



Planning Office

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## Staff Analysis and Recommendation

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**To: Honorable Mayor and Members of the Town Council**  
**From: Edward Pidermann, Town Manager**  
**Subject: Variance Application Fees**  
**Date: September 10, 2019**

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**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING CHAPTER 13, “LAND DEVELOPMENT CODE”, AT ARTICLE XI, “FEES”, AT SECTION 13-2102, RELATING TO VARIANCE APPLICATION FEES; INCLUDING ALL NOTIFICATION COSTS INTO THE VARIANCE FEES OF ADMINISTRATIVE VARIANCES AND VARIANCES FOR SINGLE FAMILY PROPERTIES OF LESS THAN HALF (½) ACRE OR 2,500 SQUARE FEET; REQUIRING ALL OTHER VARIANCE APPLICATIONS TO BE COST RECOVERY AND PROVIDING FOR INITIAL DEPOSITS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (J. Rodriguez)**

### **A. BACKGROUND**

On May 16, 2018, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, initiated a new business item to review variance application fees. The Board found, based on preliminary research provided by Town Staff, that the Town was subsidizing many variance requests above and beyond the existing fee schedule. The Board subsequently presented this finding to the Town Council on July 17, 2018. Based on the information presented, the town Council directed the Town manager to adjust variance fee schedule to recover the full cost of providing the service.

On September 19, 2018, the Planning and Zoning board heard the ordinance in a different form that required cost recovery from all applications, including single family, and voted to advise approval by the Town Council as proposed, with the condition that if an applicant requests a line-item expense report that it be provided to the applicant.

On May 14, 2019 the Council Heard this item in its current form for first reading and voted to approved for second reading.

On July 24, 2019 The Planning Board heard the ordinance in its current form and recommended approval.

Attached to this report is an analysis performed by staff that reflects the average cost of typical variance by each classified type. Please note, the numbers presented are aggregated averages from the years 2017 and 2018 and do not necessarily reflect the cost of any one request. As such, the cost recovery system is designed to take an initial deposit to begin processing the application. Should the deposit be deficient based on charges relating to processing the variance, the applicant will be required to make additional deposits in order to continue the review process. Any remaining balance on a deposit(s) that is not charged to the variance application is refunded back to the applicant upon full completion of the variance process.

## B. PROPOSED CHANGES

Section 13-2102 is amended to require all variance applications for commercial, multifamily, and single-family properties with improvements over 2,500 sf or lots over ½ acre in size to be on a cost recovery basis. Single-family properties with improvements under 2,500 sf or unimproved lots under ½ acre in size are proposed to remain fee based, but the required fees are amended to include notification costs instead of cost recovery. Administrative and public hearing fence, driveway, deck, or walkway variances are proposed to be fee based, but only \$450.00 which is the minimum to recuperate notification costs. Proposed deposits and fees for each variance type currently read as follows:

Development Approval Requested	Application Fee	Deposit
<b>Variances</b>		
Additional fee for each variance in an application after the first	\$150.00 for each additional variance after the first	
Administrative	\$1,500	
<i>Public Hearing Items</i>		
One single-family, two-family, or townhouse unit 2,500 square feet or half (½)-acre property or less	\$1,750	
One single-family, two-family, or townhouse unit 2,500 square feet or half (½)-acre property or more	Cost Recovery	\$3,000
Multifamily	Cost Recovery	\$4,000
Commercial and industrial	Cost Recovery	\$4,500
Signs	Cost Recovery	\$4,200
Town Council rehearing of P&Z Board Decision	Cost Recovery	\$2,000

All others	Cost Recovery	\$4,000
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It is proposed to be amended as follows:

	Development Approval Requested	Application Fee	Deposit
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2.	<b>Variances</b>		
2.1	Additional fee for each variance in an application after the first	\$150.00 for each additional variance after the first	
2.2	Administrative, and public hearing fence, driveway, deck, or walkway	\$450.00 (for notification and recording)	
2.3	Public hearing		
2.3.1	One single-family, two-family, or townhouse unit 2,500 square feet or vacant half (½)-acre property or less	\$1,750	
2.3.2	One single-family, two-family, or townhouse unit 2,500 square feet or vacant half (½)-acre property or more	Cost Recovery	\$3,000
2.3.3	Multifamily, including single-family developments with multiple units.	Cost Recovery	\$4,000
2.3.4	Commercial and industrial	Cost Recovery	\$4,500
2.3.5	Signs	Cost Recovery	\$4,200
2.3.6	Town Council rehearing of P&Z Board Decision	Cost Recovery	\$2,000
2.3.7	All others	Cost Recovery	\$4,000
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## C. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending Section 13-2102 as it relates to variance application fees.

## D. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

**1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* The Comprehensive Development Master Plan does not address variance application fees. The proposed ordinance has no impact on concurrency management.

*Finding:* Complies

**2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes, of this report. Amendment of the code makes the fee consistent with other zoning applications that are also based on cost recovery.

*Finding:* Complies.

**3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis* See Sections “A”, Background; and “B”, Proposed Changes, and Criteria “2”, of this report. A recent study performed by Town staff revealed that the existing variance application fee was insufficient in covering the full cost of the service. The result is that such applications are being subsidized by the general taxpayer. The amendment puts the full cost of the service on the applicant that is requesting it.

*Finding:* Complies.

**4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes, and criteria “2” and “3” of this report. The proposed amendment does not change the list of permitted uses within any zoning district.

*Finding:* Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes, of this report. The proposed ordinance does not impact the above systems.

*Finding:* Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes, of this report. The proposed ordinance does not impact the above systems.

*Finding:* Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes, and criteria “2” and “3” of this report. The amendment ensures that full cost of a variance application is borne by the requestor and not subsidized by the tax payer.

*Finding:* Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Sections “A”, Background; and “B” of this report. The amendment does not change the criteria for approval of a variance request. As such it does not impact land use patterns.

*Finding:* Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Sections “A”, Background; and “B”, Proposed Changes; and Criteria 2, 3, and 7 of this report.

*Finding:* Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed amendment is appropriate and consistent with the public interest.

*Finding:* As determined by the Town Council.

# **ATTACHMENT A**

## **Variance Fee Study Tables**