAL FLOOD BARRIERS TO STRENGTHEN COASTAL RESILIENCE AND MITIGATE THE EFFECTS OF TIDAL FLOODING AND SEA LEVEL RISE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: June 25, 2025 1:35 p.m. First Reading Public Hearing

TITLE: 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 AMEND THE APPLICABILITY OF THIS ARTICLE, MODIFY DEFINITIONS, AND STRENGTHEN CONSTRUCTION STANDARDS FOR NEW AND EXISTING SEAWALLS AND OTHER TIDAL FLOOD BARRIERS TO STRENGTHEN COASTAL RESILIENCE AND MITIGATE THE EFFECTS OF TIDAL FLOODING AND SEA LEVEL RISE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission approve the subject ordinance at First Reading Public Hearing and schedule a Second Reading Public Hearing for July 23, 2025.

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 would 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. This item is sponsored by Commissioners Alex Fernandez and Laura Dominguez.

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. This item is sponsored by Commissioners Alex Fernandez and Laura Dominguez.

On April 15, 2025, the item was discussed at the Land Use and Sustainability Committee. Due to

concerns with the increase in cost for seawalls, Commissioner Fernandez and Commissioner Suarez requested further research exploring the possibility of increasing the threshold for non-substantial repairs to approximately \$1,000 per linear foot at the First Reading of the Ordinance.

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 compliance of the seawall ordinance. For example, the Public Works Department created a geospatial information system (GIS) platform utilizing drone LIDAR technology that contains 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: Seawalls | Miami Beach – Rising Above to assist the public in understanding the requirements of the ordinance and allows them to access the GIS seawall elevation tool. To target the outreach, the Environment and Sustainability Department has twice 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 opportunity.

The Administration has taken steps to improve awareness 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 is located online at the MB Rising Above webpage: Seawalls | Miami Beach – Rising Above.

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 property owners to submit a permit application to the City of Miami Beach Building Department and Miami-Dade County RER (DERM) Coastal Resources Section within six

(6) months. This would act as an additional demonstration of progress would 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.

1. Increased the monetary threshold for "substantial improvements" to \$500 or more per linear foot for seawall construction or repairs. The threshold increase from \$300 to \$500 is to adjust for current market costs for seawall construction to better align with cost increases. As such, more applicants may fall below the new threshold if they are conducting minor non-substantial repairs and would still need to have a minimum elevation of 4.0' NAVD.

Prior to First Reading, the Land Use and Sustainability Committee requested research to evaluate the possibility of increasing the threshold for non-substantial repairs from the staff recommended \$500 to approximately \$1,000 per linear foot. The Administration reviewed projects that included private property seawall work that required permits from the Building Department. Upon review of the costs reported on the permits, the costs per linear foot ranged from approximately \$214 to \$1,400 depending on the scope of work. On average, seawall work for projects permitted through the Building Department costs approximately \$831 per linear foot. It should be noted that 'seawall work' can include anything from installing a seawall cap overpour (less expensive) to full replacement and installation of a new seawall (most expensive) and its associated components (i.e. seawall cap, king piles, batter piles, and riprap). Due to the range in costs associated with the varying scopes of work, it's recommended that the threshold for non-substantial remain as recommended by the Administration at the Committee and be increased from \$300 to \$500 to account for increased market costs for minor work while still requiring properties conducting substantial work to increase their elevation to a minimum 5.7 feet NAVD. The Administration advises that the \$500 threshold recommendation remains (as in comparison to \$1000 threshold requested to be examined by the Committee) since based on the research, projects under \$500 generally applied to seawall cap overpours; whereas an entirely new concrete seawall is \$500 or more. It is advisable for any resident installing a new seawall to reach a minimum of 5.7 NAVD for an improved level of protection and return on investment for the lifespan of the asset and sea level rise projections.

