

To: The Honorable Mayor and City Council

From: Steve Pizzillo, CBO, Building Director 

Date: December 13, 2016

RE: AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", AT ARTICLE 3, ENTITLED "DEVELOPMENT REVIEW"; DIVISION 14 "NEW DEVELOPMENT IMPACT FEES" TO ESTABLISH IMPACT FEES, CRITERIA AND ADMINISTRATIVE PROCEDURES FOR PETITIONS FOR IMPACT FEE DETERMINATIONS, REFUNDS, CREDITS AND DEFERMENTS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

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## **BACKGROUND**

New development generates increased demands upon city public facilities and services and requires additional facility capacity and capital equipment in order to accommodate those demands. It is the policy of the city that new development should bear its fair share of the costs of providing public facilities, facility capacity, increased services and capital equipment needed to accommodate the demand generated by new development. It has been the intent of the City Council to ensure that any proposed new development should bear its fair share of the cost to extend required City services. The impact fees as generally applied are based on the Impact Fees Study prepared by Tischler Bise, Fiscal, Economic and Planning Consultants, dated April 17, 2007. At this time there is necessity to do a readjusting of the fee schedule to safeguard that we accurately and fairly collect the required fees. The important parts of this readjusting include adjusting the fees to eliminate the requirement of factoring the schedule, better defining the different uses on the schedule and including a deferment of fees for any project that is applied for as workforce or affordable housing.

## **RECOMMENDATION**

It is recommended that Mayor and Council approve the proposed permit fee schedule

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Council Report  
Impact Fee Schedule

**ATTACHMENT(s)**

Ordinance  
Impact Fee Schedule

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

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE NORTH MIAMI CODE OF ORDINANCES, ENTITLED “LAND DEVELOPMENT REGULATIONS”, AT ARTICLE 3, ENTITLED “DEVELOPMENT REVIEW”; DIVISION 14 “NEW DEVELOPMENT IMPACT FEES” TO ESTABLISH IMPACT FEES, CRITERIA AND ADMINISTRATIVE PROCEDURES FOR PETITIONS FOR IMPACT FEE DETERMINATIONS, REFUNDS, CREDITS AND DEFERMENTS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 15, 2010, the Mayor and City Council enacted Ordinance Number 1302 known as the “City of North Miami Development Fees Act” (the “Act”); and

**WHEREAS**, the Act established impact fees which are one-time payments used to fund system improvements needed to accommodate development; and

**WHEREAS**, the Mayor and City Council have determined that there is now a need to amend the impact fee schedule to achieve an equitable allocation of costs in comparison to the benefits received; and

**WHEREAS**, it is further recommended that the Act be amended to include criteria for determination of developer petitions for impact fee determines, credits and deferments; and

**WHEREAS**, the Mayor and City Council believe that it is in the best interest of the City and its residents to amend the Act accordingly.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:**

**Section 1. Amendments to Chapter 29, North Miami Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled “Development Review”; Division 14 “New Development Impact Fees”, as follows:

\* \* \* \* \*

**Sec. 3-1406. Applicability of impact fee.**

This article shall be uniformly applicable to all new development, and the appropriate impact fees shall be collected prior to issuance of a building permit except where a building permit is issued for:

1. Additions, remodels, rehabilitation or other improvements to an existing structure and reconstruction of a demolished structure which results in:
  - a. No net increase in the number of residential dwelling units for residential structures.
2. Any development which is government-owned and operated facility.

