

13. AMEND DEFINITION OF "FLOOR AREA" TO EXEMPT UNISEX/GENDER-NEUTRAL RESTROOMS FROM THE DEFINITION OF "FLOOR AREA."

Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO:	Honorable Mayor and Members of the City Commission
FROM:	Commissioner Alex Fernandez
DATE:	June 26, 2024
TITLE:	REFERRAL TO LAND USE AND SUSTAINABILITY COMMITTEE AND LGBTQIA+ ADVISORY COMMITTEE TO AMEND DEFINITION OF "FLOOR AREA" TO EXEMPT UNISEX/GENDER-NEUTRAL RESTROOMS FROM THE DEFINITION OF "FLOOR AREA."

### **RECOMMENDATION**

Please place the above item on the June 26, 2024 City Commission meeting agenda as a dual referral to the Land Use and Sustainability Committee ("LUSC") and LGBTQIA+ Advisory Committee.

"Floor area ratio" (FAR) is the method used by the City to regulate the overall size of a building. The term "floor area," as defined in the Land Development Regulations, establishes what parts of a building count toward a building's maximum FAR. There are currently fourteen (14) exceptions from the definition of "floor area" (see attached Code excerpt).

In 2023, the Florida Legislature adopted HB 1521/SB 1674, creating a number of requirements on the use of public restrooms. These requirements discriminate against transgender people. Florida law now requires state and local governments, educational institutions, and correctional/detention facilities to maintain separate male and female restrooms (or a unisex restroom), and to prohibit individuals from using restrooms that do not correspond with their sex assigned at birth. This effectively prohibits transgender people from using public restrooms that correspond with their gender. Violators can be disciplined, prosecuted or trespassing, or subject to enforcement action by the Attorney General.

I would like the LUSC and LGBTQIA+ Advisory Committee to consider whether the definition of "floor area" should be amended to exclude unisex or gender-neutral bathrooms from the calculation of a building's floor area. This would provide property owners with an incentive to construct unisex or gender-neutral bathrooms which, for non-conforming buildings (including certain historic buildings), may not be possible if there is no available FAR on the property.

### **BACKGROUND/HISTORY**

### **ANALYSIS**

### **FISCAL IMPACT STATEMENT**

N/A

**Does this Ordinance require a Business Impact Estimate?**  
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

**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**

Office of Commissioner Alex Fernandez

**Sponsor(s)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

**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.

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.