2. Limited maintenance work unrelated to elevation or seawall work, such as rip-rap placement would be an exemption to the ordinance. This exemption would not require the property owners 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 would 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 that would require increasing 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 would be 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)

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

In light of flood risks associated with sea level rise projections, King Tides, and storm surge, the Administration recommends the Mayor and City Commission approve the updates to the ordinance. The recommendations will further reduce risk and build resilience to current and future tidal flooding, while improving compliance capabilities and reflecting the costs of construction for non-substantial repairs.

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 Alex Fernandez
Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

1:35 p.m. 1st Rdg PH, Strengthen Construction Standards for Seawalls/Flood Barriers. (AF/LD)
EN

Previous Action (For City Clerk Use Only)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 54 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "FLOODS," BY CREATING ARTICLE III, TO BE ENTITLED "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION," TO STATE THE PURPOSE AND INTENT OF THE ARTICLE; ESTABLISH DEFINITIONS; AND ESTABLISH 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; and

WHEREAS; seawalls and similar tidal flood barriers strengthen coastal resilience when constructed in a manner that is substantially impermeable, and 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 for public projects, have a minimum elevation of 5.7 feet NAVD; however, applications for new or substantially rehabilitated seawalls not associated with new or substantial building construction would be permitted a minimum elevation of 4.0 feet NAVD88 if designed and constructed to accommodate a minimum elevation of 5.7 feet NAVD88 (and not lower than the adjacent yard); and

WHEREAS, seawall elevation requirements need to be set and the structures designed and constructed in a manner that does not create erosion and/or drainage issues on the adjacent properties; and

WHEREAS, a minimum and maximum elevation standard for seawall construction should be set to reduce the potential for a substantial visual discontinuity with their neighbors; 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, 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, AS FOLLOWS:

SECTION 1. That Article III of Chapter 54 of the Code of the City Miami Beach is hereby created 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 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 building permit applications that meet the following criteria:

- (1) All new waterfront construction and substantial improvements; or
- (2) All new seawalls; or

(3) Substantial improvements to shorelines and shoreline structures.

Mandatory compliance with the requirements of this Article shall be required for all low seawalls, bulkheads, living shorelines, or other shorelines protection structures that cause tidal surface water flooding to 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 repair or rehabilitation means:

- a) Any improvement and/or repairs to the existing seawall with a cost of \$300 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 repairs; shall have a minimum elevation of 5.7 feet NAVD88. All existing seawalls that require repairs but the repairs are considered less than substantial and existing seawalls that fall below an elevation that incurs flooding to 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-Influence 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 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 entering their property to flow to adjacent properties or public rights-of-way. Failure to maintain flood mitigation infrastructure shall be a citable offense. 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 permeable erosion barriers such as rip-rap, living shorelines, or a land/water interface of another nature, shall not allow tidal waters entering their property to impact adjacent properties or public rights-of-way. Property owners failing to prevent tidal waters from flowing overland and leaving their property may be cited. 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 and leaving their property 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. An enforcement officer shall first issue a written warning to remedy the violation prior to issuing a 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 seawall repair or improvement, and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving notice from the city and complete the proposed remedy within seven hundred and thirty days (730) days of citation. 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 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.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

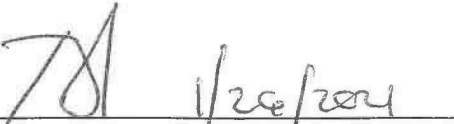
This Ordinance shall take effect on the 23 day of January, 2021.

PASSED AND ADOPTED this 13 day of January, 2021.

ATTEST:



Dan Gelber, Mayor



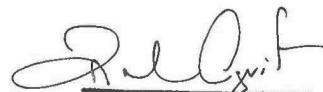
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Samuelian)

Underline denotes additions



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney 12/2/20 Date
FA

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, Interim City Manager
DATE: January 13, 2021

2:25 p.m. Second Reading Public Hearing

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 54 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "FLOODS," BY CREATING ARTICLE III, TO BE ENTITLED "RESILIENCY STANDARDS FOR TIDAL FLOOD PROTECTION," TO STATE THE PURPOSE AND INTENT OF THE ARTICLE; ESTABLISH DEFINITIONS; AND ESTABLISH 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.