**Sec. 3-1407. Imposition of impact fee: review and adjustment; time of payment.**

A. *Fees:* The following impact fees are hereby levied on all new development, as set forth in section 3-1406:

**Impact Fee Schedule  
(Police, General Government, Transportation, Parks and Library)**

Police	General Govt.	Transportation	Parks	Library		TOTAL	50% of fees
Residential	Per Housing Unit						
Single-family	<del>\$635.00</del> <u>\$325.00</u>	<del>\$1,306.00</del> <u>\$653.00</u>	<del>\$280.00</del> <u>\$140.00</u>	<del>\$8,391.00</del> <u>\$4,100.00</u>	<del>\$772.00</del> <u>\$386.00</u>	<del>\$11,383.00</del> <u>\$5,604.00</u>	<del>\$5,691.50</del>
Multi: Low-rise	<del>\$465.00</del> <u>\$235.00</u>	<del>\$957.00</del> <u>\$478.00</u>	<del>\$205.00</del> <u>\$105.00</u>	<del>\$6,149.00</del> <u>\$3,075.00</u>	<del>\$565.00</del> <u>\$285.00</u>	<del>\$8,341.00</del> <u>\$4,176.00</u>	<del>\$4,170.50</del>
Multi: Mid-rise	<del>\$379.00</del> <u>\$235.00</u>	<del>\$780.00</del> <u>\$390.00</u>	<del>\$167.00</del> <u>\$83.50</u>	<del>\$5,009.00</del> <u>\$2,510.00</u>	<del>\$461.00</del> <u>\$231.00</u>	<del>\$6,795.00</del> <u>\$3,449.50</u>	<del>\$3,397.50</del>
Multi: Hi-rise	<del>\$352.00</del> <u>\$235.00</u>	<del>\$724.00</del> <u>\$365.00</u>	<del>\$155.00</del> <u>\$80.00</u>	<del>\$4,652.00</del> <u>\$2,326.00</u>	<del>\$428.00</del> <u>\$224.00</u>	<del>\$6,311.00</del> <u>\$3,230.00</u>	<del>\$3,155.50</del>
Nonresidential	Per Square Foot						
820 Com/shop ctr 25,000 s.f. or less	<del>\$1.29</del> <u>\$0.65</u>	<del>\$0.48</del> <u>\$0.24</u>	<del>\$0.10</del> <u>\$0.05</u>			<del>\$1.87</del> <u>\$0.94</u>	<del>\$0.94</del>
820 Com/shop ctr 25,001—50,000 s.f.	<del>\$1.12</del> <u>\$0.56</u>	<del>\$0.41</del> <u>\$0.21</u>	<del>\$0.08</del> <u>\$0.04</u>			<del>\$1.62</del> <u>\$0.81</u>	<del>\$0.81</del>

Police	General Govt.	Transportation	Parks	Library		TOTAL	50% of fees
820 Com/shop ctr 50,001—100,000 s.f.	<del>\$0.93</del> <u>\$0.47</u>	<del>\$0.36</del> <u>\$0.18</u>	<del>\$0.07</del> <u>\$0.04</u>			<del>\$1.37</del> <u>\$0.69</u>	<del>\$0.69</del>
820 Com/shop ctr 100,001— 200,000 s.f.	<del>\$0.80</del> <u>\$0.40</u>	<del>\$0.32</del> <u>\$0.16</u>	<del>\$0.06</del> <u>\$0.03</u>			<del>\$1.19</del> <u>\$0.59</u>	<del>\$0.60</del>
820 Com/shop ctr 200,001— 400,000 s.f.	<del>\$0.68</del> <u>\$0.34</u>	<del>\$0.29</del> <u>\$0.15</u>	<del>\$0.06</del> <u>\$0.03</u>			<del>\$1.03</del> <u>\$0.52</u>	<del>\$0.52</del>
710 Office/inst 10,000 s.f. or less	<del>\$0.47</del> <u>\$0.24</u>	<del>\$0.65</del> <u>\$0.33</u>	<del>\$0.13</del> <u>\$0.07</u>			<del>\$1.25</del> <u>\$0.64</u>	<del>\$0.63</del>
710 Office/inst 10,001—25,000 s.f.	<del>\$0.38</del> <u>\$0.19</u>	<del>\$0.60</del> <u>\$0.30</u>	<del>\$0.12</del> <u>\$0.06</u>			<del>\$1.10</del> <u>\$0.55</u>	<del>\$0.55</del>
710 Office/inst 25,001—50,000 s.f.	<del>\$0.33</del> <u>\$0.17</u>	<del>\$0.57</del> <u>\$0.29</u>	<del>\$0.11</del> <u>\$0.06</u>			<del>\$1.01</del> <u>\$0.52</u>	<del>\$0.51</del>
710 Office/inst 50,001—100,000 s.f.	<del>\$0.28</del> <u>\$0.14</u>	<del>\$0.54</del> <u>\$0.27</u>	<del>\$0.11</del> <u>\$0.06</u>			<del>\$0.92</del> <u>\$0.47</u>	<del>\$0.46</del>
720 Medical- dental office	<del>\$0.75</del> <u>\$0.38</u>	<del>\$0.59</del> <u>\$0.30</u>	<del>\$0.12</del> <u>\$0.06</u>			<del>\$1.46</del> <u>\$0.73</u>	<del>\$0.73</del>
610 Hospital	<del>\$0.37</del> <u>\$0.19</u>	<del>\$0.49</del> <u>\$0.25</u>	<del>\$0.10</del> <u>\$0.05</u>			<del>\$0.95</del> <u>\$0.49</u>	<del>\$0.48</del>
770 Business Park	<del>\$0.27</del> <u>\$0.14</u>	<del>\$0.46</del> <u>\$0.23</u>	<del>\$0.09</del> <u>\$0.05</u>			<del>\$0.82</del> <u>\$0.42</u>	<del>\$0.41</del>
110 Light Industrial	<del>\$0.15</del> <u>\$0.08</u>	<del>\$0.33</del> <u>\$0.17</u>	<del>\$0.07</del> <u>\$0.04</u>			<del>\$0.55</del> <u>\$0.29</u>	<del>\$0.28</del>
140 Manufacturing	<del>\$0.08</del> <u>\$0.04</u>	<del>\$0.26</del> <u>\$0.13</u>	<del>\$0.05</del> <u>\$0.03</u>			<del>\$0.39</del> <u>\$0.20</u>	<del>\$0.20</del>
150 Warehousing	<del>\$0.10</del> <u>\$0.05</u>	<del>\$0.19</del> <u>\$0.10</u>	<del>\$0.04</del> <u>\$0.02</u>			<del>\$0.33</del> <u>\$0.17</u>	<del>\$0.17</del>
Other Residential	As Indicated						
320 Lodging (per room)	<del>\$117.00</del> <u>\$58.50</u>	<del>\$103.00</del> <u>\$52.00</u>	<del>\$21.00</del> <u>\$10.50</u>			<del>\$241.00</del> <u>\$121.00</u>	<del>\$120.50</del>

