



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.2.

4/4/2024

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### Subject:

Proposed Revisions to Board Policy BCC-50, "Fee Waivers," and Rescission of Board Policies BCC-39 through BCC-42

### Fiscal Impact:

Depending on specific waivers granted, this may impact the revenues of the various County agencies responsible for administering and reviewing development/permit applications.

### Dept/Office:

Planning and Development

### Requested Action:

It is requested the Board of County Commissioners adopt the attached proposed revisions to Board Policy BCC-50, "Fee Waivers," and rescind Board Policies BCC-39, "Waiver of Fees for Not-For-Profit Organization for Special Event Permits," BCC-40, "Waiver of Board of Adjustment Application Fees," BCC-41, "Waiver of Development Review and Permit Fees," and BCC-42, "Waiver of Fees During a Period of the Local Declaration of Emergency."

### Summary Explanation and Background:

Currently, BCC-39, BCC-40, BCC-41, BCC-42, and BCC-50 are all separate mechanisms for the waiver of development and/or building fees to be applied in specific circumstances. It is proposed that these be combined into a single policy for ease of use.

In addition to the combination of policies into a single policy, the following substantive changes are being proposed:

- The County Manager or designee shall have the discretionary authority to waive development and building fees when the owner of the property is a government agency.
- Where a waiver of special event fees being sought by a not-for-profit organization is denied administratively, and the applicant wishes to appeal this decision, the Policy now specifies that the appeal must be made within 30 days of the denial. Previously, there was no deadline specified in the relevant Policy, BCC-39. Instituting this 30-day period will align with other appeal provisions related to fee waivers contained in the proposed policy.

The revisions will have no other substantive changes to the directives contained in BCC Policies 39 through 42 or BCC-50.

**Clerk to the Board Instructions:**

Upon approval, please have the Board Chair sign the attached final version of BCC-50. Please return a copy of the signed document to the County Manager's Office and Planning and Development Department.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

April 5, 2024

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item F.2., Proposed Revisions to Board Policy BCC-50 "Fee Waivers" and Rescission of Board Policies BCC-39 through BCC-42

The Board of County Commissioners, in regular session on April 4, 2024, approved the proposed revisions to Board Policy BCC-50, "Fee Waivers"; and authorized rescinding Board Policies BCC-39, "Waiver of Fee" for Not-For-Profit Organization for Special Events Permits", BCC-40, "Waiver of Board of Adjustment Application Fees", BCC-41, "Waiver of Development Review and Permit Fee", and BCC-42, "Waiver of Fees during a period of the Local Declaration of Emergency". Enclosed is the executed Policy.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS**  
**RACHEL M. SADOFF, CLERK**

*for: Donna Scott*  
Kimberly Powell, Clerk to the Board

/ns

Encl. (1)

cc: County Manager



**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





# POLICY

**TITLE: Waiver of Fees for Not-For-Profit Organization  
for Special Event Permits**

**NUMBER: BCC 39**  
**CANCELS 8/13/02**  
**APPROVED: 7/29/08**  
**ORIGINATOR: County Manager**  
**REVIEW: 7/29/2011**

**I. OBJECTIVE**

To provide for the administrative waiver of Special Event Permit Fees for not-for-profit organizations under certain circumstances.

**II. REFERENCES**

- A. Special Event Fees – Any fees or bonds assessed by the required reviewing agencies as defined in Brevard County Code of Ordinances, Chapter 10, Section 10-38.
- B. Not-for-Profit Organization – A charitable, religious or other not-for-profit organization qualifying under the Internal Revenue Code of the United States.

**III. DIRECTIVES**


- A. The County Administrator or designee is hereby authorized to grant waivers of Special Event Fees, as defined above, to not-for-profit organizations meeting the following criteria:
  - i. 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.
  - ii. The structure, ride, device or booth is operated by volunteers, members or employees of any church, school, or non-profit organization.
  - iii. The scheduled event is anticipated to generate substantial, document able 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 request may appeal that decision to the Board of County Commissioners.
- D. Fees assessed by the Public Safety Department for the provision of emergency medical services are not contemplated under this policy.
- E. Fees assessed for structures, rides, devices or booths operated by any for-profit organization are not contemplated under this policy.

