

MIAMIBEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 8, 2025

FROM: Thomas R. Mooney, AICP
Planning Director

^{DS}


For TRM

SUBJECT: **PB24-0748. Variance Fee Waivers for Building Recertification**

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY/BACKGROUND

On November 20, 2024, at the request of Commissioner Alex Fernandez, the City Commission referred a discussion pertaining to fee waivers for variance applications related to building recertification requirements (C4 R) to the Land Use and Sustainability Committee (LUSC). On January 16, 2025, the LUSC recommended that the City Commission refer an amendment to the Land Development Regulation of the City Code (LDR's) to the Planning Board, in accordance with the recommendations in the LUSC memorandum and the following:

1. A provision to establish financial or other hardship shall be included in the draft ordinance.
2. A provision shall be included in the ordinance to prioritize variance requests at applicable land use boards that are related to building recertification requirements.

On February 26, 2025, at the request of Commissioner Alex Fernandez, the City Commission referred the subject Ordinance to the Planning Board (C4 D).

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.**

Partially Consistent – The proposed change may be necessary in order to assist financially strapped residential condo associations in association with variances that may be warranted as part of a building certification process.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely 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.**

Not Applicable

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

Not Applicable

- (3) **Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

Not Applicable

ANALYSIS

Pursuant to the recommendations of the Land Use and Sustainability Committee (LUSC), the attached draft ordinance proposes that the City Commission have the ability to waive land use board application fees for variance requests by Resolution. This waiver would apply when a variance is needed to make repairs or improvements to address deficiencies identified in a milestone inspection report (building recertification) for a residential building. The ordinance also includes recommendations from the LUSC regarding financial hardship and the prioritization of variance applications related to building recertification.

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.

Variance Fee Waiver for Building Recertification

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, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE ENTITLED "GENERAL DEVELOPMENT APPLICATION AND HEARING PROCEDURES," BY AMENDING SECTION 2.2.3, ENTITLED "DEVELOPMENT APPLICATION SUBMISSION AND REVIEW," BY MODIFYING THE APPLICABLE PROVISIONS FOR LAND USE BOARD APPLICATION FEES AND ESTABLISHING A PROCESS AND CRITERIA FOR THE CITY COMMISSION TO CONSIDER A WAIVER OF REQUIRED FEES FOR VARIANCE APPLICATIONS RELATED TO COMPLIANCE WITH APPLICABLE BUILDING RECERTIFICATION REQUIREMENTS; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, under the requirements of the Florida Building Code, repairs or other improvements, as part of a building recertification, may be required for buildings in the City of Miami Beach; and

WHEREAS, in some instances, a variance application may be submitted to reconcile the requirements of the City Code with the minimum requirements of the Building Code, relating to required repairs or other improvements needed to correct a deficiency identified in a milestone inspection report for building recertification; and

WHEREAS, in some instances, the fees associated with a variance application to a City land use board may pose a financial hardship for residential buildings, and such residential buildings may need relief from the fees associated with a variance application, in order to comply with mandatory requirements of the Florida Building Code; 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 2, "Administration and Review Procedures", Article II "General Development Application and Hearing Procedures", is hereby amended as follows:

CHAPTER 2 - ADMINISTRATION AND REVIEW PROCEDURES

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ARTICLE II – General Development Application and Hearing Procedures

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2.2.3 DEVELOPMENT APPLICATION SUBMISSION AND REVIEW

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2.2.3.5 Fees for the administration of land development regulations

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- g. *Variances.* Any applicant requesting a public hearing on any application pursuant to section 2.8.4 shall pay, upon submission, the applicable fees below:
1. Application for public hearing.
 2. Fee per variance requested.
 3. Application for amendment of an approved board order.
 4. Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed. Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.
 5. Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.
 6. Application for clarification of an approved board order.
 7. Application for extensions of time of an approved board order.
 8. Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.
 9. Status report.
 10. Progress report.
 11. Applicant/homeowners requesting a variance shall pay one-half of the total fee with proof of homestead or primary occupancy of the subject property from the Miami-Dade County Property Appraiser's Office. Applicant/owner shall pay 100 percent of the required notice fee.
 12. Notwithstanding the foregoing, the application fee for a public hearing and fee per variance requested shall be waived for non-elderly and elderly low and moderate income or workforce housing developments.
 13. Notwithstanding the foregoing, the City Commission, by Resolution, may waive some or all of the above fees, for variance applications related to compliance with applicable building recertification requirements. Any such waiver shall be applicable only to a property with a residential building and shall be based upon a documented financial hardship. Additionally, the applicable land use board shall use best efforts to prioritize a variance application related to compliance with applicable building recertification requirements.

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

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.