Police	General Govt.	Transportation	Parks	Library	TOTAL	50% of fees
565 Day Care (per student)	<del>\$93.00</del> <u>\$46.50</u>	<del>\$23.00</del> <u>\$11.50</u>	<del>\$5.00</del> <u>\$2.50</u>		<del>\$121.00</del> <u>\$60.50</u>	<del>\$60.50</del>
620 Nursing Home (per bed)	<del>\$49.00</del> <u>\$24.50</u>	<del>\$52.00</del> <u>\$26.00</u>	<del>\$10.00</del> <u>\$5.00</u>		<del>\$112.00</del> <u>\$55.50</u>	<del>\$56.00</del>

B. Capacity fees for water system improvements and sewer system improvements shall be levied pursuant to the schedule set forth in Chapter 19, Division 4, Section 19.98 Water/Sewer Capacity Fee, in the Code of Ordinances of the City of North Miami.

C. *Triennial adjustments.* This chapter shall be reviewed by the city council every three (3) years to ensure that the methodologies, assumptions, and cost factors used in the calculations are still valid and accurate and to determine if changes in costs, facility needs, development patterns, demographics and any other relevant factors indicate a need to update the impact fees calculations, data, methodology or other components of the impact fee system. The triennial report shall be distributed to the city council by the city manager. The 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 and ordinance. In reviewing the impact fee system, the city may consider:

1. Development occurring in the prior two (2) years;
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 triennial report may be organized based on the city's fiscal year or calendar year. Nothing in this chapter shall be construed to limit the city council's authority to amend this chapter at any time.

Changes, if any, to the impact fee system, including updating fee calculations, should be adopted by ordinance within a year of completion of the triennial report.

