



City of Miami
Legislation
Ordinance

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File Number: 15-01030

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 13/ARTICLE I OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "DEVELOPMENT IMPACT AND OTHER RELATED FEES/IN GENERAL," MORE PARTICULARLY BY AMENDING SECTIONS 13-5 AND 13-8, TO INCLUDE THE DEFINITION OF WORKFORCE HOUSING AND ALLOWING WORKFORCE HOUSING TO QUALIFY FOR THE AFFORDABLE HOUSING IMPACT FEE DEFERRAL PROGRAM; CONTAINING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Chapter 13 of the Code of the City of Miami, Florida, as amended ("City Code") allows for the deferral of impact fees due for new affordable housing units while those units remain affordable; and

WHEREAS, in addition to affordable housing, the City Commission wishes to incentivize the creation of workforce housing for those individuals whose income is between 80% and 140% of the area's median income; and

WHEREAS, by allowing workforce housing units to qualify for the affordable housing impact fee deferral program, it will incentivize the creation of same by lowering the barrier of entry for the construction of new workforce housing units;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. Chapter 13 of the City Code is amended in the following particulars: {1}

"CHAPTER 13

DEVELOPMENT IMPACT AND OTHER RELATED FEES

ARTICLE I. IN GENERAL

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Sec. 13-5. Definitions.

As used in this article, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

Affordable housing shall mean, solely for purposes of this article, owner-occupied and/or rental housing with a purchase cost, value, or monthly rental, as applicable, equal to or less than the amounts established by the applicable standards as determined by the department of community and economic development in relation to the affordable housing and workforce housing impact fee deferral

program provided for in this article.

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Workforce housing shall mean, solely for purposes of this Article, owner-occupied and/or rental housing with a purchase cost, value, or monthly rental, as applicable, equal to or less than the amounts established by the applicable standards for those individuals whose income is between 80% to 140% of area median income as determined by the Department of Community and Economic Development in relation to the affordable housing and workforce housing impact fee deferral program provided for in this Article.

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Sec. 13-8. Deferral of impact fees for affordable housing and workforce housing; and ~~w~~Waivers of contributions into the Affordable Housing Trust Fund.

13-8.1 Deferral of impact fees for affordable housing.

- (a) In order to encourage the provision and retention of affordable housing and workforce housing for owner-occupancy and for rental, the city commission hereby establishes a program for the deferral of impact fees due on affordable housing and workforce housing dwelling units developed within the city. The city may require, under the program, annual reporting and any other requirements deemed necessary or appropriate for participation in the affordable housing and workforce housing impact fee deferral program. An applicant shall submit a petition for affordable housing and workforce housing deferral program determination under section 13-16 for a determination of eligibility under this program prior to or in conjunction with the submittal of an application for a building permit. If the petition for affordable housing and workforce housing deferral program determination is submitted incomplete and/or too close in time to allow determination prior to issuance of the building permit, then the total impact fees due shall be paid prior to issuance of the building permit, and a petition for refund under subsection 13-16(d) may be submitted if the development is approved for the deferral program.
- (b) Affordable housing or workforce housing impact fee deferral shall apply only to the dwelling units that qualify as affordable housing or workforce housing. Impact fees due on all portions of the development that do not qualify for deferral shall be paid in full prior to issuance of a building permit. A covenant running with the land or a deed restriction, shall be recorded on each dwelling unit by the applicant, or by the current property owner if the applicant is not the owner, which confirms to the requirements of the resolution establishing the affordable housing and workforce housing impact fee deferral program. The city may use all available legal mechanisms for collection of the impact fees due. The covenant or deed restriction language and form shall be acceptable to the office of the city attorney, which office may provide standardized forms for use in the affordable housing and workforce housing deferral program.

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Sec. 13-13. Administration of impact fee.

