

C4 D REFERRAL TO THE PLANNING BOARD – VARIANCE FEE WAIVERS FOR
BUILDING RECERTIFICATION.

Applicable Area:



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-notice/>

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)

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.

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