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**Sec. 3-1410. Administrative procedures for petitions for impact fee determinations, refunds, and credits and deferments.**

A. *Petition process.*

1. Petitions for an impact fee determination, refund of impact fees and/or credit, deferment against impact fees shall be submitted using the petition process, requirements and time limits provided herein. All petition requests except petitions for refunds under subsection (c) below, shall be accompanied by a fee of two hundred fifty dollars (\$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.
2. All petitions shall be submitted to the city manager's office for processing and preparation of a staff report and recommendation on the petition, and the final determination on the petition shall be issued at the reasonable discretion of by the city manager and subject to the criteria set forth herein. The city manager’s office may obtain an analysis of the petition request from any and all appropriate city departments and staff in order to provide a complete and detailed review of and recommendation on the petition request to the city manager. The staff report and recommendations shall be forwarded to the city manager no later than sixty (60) days after filing of a completed petition. The city manager shall, no later than ninety (90) days of filing of the complete petition issue a written determination on the petition, with the reasoning for the determination based upon the petition data, the provisions of this chapter and applicable law, and, if needed, direct the appropriate city staff to take the actions necessary to implement the determination. The petitioner shall demonstrate the following:
  - a. The necessary facilities are in place at the time the development permit is issued or an agreement has been approved subject to the condition that the necessary facilities will be in place when the impacts of the development occur; or
  - b. The necessary facilities are under construction concurrently with the development; or
  - c. The necessary facilities are the subject of a binding contract executed for the construction of those necessary facilities at the time a city development permit is issued or at the discretion of the city manager; or
  - d. The developer demonstrates, to the satisfaction of the city manager, through objective evidence that the development will not cause a deterioration in levels of service or that

any such deterioration can be mitigated by actions of the developer, which actions shall be reduced to a written agreement satisfactory to the city.

3. Upon written agreement by the city manager's office and the petitioner the time limits in this section may be waived for any reason, including, but not limited to, the submittal of additional data and supporting statements by the petitioner. The city manager's designee is authorized to determine whether a petition is complete and whether additional data or supporting statements by appropriate professionals are needed. If the city manager's designee determines that the petition is not complete, a written statement detailing the insufficiencies of the petition shall be provided to the petitioner within thirty (30) days of initial filing of the petition. The date of such written determination of insufficiency shall toll the time limits established in the section until submittal of a complete petition. Any insufficiency not corrected during such time will cause the petition to not be considered, and it will be returned without the necessity of further action.
4. The filing of a petition shall stay action by the city on the application for building permit and any other city action related to the development. No building permit shall be issued for development for which a petition has been filed and is pending unless the total impact fees due have been paid in full or a sufficient bond or letter of credit satisfactory to the city attorney has been filed with the city.

B. *Petitions for impact fee determination.* Any applicant, prior to or in conjunction with the submission of an application for a building permit, or within thirty (30) days of the date of payment of impact fees, may petition the city manager for a determination that the amount of the impact fees imposed on the new development is inappropriate based on any or all of the following factors the specific land use category applied to the residential or nonresidential development and the amount of development (dwelling units and/or gross square footage). The petition shall specify in detail the basis on which the applicant asserts that the amount of the impact fees is inappropriate. The petition shall be on a form provided by the city and shall, at a minimum, include identification of the disputed factor(s), a detailed statement by a qualified professional engineer, planner or other appropriate professional, and, if filed after payment of impact fees, a dated receipt for payment of the impact fees issued by the city's building department. Failure to timely file a petition for impact fee determination shall waive any right to review or recalculation to decrease the impact fee payment.

C. *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 fees if the city has failed to appropriate or spend the collected fees by the end of the calendar quarter immediately following, five (5) 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 non-commencement 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.

2. Only the current owner of property may petition for a refund. A petition for refund must be filed within ninety (90) days of any of the above-specific events giving rise to the right to claim a refund. Failure to timely file a petition for refund shall waive any right to an impact fee refund.
3. The petition for refund shall be submitted to the city manager's office on a form provided by the city for such purpose. The petition shall contain a notarize affidavit that petitioner is the current owner of the property, a certified copy of the latest tax records of Miami-Dade County showing the owner of the subject property, a copy of the dated receipt for payment of the impact fee issued by the city's building department and a statement of the basis upon which the refund is sought.
4. Any money refunded pursuant to this subsection shall be returned with interest in an amount of at least seventy-five (75) percent of the annualized average interest rate payable on such account or interest at the rate of three (3) percent per year simple interest, whichever the city elects.