IV. RESERVATION OF AUTHORITY

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

ATTEST:

  
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Scott Ellis, Clerk

  
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Truman G. Scarborough, Jr. Chairman  
Board of County Commissioners  
Brevard County, Florida

As approved by the Board on 7/29/2008



BOARD OF COUNTY COMMISSIONERS

## POLICY

Number: BCC-40  
Cancels: March 6, 2018  
Approved: February 23, 2021  
Originator: Planning & Development  
Review: February 23, 2024

## TITLE: Waiver of Board of Adjustment Application Fees

### I. Objective

To provide for the administrative waiver by the County Manager, or designee, of application fees for the Board of Adjustment under certain circumstances.

### II. 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. Variance – As established by Chapter 62, Division 5, Section 62-251 of the Code or Ordinances of Brevard County, Florida.

### III. Directives

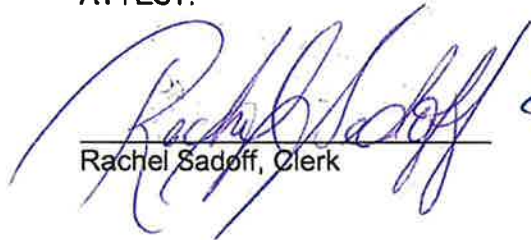

- A. The County Manager, or designee, is hereby authorized to grant waivers of application fees for the Board of Adjustment as defined above, in the following circumstances.
  - 1. The nonconformity for which the variance is requested was created due to a physical or material change in the property caused by an action of the Board of County Commissioners, or an action as directed by the Board of County Commissioners; or
  - 2. The 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; or
  - 3. 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.

- 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 of the date the order is signed, but not thereafter.

#### IV. Reservation of Authority

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

ATTEST:

  
\_\_\_\_\_  
Rachel Sadoff, Clerk  
\_\_\_\_\_  
Rita Pritchett, Chair  
Board of County Commissioners  
Brevard County, Florida  
As approved by the Board on February 23, 2021



BOARD OF COUNTY COMMISSIONERS

## POLICY

Number: BCC-41

Cancels: May 8, 2018

Approved: May 18, 2021

Originator: Planning & Development

Review: May 18, 2024

## TITLE: Waiver of Development Review and Permit Fees

### I. Objective

To provide for the administrative waiver by the County Manager, or designee, of fees for development review and permits under certain circumstances.

### II. Definitions

For the purposes of this policy, the following definitions shall apply:

- A. Development review and permit fees – Fees associated with the review and issuance of a development order issued by Brevard County.
- B. Development order – A site plan, subdivision plat, building permit, sign permit, or other similar approval required for construction or development by Brevard County.

### III. Directives

- A. The County Manager, or designee, is hereby authorized to grant waivers of review and permit fees, as defined above, in the following circumstances.
  - 1. The project for which the development order is sought was created due to a physical or material change in the property caused by an action of the Board of County Commission, or an action taken as directed by the Board of County Commissioners.
  - 2. The project for which the development order is sought 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.

#### IV. Reservation of Authority

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

ATTEST:

  
\_\_\_\_\_  
Rachel Sadoff, Clerk

  
\_\_\_\_\_  
Rita Pritchett, Chair  
Board of County Commissioners  
Brevard County, Florida  
As approved by the Board on May 18, 2021



## POLICY

**TITLE:** Waiver of Fees During a Period of the Local Declaration of Emergency

**NUMBER:** BCC-42

**CANCELS:** 10/27/98

**APPROVED:** July 8, 2008

**ORIGINATOR:** County Manager

**REVIEW:** July 8, 2011

I. OBJECTIVE

To provide a policy for the administrative waiver of County established fees during a period of a Local Declaration of Emergency, or any extension thereof in order to minimize hardships to affected property owners.

II. DEFINITIONS

- A. Local Declaration of Emergency – A declaration that a local emergency does exist, as approved by the Head of the Emergency Government (the Chairman of the Board of County Commissioners).
- B. Fees – Fees which are established by the Brevard County Board of County Commissioners, which may include but not be limited to the following: building permit fees, plan review fees, application fees for rezoning requests, and application fees for variance requests.

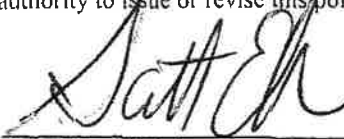
III. DIRECTIVES


- A. When a Local Declaration of Emergency, or extension thereof, has been issued, the County Manager or designee may waive fees for victims 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 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 in twelve (12) calendar months of the issuance of the permit, the Board of County Commissioners shall lien the subject property for the full amount.

IV. RESERVATION OF AUTHORITY

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

ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

  
\_\_\_\_\_  
Truman G. Scarborough, Jr., Chairman  
Board of County Commissioners  
Brevard County, Florida

As approved by the Board of County Commissioners on July 8, 2008