

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Eric Carpenter, City Manager  
DATE: February 26, 2025  
TITLE: REFERRAL TO THE PLANNING BOARD – VARIANCE FEE WAIVERS FOR BUILDING RECERTIFICATION.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinance to the Planning Board.

### **BACKGROUND/HISTORY**

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 (LDRs) 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.

### **ANALYSIS**

In accordance with the recommendation of the LUSC, the attached draft ordinance proposes that the City Commission be able to waive, by Resolution, land use board application fees for variances, where the variance is required to make repairs or other improvements to correct a deficiency identified in a milestone inspection report (building recertification) for a residential building. The recommendations of the LUSC regarding financial hardship and the prioritization of variance applications related to building recertification are also included in the draft ordinance.

### **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**

If the subject ordinance is referred, and eventually adopted, there is not expected to be a significant financial impact, as the number of variance applications eligible for the proposed fee waiver is anticipated to be nominal.

### **Does this Ordinance require a Business Impact Estimate?**

(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-notices/>

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends the following:

1. The City Commission refer the attached draft ordinances 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)**

**Condensed Title**

Ref: PB - Variance Fee Waivers for Building Recertification. (Fernandez) PL

**Previous Action (For City Clerk Use Only)**