

**City Commission Sponsored Comprehensive Plan and LDR Amendments**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED, "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE III, ENTITLED "AMENDMENT PROCEDURE," AT SECTION 118-162, ENTITLED "PETITION FOR CHANGES AND AMENDMENTS," TO CLARIFY WHO MAY SUBMIT AN APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN/FUTURE LAND USE ELEMENT OR MAP, AND/OR THE CITY'S LAND DEVELOPMENT REGULATIONS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, who can submit an application for a land development regulation amendment or comprehensive plan amendment is regulated through Section 118-162, of the City's Land Development Regulations (LDRs); and

**WHEREAS**, the City Commission has become concerned by the number of private applicants/developers lobbying the City Commission to sponsor land development amendments on their behalf, thus making the City the applicant; and

**WHEREAS**, by having the City Commission sponsor the amendments, the applicants/developers do not have to pay the fees associated with the application, which means the private applicants/developers do not cover the City's staffing and other costs associated with creating the new legislation; and

**WHEREAS**, the City has determined that it did not collect \$585,256, in a two year period, in application fees for land development regulation and comprehensive plan applications, which have resulted in a direct benefit specific to the applicants/developers (that had requested City Commission sponsorship of the legislative changes to the zoning regulations); and

**WHEREAS**, the Mayor and City Commission seek to provide guidelines and rules relating to who can submit an application pursuant to Section 118-162, vis a vis when the Mayor and City Commission should be an applicant for a zoning modification, and when a private applicant/developer should be required to be the named applicant, and pay the associated application fees; and

**WHEREAS**, the below modifications shall assist the City in achieving the aforementioned goals.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** That Chapter 118 of the City Code of the City of Miami Beach entitled, "Administration and Review Procedures," Article III, entitled "Amendment Procedure," at Section 118-162, entitled "Petition for changes and amendments" is hereby amended, as follows:

## **CHAPTER 118**

### **ADMINISTRATION AND REVIEW**

#### **PROCEDURES ARTICLE III. AMENDMENT PROCEDURE**

##### **Sec. 118-162. - Petition for changes and amendments.**

(a) An application for a land development regulation amendment which would change the actual list of permitted, conditional, or prohibited uses in a zoning category, or the actual zoning map designation of a parcel or parcels of land or the future land use map or element of the comprehensive plan, may be submitted to the planning and zoning director by the city manager, city attorney, or upon an adopted motion of the city commission, planning board, board of adjustment, or historic preservation board (with regard to the designation of historic districts, sites or matters that directly pertain to historic preservation); or by an owner(s) or developers of property ~~a majority of lot frontage in the area~~ which is the subject of the proposed change, ~~provided that the area shall contain not less than 400 feet of lot frontage on one public street or a parcel of not less than 80,000 square feet.~~ Matters submitted by the city manager or city attorney shall first be referred to the City Commission, which referral shall also be approved by adopted motion of the City Commission. For purposes of this section, the submittal of an application for a land development regulation amendment or comprehensive plan amendment shall also be deemed to refer to and include the sponsorship and/or referral of an ordinance which seeks to amend the land development regulation and/or comprehensive plan.

The City Commission, planning board, board of adjustment, and/or historic preservation board shall not submit an application that: (1) is limited to a small (less than a five (5) acre) geographic area; or (2) does not impact the entirety of the applicable zoning district or overlay district. This shall not prevent the filing of an application to create a new zoning district or overlay district, regardless of size. If an application is filed by one or more property owners, the applicant(s) shall be required to pay all application filing fees and costs for any such application. Failure to pay the applicable fees and costs shall preclude scheduling and hearing of the application by the Planning Board or City Commission.

(b) The filing fees and costs in subsection (a) may be waived by a 4/7th vote of the City Commission based upon a finding of "good cause." "Good cause" shall be defined as:

(i) Upon written recommendation of the city manager, of a documented financial hardship of a property owner(s) or developer(s). Saving a property owner(s) or developer(s) the cost of doing business in the City by waiving the application fees and costs shall not be deemed a basis for claiming a financial hardship.

(ii) When requested, in writing, by a non-profit organization, neighborhood organization, or homeowner's association, and such request provides a

public benefit to the residents or businesses of the City, or an articulated public purpose is achieved by enacting the applicable amendment.

(iii) The City Manager determines, in writing, that modification of the City's code is necessary due to a change in federal law, state law, and/or best practices.

~~(b)~~(c) A request to amend these land development regulations or comprehensive plan which does not change the actual list of permitted, conditional or prohibited uses in a zoning category or change the actual zoning map designation of a parcel or parcels of land may be submitted by those eligible to submit an application pursuant to subsection (a) of this section, or by any person who owns property that is affected by the zoning regulations he wishes to amend.

Any applicant or his representative shall file an application with the planning department, ~~design and historic preservation division~~ in accordance with a form approved by the city attorney and shall supply all information pertinent to the proposed amendment as requested by the planning department, ~~design and historic preservation division~~.

~~(c)~~(d) Any applicant requesting a public hearing on any application pursuant to this section, shall pay, upon submission, the applicable fees in section 118-7 and Appendix A - Fee Schedule. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

~~(d)~~ (e) Upon receipt of a completed application, the planning and zoning director shall transmit the application, along with his analysis and recommendations, regarding the proposed amendment to the planning board for review.

## **SECTION 2. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

## **SECTION 3. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

## **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 days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

First Reading: April 10, 2019

Second Reading: May 8, 2019

(Sponsored by Commissioner John Elizabeth Alemán)

Verified by: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

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