

R5 N 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 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.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: May 21, 2025 10:15 a.m. First Reading Public Hearing

TITLE: 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 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.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 23, 2025.

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 Regulations 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.

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

ANALYSIS

Pursuant to the recommendation of the 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 requested to make repairs or improvements that 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.

PLANNING BOARD REVIEW

On April 8, 2025, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

FISCAL IMPACT STATEMENT

The number of variance requests that would be eligible for the proposed fee waiver are expected to be nominal. Additionally, all fee waivers would be subject to City Commission approval. As such, no fiscal impact is expected.

Does this Ordinance require a Business Impact Estimate? Yes
(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 that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 23, 2025.

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

10:15 a.m. 1st Rdg PH, Variance Fee Waivers for Building Recertification. (Fernandez) PL

Previous Action (For City Clerk Use Only)

Variance Fee Waivers 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 OF THE MIAMI BEACH RESILIENCY CODE, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE II, 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; AND 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, as part of a building recertification, repairs or other improvements, 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 building owners or associations 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

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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 may, by Resolution, waive some or all of the fees set forth in this section, for variance applications related to compliance with applicable building recertification requirements. Any such waiver shall only be granted for a property with a multifamily residential building and shall be based upon a documented financial hardship. To be eligible to request a waiver under this paragraph, an owner or association shall be required to submit written documentation evidencing its financial hardship. Additionally, the applicable land use board shall use its best efforts to prioritize the timely review of 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.

SECTION 3. CODIFICATION.

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.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten (10) days following adoption.

PASSED AND ADOPTED this ____ day of 2025.

ATTEST:

Rafael E. Granado, City Clerk

First Reading: May 21, 2025
Second Reading: July 23, 2025

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Steven Meiner, Mayor

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

NK

Date

5/18/2025