

C4 M REFERRAL TO THE PLANNING BOARD – ORDINANCE AMENDING DEFINITION OF “FLOOR AREA” TO EXEMPT UNISEX/GENDER-NEUTRAL RESTROOMS FROM THE DEFINITION OF “FLOOR AREA.”

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: October 30, 2024

TITLE: REFERRAL TO THE PLANNING BOARD – ORDINANCE AMENDING DEFINITION OF “FLOOR AREA” TO EXEMPT UNISEX/GENDER-NEUTRAL RESTROOMS FROM THE DEFINITION OF “FLOOR AREA.”

**RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinance to the Planning Board and in accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code (LDRs), the City Commission waive the applicable fees based on circumstances unique to the proposed amendment

**BACKGROUND/HISTORY**

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."

**ANALYSIS**

The attached draft ordinance amends the General Definitions Section (1.2.1) of the LDRs as follows:

*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.*

#### **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

- 1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
- 2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
- 3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

Should this proposal be referred to the Planning Board, the Administration recommends that the City Commission determine that the proposed amendment is necessary based on circumstances unique to the proposed amendment and waive the applicable fees.

#### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

**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**

Not Applicable

**CONCLUSION**

The Administration recommends the following:

1. The City Commission refer the attached draft ordinance to the Planning Board.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

**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**

Planning

**Sponsor(s)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

Commissioner Joseph Magazine

**Condensed Title**

Ref: PB - Amend Definition of "Floor Area," Exempt Unisex/Gender-Neutral Restrooms from Definition. (Fernandez/Magazine) PL

**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:

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- 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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