

16. PB25-0748. Variance Fee Waivers for Building Recertification.

MIAMI BEACH

Land Use Boards

Planning Board

TO: Planning Board
FROM: Thomas Mooney, Director
DATE: April 8, 2025
TITLE: PB25-0748. VARIANCE FEE WAIVERS FOR BUILDING RECERTIFICATION.

PROPERTY

PB25-0748. Variance Fee Waivers for Building Recertification.

FILE NO.

PB25-0748

APPLICANT

City of Miami Beach

IN RE:

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 BAORD 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.

PRIOR ORDER NUMBER:

Applicable Area

N/A

**NEW COMPREHENSIVE PLAN & CODE AMENDMENTS (Filed pursuant to Chapter 2,
Arti... 1**

**Is this a “Residents Right to Know” item,
pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond
Funds?**

No

MIAMIBEACH

PLANNING DEPARTMENT

1700 Convention Center Drive, Miami Beach, Florida 33139; Tel: 305.673.7550; Web: www.miamibeachfl.gov/planning

LAND USE BOARD HEARING APPLICATION

The following application is submitted for review and consideration of the project described herein by the land use board selected below. A separate application must be completed for each board reviewing the proposed project.

Application Information			
FILE NUMBER PB25-0748		Is the property the primary residence & homestead of the applicant/property owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if "Yes," provide office of the property appraiser summary report)	
Board of Adjustment <input type="checkbox"/> Variance from a provision of the Land Development Regulations <input type="checkbox"/> Appeal of an administrative decision <input type="checkbox"/> Modification of existing Board Order		Design Review Board <input type="checkbox"/> Design review approval <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
Planning Board <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Lot Split <input checked="" type="checkbox"/> Amendment to the Land Development Regulations or Zoning Map <input type="checkbox"/> Amendment to the Comprehensive Plan or Future Land Use Map <input type="checkbox"/> Modification of existing Board Order		Historic Preservation Board <input type="checkbox"/> Certificate of Appropriateness for design <input type="checkbox"/> Certificate of Appropriateness for demolition <input type="checkbox"/> Historic District/Site Designation <input type="checkbox"/> Variance <input type="checkbox"/> Modification of existing Board Order	
<input type="checkbox"/> Other:			
Property Information – Please attach Legal Description as "Exhibit A"			
ADDRESS OF PROPERTY N/A			
FOLIO NUMBER(S)			
Property Owner Information			
PROPERTY OWNER NAME N/A			
ADDRESS		CITY	STATE
			ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
Applicant Information (if different than owner)			
APPLICANT NAME City of Miami Beach			
ADDRESS 1700 Convention Center Drive		CITY Miami Beach	STATE FL
			ZIPCODE 33139
BUSINESS PHONE 3056737550	CELL PHONE	EMAIL ADDRESS N/A	
Summary of Request			
PROVIDE A BRIEF SCOPE OF REQUEST SEE AFFIDAVIT			

Project Information			
Is there an existing building(s) on the site?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If previous answer is "Yes", is the building architecturally significant per sec. 142-108?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the project include interior or exterior demolition?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide the total floor area of the new construction.			SQ. FT.
Provide the gross floor area of the new construction (including required parking and all usable area).			SQ. FT.
Party responsible for project design			
NAME		<input type="checkbox"/> Architect <input type="checkbox"/> Contractor <input type="checkbox"/> Landscape Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Tenant <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
Authorized Representative(s) Information (if applicable)			
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	
NAME		<input type="checkbox"/> Attorney <input type="checkbox"/> Contact <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	
ADDRESS		CITY	STATE ZIPCODE
BUSINESS PHONE	CELL PHONE	EMAIL ADDRESS	

Please note the following information:

- A separate disclosure of interest form must be submitted with this application if the applicant or owner is a corporation, partnership, limited partnership or trustee.
- All applicable affidavits must be completed and the property owner must complete and sign the "Power of Attorney" portion of the affidavit if they will not be present at the hearing, or if other persons are speaking on their behalf.
- To request this material in alternate format, sign language interpreter (five-day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any City sponsored proceedings, call 305.604.2489 and select (1) for English or (2) for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

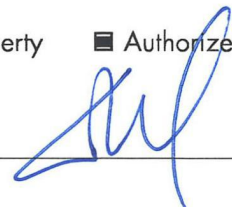
Please read the following and acknowledge below:

- Applications for any board hearing(s) will not be accepted without payment of the required fees. All checks are to be made payable to the "City of Miami Beach".
- All disclosures must be submitted in CMB Application format and be consistent with CMB Code Sub-part A Section 2-482(c):
 - (c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.
- Public records notice – All documentation submitted for this application is considered a public record subject to Chapter 119 of the Florida Statutes and shall be disclosed upon request.
- In accordance with the requirements of Section 2-482 of the code of the City of Miami Beach, any individual or group that will be compensated to speak or refrain from speaking in favor or against an application being presented before any of the City's land use boards, shall fully disclose, prior to the public hearing, that they have been, or will be compensated. Such parties include: architects, engineers, landscape architects, contractors, or other persons responsible for project design, as well as authorized representatives attorneys or agents and contact persons who are representing or appearing on behalf of a third party; such individuals must register with the City Clerk prior to the hearing.
- In accordance with Section 118-31. – Disclosure Requirement. Each person or entity requesting approval, relief or other action from the Planning Board, Design Review Board, Historic Preservation Board or the Board of Adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional service rendered or to be rendered. The disclosure shall: (I) be in writing, (II) indicate to whom the consideration has been provided or committed, (III) generally describe the nature of the consideration, and (IV) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board. Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then (I) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (II) no application form said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order. It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.
- When the applicable board reaches a decision a final order will be issued stating the board's decision and any conditions imposed therein. The final order will be recorded with the Miami-Dade Clerk of Courts. The original board order shall remain on file with the City of Miami Beach Planning Department. Under no circumstances will a building permit be issued by the City of Miami Beach without a copy of the recorded final order being included and made a part of the plans submitted for a building permit.

The aforementioned is acknowledged by:

☐ Owner of the subject property

☒ Authorized representative



SIGNATURE

David Martinez

PRINT NAME

3/20/25

DATE SIGNED

AFFIDAVIT

I, David Martinez, being duly sworn, depose and say that I am the Assistant City Manager of the City of Miami Beach and as such, have been authorized by the city, to file the following application for a Planning Board public hearing:

PB25-0748. Variance Fee Waivers for Building Recertification. 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 BAORD 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.

This instrument is executed pursuant to the requirements of the Planning Department and attests to the accuracy of the above statement. Execution hereof does not constitute approval or disapproval of the application which it addresses.

ASSISTANT CITY MANAGER'S SIGNATURE

STATE OF FLORIDA)

) SS

COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 21st day of March, 2025. The foregoing instrument was acknowledged before me by David Martinez, who is personally known to me and who did/did not take an oath.

My commission expires:

NOTARY PUBLIC
STATE OF FLORIDA
(Type, print or stamp name)



NAIMA DE PINEDO
Notary Public
State of Florida
Comm# HH284392
Expires 9/26/2026

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

* * *

ARTICLE II – General Development Application and Hearing Procedures

* * *

2.2.3 DEVELOPMENT APPLICATION SUBMISSION AND REVIEW

* * *

2.2.3.5 Fees for the administration of land development regulations

* * *

- 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.