*D. Petition for credits against impact fees.*

1. Any applicant as defined in this article who elects to construct or dedicated all or a portion of a system improvement as defined in this article, or who escrows money with the city for the construction of a system improvement ~~shall~~may, if all criteria in this article and this subsection E. are fulfilled, be granted a credit for such contribution against the impact fees otherwise due for the same type of system improvement. The applicant must, prior to the applicant's construction, dedication or escrow of the system improvement, submit a petition on a form provided by the city, obtain a determination of credit eligibility and the amount of any credit, and enter into a credit agreement with the city. The petition for credit shall contain, at a minimum, the following; a certified copy of the most recently recorded deed for the subject property, a preliminary engineering plans and certified costs estimates by an architect, engineer or other appropriate professional for proposed schedule for completion of any construction/dedications identification of the proposed improvement in the current adopted CIP and the amount of impact fee funding for the improvement and identification in detail of the development against which the credits are to apply or which will pay the impact fees to be used for the credit including the land use type(s), number of units/gross floor area, anticipated development schedule, and legal descriptions of the subject property. Any and all improvements required to be conveyed to the city pursuant to a Development Agreement, Conditional Use Permit, or other binding agreement or requirement with or by the city shall be considered included as part of the city's CIP, for purposes of this Section. Any appeal of petition determinations on credits must be filed, heard, and determined prior to the applicant's construction, dedication or escrow for which the credit is requested. Failure to timely file a petition for impact fee credits shall waive any right to impact fee credits.

2. A credit shall be granted and the amount of the credit shall be determined by the city manager, in his/her reasonable discretion, if it is determined that the system improvement is in the adopted, current capital improvement plan and is funded in whole or in part with impact fee revenue or is considered to part of the adopted CIP as noted in paragraph 1, above. The amount of the credit shall be based on actual costs certified by a professional engineer or architect submitted by the applicant and reviewed and approved by the appropriate city department. In no event shall the credit exceed the amount of impact fees budgeted for that system improvement or the amount of the impact fees for the same type of system improvements that are due from the development requesting the credit whichever amount is smaller. If the impact fees exceed the amount of credit granted, at the time of issuance of the building permit, the applicant shall pay the difference between the amount of the impact fees and the credit.
3. If a credit petition is approved the applicant and the city shall enter into a credit agreement which shall provide for, but is not limited to the following process to be used to verify actual costs the value of any dedicated land or methodology to determine the value of any dedicated land the obligations and responsibilities of the applicant, including but not limited to:
  - a. Public bidding or solicitation requirements or engineering estimate;
  - b. Engineering, design and construction standards and requirements to be complied with;
  - c. Insurance bonding and indemnification requirements;
  - d. Project inspection standards and responsibilities;
  - e. Timing of the actions to be taken by the applicant;
  - f. Transfer of title to land and improvements;
  - g. Process for submittal of credit payment requests; and
  - h. Timing of payments by the city.

E. Deferral of impact fees for affordable and workforce housing.

1. In order to encourage the provision and retention of affordable housing and workforce housing for owner-occupancy and for rental, there shall be a deferral of impact fees due on affordable housing and workforce housing dwelling units developed within the city. The city shall require, under the program, a deed covenant covering the assignment of affordable and workforce housing, annual reporting due prior to September 30<sup>th</sup> 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 determination with any development review application. If the petition for affordable housing and workforce housing deferral 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 may be submitted if the development is approved for the deferral program.

2. Affordable housing or workforce housing impact fee deferral shall apply to the following:
  - a. Such development shall consist of 100 percent affordable housing units for families and/or individuals;
  - b. If the project is providing affordable rental housing, then such development shall have secured its necessary low-income housing tax credits from Florida Housing Finance Corporation and shall submit proof of such to the city manager or his designee; and
  - c. If the project is providing affordable home ownership, then, prior to the issuance of building permits, the applicant shall provide the city with a covenant and deed restrictions, in forms acceptable to the city attorney, which assure that such units remain affordable for a period of at least 30 years and that the home owner(s) be responsible for submitting proof of such to the city manager, or his designee, on an annual basis, the required covenants shall include enforcement and penalty language to address non-compliance.
3. At such time that the property is sold or transferred the impact fees will be due to the city in their entirety.