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- (f) *Annual review and modification.* The city, acting through appropriate staff or agents, shall annually, no later than 120 days after the annual capital budget and capital improvements

program adoption process, review the impact fee ordinance procedures, assumptions, formulas, benefit district and subdistrict designations, and fee calculations, and issue an annual report. The first annual report shall be issued after September 2006. The annual report shall be distributed to the city commission by the city manager. The annual report should, at a minimum, include information by individual benefit district or subdistrict for the fire-rescue impact fee, on account balances, annual collections annual expenditures and system improvement projects funded in whole or in part with impact fees. The annual report should provide information on the number of owner-occupied units and rental units participating in the affordable housing and workforce housing impact fee deferral program, the number of units added annually, and the number of units no longer meeting the affordable housing and workforce housing deferral program criteria. The report should evaluate the effectiveness of the deferral program in encouraging the provision and retention of affordable housing and workforce housing and the effect, if any, of the deferral program on the provision of impact fee funded public facilities. The annual report should present any recommendations related to the impact fee system including but not limited to, the need for any updates to the impact fee calculations district boundaries and ordinance. In reviewing the impact fee system, the city may consider:

- (1) Development occurring in the prior year;
- (2) Construction of proposed public facilities;
- (3) Changing facility needs;
- (4) Inflation and other economic factors;
- (5) Revised cost estimates for public facilities, land and/or improvements;
- (6) Changes in the availability of other funding sources applicable to impact-fee-related capital improvements; and
- (7) Such other factors as may be relevant. The data in the annual report may be organized based on the city's fiscal year or calendar year. Nothing in this article shall be construed to limit the city commission's authority to amend this article at any time.

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Sec. 13-16. Administrative procedures for petitions for impact fee determinations and affordable housing and workforce housing deferrals, refunds and credits.

(a) *Petition process.*

- (1) Petitions for an impact fee determination and affordable housing or workforce housing impact fee deferral refund of impact fees and/or credit against impact fees shall be submitted using the petition process, requirements and time limits provided herein. All petition requests except petitions for refunds under subsections (c) and (d), shall be accompanied by a fee of \$250.00. Any officer department board commission or agency of the city (collectively referred to as city "entities") submitting a petition shall not be required to pay said fee.

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- (c) Petitions for affordable housing and workforce housing deferral program determinations. Any applicant for deferral of impact fees pursuant to the affordable housing and workforce housing impact fee deferral program established in section 13-8 shall submit a petition prior to or with submittal of a building permit application. Failure to timely file a petition for affordable housing and workforce housing deferral program determination shall waive any right to participation in the affordable housing and workforce housing deferral program. Such petition shall be on a

form provided by the city and shall at a minimum include the following:

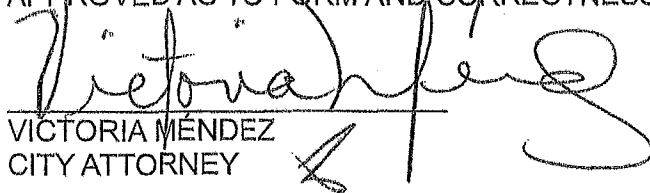
- (1) A list of all affordable and workforce housing unit numbers by building with the total number of dwelling units for each building and the anticipated sales price or rental amount for each affordable housing unit.
 - (2) A list of all anticipated affordable and workforce housing unit owner names and current addresses and other contact information. If such information is available, if the information is not available the petition may be processed without it.
 - (3) A covenant running with the land, previously recorded by the applicant in the public records of the county for each affordable or workforce housing unit. The recorded covenant shall be on a form provided by the city and shall be in a form acceptable to the office of the city attorney. A deed restriction, in a form acceptable to the office of the city attorney may be submitted in lieu of a covenant as long as it accomplishes the same goal as the covenant.
 - (4) Any other information deemed relevant by city staff to a determination of eligibility under the affordable housing and workforce housing deferral perameriteria program, including criteria established in this article and the applicable city commission resolution.
- (d) *Petitions for refund of impact fees.*
- (1) The current owner of property on which an impact fee has been paid may apply for a refund of such fee if the city has failed to appropriate or spend the collected fees by the end of the calendar quarter immediately following six years of the date of payment of the impact fee, if the building permit for which the impact fee has been paid has lapsed for noncommencement of construction, if the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due, or if the project has been approved for the affordable housing and workforce housing deferral program.

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Section 2. If any section, part of a section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 3. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.{2}

APPROVED AS TO FORM AND CORRECTNESS:


VICTORIA MÉNDEZ
CITY ATTORNEY

Footnotes:

{1} Words/and or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.