

# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: June 10, 2025

TITLE: REQUIRE APPLICANTS FOR ZONING INCENTIVES TO BE IN GOOD STANDING WITH THE CITY PRIOR TO FILING A COMPLETED APPLICATION, INCLUDING RESOLVING ALL OPEN CODE VIOLATIONS, PAYING ALL OUTSTANDING FINES, FEES, OR OTHER BILLS TO THE CITY, AND PROHIBITING HABITUAL OFFENDERS WITH A PATTERN OF CODE VIOLATIONS DURING THE PRECEDING FEW YEARS FROM APPLYING UNDER CERTAIN CIRCUMSTANCES.

### **RECOMMENDATION**

The Administration recommends that the Land Use and Sustainability Committee (LUSC) endorse the draft amendments to the Land Development Regulations of the City Code (LDRs) and recommend that the Mayor and City Commission (City Commission) refer an ordinance to the Planning Board.

### **BACKGROUND/HISTORY**

On February 3, 2025, at the request of Commissioner Alex Fernandez, the City Commission referred a discussion item pertaining to requirements for applicants seeking zoning incentives to be in good standing with the City (C4 Y) to the LUSC. On April 15, 2025, the LUSC discussed and continued the item to the June 10, 2025 LUSC meeting with direction to staff to further develop the proposed draft amendments in accordance with the following:

1. Create a definition for 'habitual offender'.
2. Establish a minimum waiting period after all fines and violations have been resolved and before a transmittal hearing can occur before the Planning Board.
3. Create options for a potential City Commission waiver of all or part of the waiting period, subject to the payment of a fine or the voluntary proffer of a public benefit.

### **ANALYSIS**

As noted in the attached referral memorandum, the item sponsor has requested that the LUSC discuss and consider possible amendments to the LDRs to require applicants for zoning incentives to be in good standing with the City prior to filing a completed application. Any amendments should consider efforts to mitigate conditions at a property and whether the ownership has changed, as well as the following, without limitation:

1. Resolving all open Code and Building violations.
2. Paying all outstanding fines, fees, or other open bills to the City.
3. Prohibiting properties with a history of persistent or habitual violations (to be

discussed/identified by the LUSC) should be ineligible for applying under certain circumstances, including implementing a potential waiting period (e.g., one year) from the resolution of the last issue before eligibility for zoning incentives is reconsidered.

Pursuant to the direction of the LUSC on April 15, 2025, the following are revised text amendments to Chapters 1 and 2 of the LDRs:

#### Chapter 1 - General Definitions

The following definition for 'habitual offender' is proposed:

### *ARTICLE II – DEFINITIONS*

#### *1.2.1 GENERAL DEFINITIONS*

**Habitual offender** is an individual or entity with a record of three (3) or more adjudicated violations within the preceding 3 years of the City's land development regulations, Florida Building Code, and/or Florida Life Safety Code.

#### Chapter 2 - Administration and Review Procedures

### *ARTICLE IV – Amendments to Comprehensive Plan and to the Text of the Land Development Regulations*

#### *2.4.1 GENERALLY*

- a. A request to amend the comprehensive plan or to amend the text of these land development regulations may be submitted to the planning director by the city manager; city attorney; or upon an adopted motion of the city commission, planning board, board of adjustment, or historic preservation board (with regard to the designation of historic districts or sites, or matters that directly pertain to historic preservation); or by an owner(s) or developer(s) of the property which is the subject of the proposed change (hereinafter, a private applicant). Matters submitted by the city manager or city attorney shall first be referred to the planning board by the city commission for action on the referral.
- b. For amendments requested by the owner of a specific private property, unified development site or other development, the property owner shall certify the following, prior to consideration of the amendment by the Planning Board:
  1. There shall be no open zoning, city code, building, or life safety violations at the subject property.
  2. There shall be no outstanding fines, fees, or other open bills due to the City.
- c. For amendments requested by the owner of a specific private property, unified development site or other development, if the property owner meets the definition of habitual offender, as more specifically defined in Chapter 1 of these land development regulations, a minimum waiting period of one year shall be required prior to consideration of the amendment by the Planning Board. This one year waiting period shall commence upon satisfaction of the following:
  1. The submission of a completed application for the proposed amendment(s);
  2. All open zoning, city code, building, or life safety violations at the subject property have been deemed in compliance and are no longer outstanding.
  3. All outstanding fines, fees, or other open bills have been paid in full to the City. Notwithstanding, the City Commission, at its sole discretion, may by resolution waive or reduce the one year waiting period based on the following factors:
    - i. Whether the applicant was the owner of the property at the time of the applicable violations;
    - ii. Any efforts taken by the applicant to mitigate the conditions that gave rise to the violations; and/or

iii. Any other factors or information provided by the applicant in writing which, to the satisfaction of the City Commission, demonstrate that a waiver should be granted.

- d. *An owner applicant or his representative shall file an application pursuant to sections 2.2.3.1 and 2.2.3.2 of this chapter. The city shall not be required to file an application.*

The Administration is supportive of these proposed text amendments, as they would apply to all applications uniformly and would be an added incentive to correct outstanding violations and past due fines in an expedient manner. These requirements could also be included as a condition of eligibility as part of future zoning incentive legislation, including legislation presently before the City Commission, LUSC, or Planning Board.

As it pertains to establishing a waiting period for properties with a history of persistent or habitual violations, the Administration previously urged caution with regard to adding this as a regulatory criteria. The reason is that a property may go through a change of ownership and delaying the amendment process could disincentivize or otherwise impact the ability of the property owner to move forward with improvements to the property. The waiver provision provided in the updated text herein does provide flexibility on the part of the City Commission to address habitual violations when there are unique circumstances.

If there is consensus on the above noted text amendments, a draft ordinance can be presented to the City Commission for referral to the Planning Board.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact

### **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-notice/>

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends that the LUSC endorse the draft amendments to the LDRs and recommend that the City Commission refer an ordinance to the Planning Board.

### **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)**

**Condensed Title**

Require Applicants For Zoning Incentives To Be In Good Standing With The City Prior To Filing A Completed Application, Including Resolving All Open Code Violations, Paying All Outstanding Fines, Fees, Or Other Bills To The City, And Prohibiting Habitual Offenders With A Pattern Of Code Violations During The Preceding Few Years From Applying Under Certain Circumstances.