



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-50

Cancels: May 18, 2021

Approved: April 4, 2024

Originator: Planning & Development

Review: April 4, 2027

TITLE: Fee Waivers

I. Objective

- A. To establish criteria and process to be used in determining applicant eligibility for waiver of certain fees in specified circumstances.

II. Definitions/References

- A. Application Fees for the Board of Adjustment – The application fee for consideration for an item by the Board of Adjustment, as established by resolution by the Board of County Commissioners.
- B. Board of Adjustment – As established by Chapter 62, Division 4, Section 62-211 of the Code of Ordinances of Brevard County, Florida.
- C. Development review and permit fees – Fees associated with the review and issuance of a development order issued by Brevard County.
- D. Development order – A site plan, subdivision plat, building permit, sign permit, or other similar approval required for construction or development by Brevard County.
- E. Fees – Fees which are established by the Board of County Commissioners, which may include (unless otherwise specified), but are not limited to, the following: building permit fees, plan review fees, application fees for rezoning requests, and application fees for variance requests.
- F. Local Declaration of Emergency – A declaration that a local emergency exists, executed by the Chair of the Board of County Commissioners.
- G. Not-for-profit organization – A charitable, religious, or other not-for-profit organization qualifying under the Internal Revenue Code of the United States.
- H. Resolution 2007-170, Brevard County Board of County Commissioners, establishing a fee schedule for matters, tasks, and services pertaining to the administration and enforcement of the Florida Building Code.

- I. Resolution 2016-089, Brevard County Board of County Commissioners, establishing a fee schedule for processing development applications and permits, as well as performing development reviews and inspections.
- J. Section 10-38, Brevard County Code of Ordinances, "Fee Waiver," providing for a waiver process relating to special events.
- K. Section 252.263, Florida Statutes (2023), "Tolling and Extension of Permits and Other Authorizations."
- L. Special Event Fees – Any fees or bonds assessed by the required reviewing agencies as defined in Brevard County Code of Ordinances, Chapter 10, Article II.
- M. Variance – As established by Chapter 62, Division 5, Section 62-251 of the Code of Ordinances of Brevard County, Florida.

III. Directives

- A. Waivers Approved by the Board of County Commissioners
 - 1. Board Intent of Waiver: The Board recognizes that circumstances may arise whereby a fee waiver of certain rezoning applications, comprehensive plan amendments, variances, and vested rights may be justified to:
 - a) Lessen the fiscal impact to a philanthropic or charitable organization;
 - b) Compensate an application designed to benefit the public via a private-sector funded project;
 - c) Offset costs incurred to an application that is delayed by an on-going code amendment being considered by the Board; or
 - d) Reimburse an applicant deemed to be qualified for a vested rights determination.
 - 2. Criteria for Waiver: A majority of the Board must find that one or more of the following conditions exist:
 - a) The person or organization requesting the fee waiver must be seeking an application to:
 - i. perform the work on behalf of the County; or
 - ii. perform the work determined by the Board to be in the public interest.
 - b) The person requesting the fee waiver must be classified as low-income based on the U.S. Bureau of the Census guidelines.

- c) The organization requesting the fee waiver must not have generated over \$75,000 in total revenue per year, as documented by the previous year's tax return, most recent IRS Form 990 available, or other official documentation found acceptable by the County.
- d) The Board must determine, in conjunction with an approved vested rights determination, that failure to waive the fee would be highly unjust and inequitable.
- e) The fee waiver request should not be for a rezoning to BU-2 (or more intense) or for a comprehensive plan future land use amendment to Heavy/Light Industrial.

B. Waivers Approved by the County Manager or Designee

1. Administrative Authority to Waive Fees for Government Agencies

- a) In order to expedite and make more efficient the process for evaluating the projects of government agencies, the County Manager or his/her designee shall have the discretionary authority to waive fees associated with the development of a property owned by a government agency. At the County Manager's discretion, these fees shall include, but are not limited to, land development fees (see e.g. Resolution 16-189) and fees associated with the implementation and enforcement of the building code (see e.g. Resolution 2007-170).

2. Administrative Authority to Waive Fees Due to a Condition Imposed by an Action or Request of the Board

- a) The County Manager, or designee, is hereby authorized to grant waivers of "development review and permit fees" and "application fees for the Board of Adjustment," as defined above, in the following circumstances.
 - 1) The project for which the development order is sought, or nonconformity for which the variance is requested, was created due to a physical or material change in the property caused by an action of the Board of County Commissioners, or an action taken as directed by the Board of County Commissioners.
 - 2) The project for which the development order is sought, or nonconformity for which the variance is requested, was created due to a physical or material change in the property caused by an action of a Federal, State, or regional governmental agency based upon a request by the Board of County Commissioners.
- b) Any request for a waiver which is denied by the County Manager, or designee, may appeal that decision to the Board of County Commissioners within 30 days after the date of the decision, but not thereafter.

3. Administrative Authority to Waive Application Fees for the Board of Adjustment in Specified Circumstances

- a) In addition to those circumstances outlined in Section III(B)(2)(a), the County Manager or his/her designee shall be authorized to waive application fees for the Board of Adjustment where the structure for which the variance is requested has been demonstrated to be in existence for a period of ten (10) years prior to the determination that the structure does not meet zoning code requirements.

4. Administrative Authority to Waive Fees in the Circumstances Related to a Local State of Emergency

- a) When a Local State of Emergency, or extension thereof, has been issued, the County Manager or designee may waive fees for victims of the natural or manmade disaster when it can be demonstrated that a financial hardship exists and other forms of assistance, such as private insurance, are not available.
- b) In the case of commercial, industrial, or multi-family developments, the County Manager or designee may authorize the temporary delay of payment of fees. However, if fees are not paid before the issuance of the permit or issuance of Certificate of Completion or Certificate of Occupancy, the applicant shall be required to pay the fees plus a reasonable interest rate, within twelve (12) calendar months of the issuance of the permit. The temporary delay of payment may be designated when it can be demonstrated that a financial hardship exists due to events related to the Local State of Emergency and other forms of assistance, such as private insurance, are not available. In the event that the fees, and any accrued interest, is not paid in full within twelve (12) calendar months of the issuance of the permit, the Board shall lien the subject property for the full amount.

5. Administrative Authority to Waive Special Event Fees for Not-For-Profit Organizations Under Certain Circumstances

- a) The County Manager or designee is hereby authorized to grant waivers of Special Event Fees, as defined in Section II, above, to not-for-profit organizations meeting the following criteria:
 - 1) The scheduled event is a fundraiser and the proceeds, after expenses, are to be used for a charitable cause benefiting the community or legitimately needy persons; or
 - 2) The structure, ride, device, or booth is operated by volunteers, members, or employees of any church, school, or non-profit organization; or
 - 3) The scheduled event is anticipated to generate substantial and documentable economic and/or tourism activity in the community.

- b) Any not-for-profit organization must demonstrate a financial hardship, or need, in order for a waiver to be approved, including providing a letter of request stating the hardship, a financial distribution form, and additional documentation as requested.
- c) Any organization denied a waiver may appeal that decision to the Board of County Commissioners within 30 days after the decision, but not thereafter.
- d) Fees assessed by a Department within the Public Safety Group for the provision of emergency medical services are not contemplated under this Section.
- e) Fees assessed for structures, rides, devices, or booths operated by any for-profit organization are not contemplated under this Section.

V. Reservation of Authority

The authority to issue or revise this policy is reserved to the Board of County Commissioners.

ATTEST:

Rachel Sadoff, Clerk

Jason Steele, Chair
Board of County Commissioners
Brevard County, Florida
As approved by the Board on April 4, 2024