No impact fee credit shall be paid or provided until any land has been dedicated and conveyed to the city and/or the facilities have been constructed and accepted or alternatively until a bond has been posted to ensure the conveyance and/or construction. Any bond shall be issued by a state surety and in a form acceptable to the city attorney and risk manager. The city's obligation to pay impact fee credits shall be limited to the impact fees collected from the development for a period not to exceed ten (10) years from the date of approval of the agreement. The credit agreement shall provide for forfeiture of any impact fee credit remaining at the end of such ten-year period. The credit applicant shall agree to provide recorded notice to subsequent purchasers/owners of the property receiving the credit, if any, that may be available to such purchasers and shall agree to indemnify the city for any and all costs and liabilities arising from any claims by others related to the impact fee credit.

### **Sec. 3-1411. Appeal to city council.**

- A. A petition determination by the city manager shall be final unless a written notice of appeal to the city council is filed with the director of the department of building and zoning within

twenty (20) days of the date of the written determination by the city manager, together with payment of a five hundred dollar (\$500.00) fee. Such appeal may be filed by the applicant, the petitioner, or by any officer, department, board, commission, or agency of the city. The above-specified city entities shall not be required to pay said fee. Failure to timely file a request for review of a petition determination shall waive any right to any further review of the petition determination.

- B. The director of building and zoning shall then certify such appeals through the office of the city manager.
- C. Appeals shall be filed on a form provided by the city and accompanied by five (5) copies of all documents for consideration by the city council including but not limited to the petition submittal and all accompanying documents, the petition determination and any additional documents, exhibits, technical reports, or other written evidence the appellant wants the city council to consider. Should the appellant want to submit additional written material after the initial filing of notice of appeal, five (5) complete copies of such material shall be submitted to the director of building and zoning no later than thirty (30) days prior to the hearing date. If any material is submitted after that date the city council shall reschedule the hearing to a later date to provide adequate time for review of the material by city staff and the city manager notwithstanding the ninety-day period established under subsection D.
- D. The city council on review shall have full power to affirm, reverse, or modify the action of the city manager so long as such council action is based on applicable law and the provisions of this article. The appeal shall be heard by the city council not more than ninety (90) days after the appeal is filed by the appellant.

\* \* \* \* \*

**Section 2.**     **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

**Section 3.**     **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 4.**     **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall

remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5.** **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

**Section 6.** **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Sponsored by: \_\_\_\_\_

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.	_____ (Yes)	_____ (No)
Vice Mayor Alix Desulme	_____ (Yes)	_____ (No)
Councilman Scott Galvin	_____ (Yes)	_____ (No)
Councilwoman Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilman Philippe Bien-Aime	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

Sec. 3-1406. - Applicability of impact fee.

This article shall be uniformly applicable to all new development, and the appropriate impact fees shall be collected prior to issuance of a building permit except where a building permit is issued for:

1. Additions, remodels, rehabilitation or other improvements to an existing structure and reconstruction of a demolished structure which results in:
  - a. No net increase in the number of residential dwelling units for residential structures.
  2. Any development which is government-owned and operated facility.

Sec. 3-1407. - Imposition of impact fee: review and adjustment; time of payment.

- A. Fees: The following impact fees are hereby levied on all new development, as set forth in section 3-1406:

Impact Fee Schedule

*See Attached*

- B. Capacity fees for water system improvements and sewer system improvements shall be levied pursuant to the schedule set forth in Chapter 19, Division 4, Section 19.98 Water/Sewer Capacity Fee, in the Code of Ordinances of the City of North Miami.
- C. Triennial adjustments. This chapter shall be reviewed by the city council every three (3) years to ensure that the methodologies, assumptions, and cost factors used in the calculations are still valid and accurate and to determine if changes in costs, facility needs, development patterns, demographics and any other relevant factors indicate a need to update the impact fees calculations, data, methodology or other components of the impact fee system. The triennial report shall be distributed to the city council by the city manager. The 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 and ordinance. In reviewing the impact fee system, the city may consider:
  1. Development occurring in the prior two (2) years;
  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 triennial report may be organized based on the city's fiscal year or calendar year. Nothing in this chapter shall be construed to limit the city council's authority to amend this chapter at any time.

