

MIAMI BEACH

COMMISSION MEMORANDUM

TO: **Honorable Mayor and Member of the City Council**

FROM: Interim City Manager Rickelle Williams

DATE: June 26, 2024 First Reading

TITLE: LIVE LOCAL ACT APPLICATION FEES
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, AT CHAPTER 2, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE V, "REZONINGS AND DEVELOPMENT APPROVALS," AT SECTION 2.5.5, ENTITLED "DEVELOPMENT APPROVALS UNDER THE LIVE LOCAL ACT," TO ESTABLISH ADMINISTRATIVE FEES FOR THE REVIEW AND APPROVAL OF DEVELOPMENTS PURSUANT TO THE LIVE LOCAL ACT (INCLUDING SECTION 166.04151(7), FLORIDA STATUTES); AND BY AMENDING THE CITY CODE AT "APPENDIX A – FEE SCHEDULE," TO PROVIDE FOR ADMINISTRATIVE FEES FOR THE REVIEW AND APPROVAL OF DEVELOPMENTS UNDER THE LIVE LOCAL ACT; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 24, 2024.

BACKGROUND/HISTORY

HISTORY

On March 13, 2024, at the request of Commissioner Kristen Rosen Gonzalez, the Mayor and City Commission referred a proposal to establish applicable administrative review fees for Live Local Act projects (Item C4 N) to the Land Use and Sustainability Committee (LUSC) and Planning Board. On May 1, 2024, the LUSC discussed the item and recommended that the Planning Board transmit an ordinance establishing administrative review fees related to the Live Local Act with a favorable recommendation to the City Commission.

BACKGROUND

On March 24, 2023, the Florida Legislature adopted Senate Bill 102, known as the "Live Local Act" which, in pertinent part, provides development incentives and overrides certain local zoning regulations for developments that provide at least 40% workforce housing in commercial, industrial, and mixed-use districts. The act provides that except for those regulations that are specifically pre-empted, all other provisions of local regulations apply.

On January 31, 2024, the City Commission adopted Ordinance No. 2024-4584, amending the Land Development Regulations of the City Code (LDRs) to create an administrative review process for development applications submitted under the Live Local Act. The Ordinance created section 2.5.5 in the LDRs, entitled "Development Approvals Under the Live Local Act", which provides for an application requirement, eligible districts, an affordability covenant, minimum public notice, detailed review criteria, as well as compliance with the applicable provisions of the LDRs and Comprehensive Plan. The ordinance also requires equivalent treatment, including equal access to amenities for affordable, workforce, and market-rate units.

ANALYSIS

The city has the following four (4) land use boards (LUBs):

- Design Review Board (DRB).
- Historic Preservation Board (HPB).
- Planning Board.
- Board of Adjustment (BOA).

The attached ordinance establishes applicable fees for applications submitted under the Live Local Act, so that the City can recover the costs of review. Currently, development applications submitted to the city's LUBs are subject to the following fees, adjusted annually for consumer price index (CPI):

- Fee for public hearing: \$3,125.00.
- Per square foot of floor area fee: \$0.40 per square foot up to a maximum of \$40,000.00 (DRB and HPB only).
- Fee per variance: \$939.00.
- Mailing fee, per address within 375 feet: \$6.08 per address.

Additional fees are assessed for newspaper advertising, courier of packets to board members, and site postings. All these fees are utilized to recover the cost of staff review and recommendations, complying with notice requirements, and hosting the public meetings. Currently, none of these fees are applicable to Live Local Act projects. The proposed ordinance applies fees similar to those noted above for LUB review and approvals, to projects submitted under the Live Local Act, for purposes of cost recovery.

However, section 2.2.3.5 of the Land Development Regulations of the City Code (LDRs) currently exempts workforce and affordable housing developments from many of the land use board fees, including the application fee for public hearing and the per square foot of floor area fee. Consistent with the provisions of section 2.2.3.5, no review fees would be charged for the portions of a Live Local Act project that contain workforce housing units. The proposed fees would only be applicable to the non-workforce housing portions of a project.

For example, these review fees would be assessed for the market-rate residential units, as well as any permitted accessory uses, such as retail, restaurants, and offices. Also, if a Live Local Act project sought a variance, the workforce and affordable housing portions of the project would be exempt from the applicable fees. Since Live Local Act projects will likely include a significant market rate component, this would offset the cost associated with any fees assessed.

The following is the draft fee structure contained in the proposed ordinance. The fee values will be established in Appendix A and will be subject to CPI adjustment:

Live Local Act – Required Fees:

- Site Plan Review: \$3,125.00.
- Per square foot of gross floor area fee: \$0.40 per square foot up to a maximum of \$40,000. This per square foot fee shall only apply to the non-workforce and non-affordable housing portions of the project.
- Mailing fee, per address within 375 feet of the subject property: \$6.08 per address.

PLANNING BOARD REVIEW

On May 28, 2024, the Planning Board held a public hearing and transmitted the proposed

ordinance to the City Commission with a favorable recommendation (6-0).

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide 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.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected.

Does this Ordinance require a Business Impact Estimate? No
(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

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 24, 2024.
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?**

**Is this item related to a G.O. Bond
Project?**

Yes

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 Kristen Rosen Gonzalez

Co-sponsor(s)