RECOMMENDATION

The Administration recommends that the City adopt the Ordinance.

BACKGROUND/HISTORY

The 2019 Community Satisfaction Survey shows that 39.7% of residents have observed increased flooding in their neighborhood, down from 73.7% in 2016. The City of Miami Beach is investing in aging infrastructure to reduce food risk, adapt to climate change, and is committed to building resilience on several fronts. Over the last few years, the City has updated its land use development regulations for new construction to address water retention, setbacks and increase in base flood and freeboard elevation. These measures also contemplate sea level rise scenarios to reduce the risk to the new inventory of buildings.

Miami Beach has approximately 53 miles of seawalls, of which 92% are owned by private property. Existing City legislation does not address tidal waters overtopping seawalls and impacting adjacent property and public right-of-way.

The proposed Ordinance was modeled from seawall ordinances recently adopted by Broward County and the City of Fort Lauderdale. The City of Miami has also drafted an ordinance that is going through the review and approval process. The proposed Ordinance looks at best management practices from these other municipalities but is specific to Miami Beach, and accounts for the feedback from the community. The main purpose of the Ordinance is to provide the City the enforcement ability to address overtopping and to integrate the city's

seawall elevation requirements adopted in 2016 into Chapter 54 Floods.

The Ordinance was developed after discussions and direction at the Land Use and Sustainability Committee. On July 24, 2020, the Committee forwarded the ordinance, by acclamation, to the City Commission for first reading. On December 9, 2020, the Mayor and City Commission unanimously adopted the Ordinance on first reading.

Stakeholder Engagement

Staff has engaged the following entities that provided feedback on the draft ordinance:

- Marine and Waterfront Protection Committee
- National Flood Insurance Program Community Rating System Program for Public Information
- Sustainability Committee
- Marine Industry Focus Group
- General Public Engagement Meeting

On August 17, 2020, staff held a focus group discussion with marine contractors to gain insight on the industry's perspective on the proposed ordinance and discuss potential of setting special rates for Miami Beach property owners. Each seawall is unique and is designed to accommodate existing conditions and specific design elements required by the property. In addition, contractors pricing includes many factors such as variable material costs the amount of work in relationship to their equipment and staff.

On October 6, 2020, staff held a public meeting and provided a seven-day public comment period to obtain feedback of the proposed ordinance from residents. The meeting had 62 participants the questions and comments can be broken down into the following three areas:

1. Affordability and financing of private property upgrade costs
2. Complexity and time needed for permitting and construction of new seawalls
3. Necessity to protect private properties adjacent to low and failing seawalls

The public has expressed concerns related to affordability of seawall upgrade and the process to replace seawalls. The city examined a special assessment district (discussed at June 2019 Sustainability and Resilience Committee) and convened banks and funders to develop a special program for Miami Beach property owners (discussed at September 2019 and January 2020) to identify means to facilitate funding of private property adaptation. After thorough research and discussions with the financial industry, it has been determined that these are not feasible alternatives at this time.

Seawall replacement requires permitting approvals from the Army Corps of Engineers, the State of Florida, Miami-Dade County Resources and Regulatory Department, and the City of Miami Beach. The ordinance presented to the Land Use and Sustainability Committee in July 2020 proposed that 550 days be provided to a property owner to have enough time to complete the permitting, design, and construction. Based on discussions with the marine industry and feedback from residents regarding design and permitting challenges the Ordinance has been updated to allow for 730 days for reconstruction of failing seawalls. The City has also initiated discussions with Miami-Dade County to understand if the local regulatory permitting process can be streamlined.

To understand how neighboring municipalities are addressing overtopping and enforcement, staff also convened meetings with City of Miami, Broward County, and the City of Fort Lauderdale. Broward County and the City of Fort Lauderdale have passed ordinances addressing overtopping and the City of Miami is in the process of developing an ordinance.

Proposed Seawall Ordinance Overview

The proposed Seawall Ordinance codifies minimum elevations for new seawalls and requires seawalls that are in disrepair and are causing flooding on adjacent properties be maintained.