Changes, if any, to the impact fee system, including updating fee calculations, should be adopted by ordinance within a year of completion of the triennial report.

Sec. 3-1410. - Administrative procedures for petitions for impact fee determinations, refunds, ~~and~~ credits and deferments.

A. Petition process.

1. Petitions for an impact fee determination, refund of impact fees and/or credit, deferment against impact fees shall be submitted using the petition process, requirements and time limits provided herein. All petition requests except petitions for refunds under subsection (c) below, shall be accompanied by a fee of two hundred fifty dollars (\$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.
2. All petitions shall be submitted to the city manager's office for processing and preparation of a staff report and recommendation on the petition, and the final determination on the petition shall be issued at the reasonable discretion of the city manager and subject to the criteria set forth herein. The city manager's office may obtain an analysis of the petition request from any and all appropriate city departments and staff in order to provide a complete and detailed review of and recommendation on the petition request to the city manager. The staff report and recommendations shall be forwarded to the city manager no later than sixty (60) days after filing of a completed petition. The city manager shall, no later than ninety (90) days of filing of the complete petition issue a written determination on the petition, with the reasoning for the determination based upon the petition data, the provisions of this chapter and applicable law, and, if needed, direct the appropriate city staff to take the actions necessary to implement the determination. The petitioner shall demonstrate the following:
  - a. The necessary facilities are in place at the time the development permit is issued or an agreement has been approved subject to the condition that the necessary facilities will be in place when the impacts of the development occur; or
  - b. The necessary facilities are under construction concurrently with the development; or
  - c. The necessary facilities are the subject of a binding contract executed for the construction of those necessary facilities at the time a city development permit is issued or at the discretion of the city manager; or
  - d. The developer demonstrates, to the satisfaction of the city manager, through objective evidence that the development will not cause a deterioration in levels of service or that any such deterioration can be mitigated by actions of the developer, which actions shall be reduced to a written agreement satisfactory to the city
3. Upon written agreement by the city manager's office and the petitioner the time limits in this section may be waived for any reason, including, but not limited to, the submittal of additional data and supporting statements by the petitioner. The city manager's designee is authorized to determine whether a petition is complete and whether additional data or supporting statements by appropriate professionals are needed. If the city manager's designee determines that the petition is not complete, a written statement detailing the insufficiencies of the petition shall be provided to the petitioner within thirty (30) days of initial filing of the petition. The date of such written determination of insufficiency shall toll the time limits established in the section until submittal of a complete petition. Any insufficiency not corrected during such time will cause the petition to not be considered, and it will be returned without the necessity of further action.

4. The filing of a petition shall stay action by the city on the application for building permit and any other city action related to the development. No building permit shall be issued for development for which a petition has been filed and is pending unless the total impact fees due have been paid in full or a sufficient bond or letter of credit satisfactory to the city attorney has been filed with the city.
- B. Petitions for impact fee determination. Any applicant, prior to or in conjunction with the submission of an application for a building permit, or within thirty (30) days of the date of payment of impact fees, may petition the city manager for a determination that the amount of the impact fees imposed on the new development is inappropriate based on any or all of the following factors the specific land use category applied to the residential or nonresidential development and the amount of development (dwelling units and/or gross square footage). The petition shall specify in detail the basis on which the applicant asserts that the amount of the impact fees is inappropriate. The petition shall be on a form provided by the city and shall, at a minimum, include identification of the disputed factor(s), a detailed statement by a qualified professional engineer, planner or other appropriate professional, and, if filed after payment of impact fees, a dated receipt for payment of the impact fees issued by the city's building department. Failure to timely file a petition for impact fee determination shall waive any right to review or recalculation to decrease the impact fee payment.
- C. 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 fees if the city has failed to appropriate or spend the collected fees by the end of the calendar quarter immediately following, five (5) 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 non-commencement 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.
  2. Only the current owner of property may petition for a refund. A petition for refund must be filed within ninety (90) days of any of the above-specific events giving rise to the right to claim a refund. Failure to timely file a petition for refund shall waive any right to an impact fee refund.
  3. The petition for refund shall be submitted to the city manager's office on a form provided by the city for such purpose. The petition shall contain a notarize affidavit that petitioner is the current owner of the property, a certified copy of the latest tax records of Miami-Dade County showing the owner of the subject property, a copy of the dated receipt for payment of the impact fee issued by the city's building department and a statement of the basis upon which the refund is sought.
  4. Any money refunded pursuant to this subsection shall be returned with interest in an amount of at least seventy-five (75) percent of the annualized average interest rate payable on such account or interest at the rate of three (3) percent per year simple interest, whichever the city elects.
- D. Petition for credits against impact fees.
1. Any applicant as defined in this article who elects to construct or dedicated all or a portion of a system improvement as defined in this article, or who escrows money with the city for the construction of a system improvement shall may, if all criteria in this article and this subsection E. are fulfilled, be granted a credit for such contribution against the impact fees otherwise due for the same type of system improvement. The applicant must, prior to the applicant's

