

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

 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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