The Ordinance establishes that all new seawalls must be constructed to an elevation of 5.7 ft NAVD, or 4 ft NAVD if designed to support a future elevation of 5.7 NAVD. The elevation requirements are already in effect. On May 11, 2016, the City passed a resolution to require that new seawalls, and those meeting the substantial reconstruction requirements, have higher elevation standards (R2016-4009). The Ordinance further codifies this requirement and includes that seawalls must be upgraded if the property has new construction or substantial improvements. It should be noted that property owners are encouraged to consider designs using materials to further biodiversity of the City's coastal marine habitat.

The Ordinance also establishes overtopping as a trigger for seawall elevation and seawall maintenance requirements. Seawalls must be maintained in good repair as to not allow soil to eroded into the bay or waterway or to allow tidal waters to flow through the seawall and impact adjacent private property(s). The Ordinance also requires that seawalls must be maintained to prevent tidal waters from flowing overland and leaving their property.

Enforcement of the maintenance requirements set forth in the Ordinance will be enforced by either the floodplain administrator, a Code Compliance officer, or a police officer. The Ordinance includes a \$250 fine for the first offence (day) and \$500 per day fine for subsequent infractions and requires that following a citation, the property owner has 730 days to complete repairs. A violator that has been served a notice can request an administrative hearing within ten days to appeal the decision of the enforcement officer.

Information about the new Ordinance and how to report potential violations will be included on the City's website at www.mbrisingabove.com/seawalls.

CONCLUSION

The Administration recommends the Mayor and City Commission to approve the Ordinance on Second Reading.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Strategic Connection

Environment & Infrastructure - Reduce risk from storms, high tides, groundwater, and sea level rise.

Legislative Tracking

Environment and Sustainability

Sponsor

Commissioner Mark Samuelian

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:



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

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 AMEND THE APPLICABILITY OF THIS ARTICLE, MODIFY DEFINITIONS, AND STRENGTHEN CONSTRUCTION STANDARDS FOR NEW AND EXISTING SEAWALLS AND OTHER TIDAL FLOOD BARRIERS TO 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, one of the most significant effects of climate change, is a result of different factors, including an increase in water volume resulting from melting land ice and the thermal expansion of sea water as it warms up; and

WHEREAS, in 2020, the Mayor and City Commission adopted Resolution No. 2020-31315, adopting the 2019 update of the Unified Sea Level Rise Projection, Southeast Florida and further directing the City of Miami Beach to utilize the updated regionally consistent sea level rise projections for planning, design and construction purposes. 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 inches by 2120; and

WHEREAS, seawalls and similar tidal flood barriers strengthen coastal resilience when constructed in a manner that is substantially impermeable, at 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 adopted 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 onto adjacent properties or public rights-of-way; and

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

WHEREAS, in 2021, the City established new seawall requirements to prevent coastal erosion, drainage issues, and tidal flooding 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, the benefits of which include nutrient pollution remediation, improving essential fish habitat structure, and buffering of shorelines from waves and storms; and

WHEREAS, the amendments set forth in this Ordinance will promote 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 properly maintained, repaired or, if necessary, replaced. The physical seawall improvements ensure new seawalls, bulkheads, living shorelines, or other shoreline protection structures are designed ~~with application of to meet~~ 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 existing shorelines and shoreline structures.

Each applicant 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 condition that causes tidal surface water flooding ~~to~~ onto 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 any improvements 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 improvements 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, limited maintenance work, such as the installation of rip-rap, shall be exempt from the minimum elevation requirement in this section, provided that an engineering report is submitted that 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~~ allows flooding to ~~incur~~ incur onto the upland property, 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, 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 an adjacent properties property or public rights-of-way. Failure to maintain flood mitigation infrastructure shall be a citable offense. The 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 the issuance of the notice 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 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~~ improvements 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 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 the issuance of the notice 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 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 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.* ~~An~~ The first notice of violation issued by an 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 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 J. Fernandez)
(Sponsored by Commissioner Laura Dominguez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/20/2025

Date