construction, dedication or escrow of the system improvement, submit a petition on a form provided by the city, obtain a determination of credit eligibility and the amount of any credit, and enter into a credit agreement with the city. The petition for credit shall contain, at a minimum, the following; a certified copy of the most recently recorded deed for the subject property, a preliminary engineering plans and certified costs estimates by an architect, engineer or other appropriate professional for proposed schedule for completion of any construction/dedications identification of the proposed improvement in the current adopted CIP and the amount of impact fee funding for the improvement and identification in detail of the development against which the credits are to apply or which will pay the impact fees to be used for the credit including the land use type(s), number of units/gross floor area, anticipated development schedule, and legal descriptions of the subject property. Any and all improvements required to be conveyed to the City pursuant to a Development Agreement, Conditional Use Permit, or other binding agreement or requirement with or by the City shall be considered included as part of the City's CIP, for purposes of this Section. Any appeal of petition determinations on credits must be filed, heard, and determined prior to the applicant's construction, dedication or escrow for which the credit is requested. Failure to timely file a petition for impact fee credits shall waive any right to impact fee credits.

2. A credit shall be granted and the amount of the credit shall be determined by the city manager, in his/her reasonable discretion, if it is determined that the system improvement is in the adopted, current capital improvement plan and is funded in whole or in part with impact fee revenue or is considered to part of the adopted CIP as noted in paragraph 1, above. The amount of the credit shall be based on actual costs certified by a professional engineer or architect submitted by the applicant and reviewed and approved by the appropriate city department. In no event shall the credit exceed the amount of impact fees budgeted for that system improvement or the amount of the impact fees for the same type of system improvements that are due from the development requesting the credit whichever amount is smaller. If the impact fees exceed the amount of credit granted, at the time of issuance of the building permit, the applicant shall pay the difference between the amount of the impact fees and the credit.
3. If a credit petition is approved the applicant and the city shall enter into a credit agreement which shall provide for, but is not limited to the following process to be used to verify actual costs the value of any dedicated land or methodology to determine the value of any dedicated land the obligations and responsibilities of the applicant, including but not limited to:
  - a. Public bidding or solicitation requirements or engineering estimate;
  - b. Engineering, design and construction standards and requirements to be complied with;
  - c. Insurance bonding and indemnification requirements;
  - d. Project inspection standards and responsibilities;
  - e. Timing of the actions to be taken by the applicant;
  - f. Transfer of title to land and improvements;
  - g. Process for submittal of credit payment requests; and
  - h. Timing of payments by the city.

E. Deferral of impact fees for affordable and workforce housing.

1. In order to encourage the provision and retention of affordable housing and workforce housing for owner-occupancy and for rental, there shall be a deferral of impact fees due on affordable housing and workforce housing dwelling units developed within the city. The city shall require, under the program, a deed covenant covering the assignment of affordable and workforce housing, annual reporting due prior to September 30<sup>th</sup> 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 determination with any development review application. If the petition for affordable housing and workforce housing deferral 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 may be submitted if the development is approved for the deferral program.
2. Affordable housing or workforce housing impact fee deferral shall apply to the following:
  - a. Such development shall consist of 100 percent affordable housing units for families and/or individuals;
  - b. If the project is providing affordable rental housing, then such development shall have secured its necessary low-income housing tax credits from Florida Housing Finance Corporation and shall submit proof of such to the city manager or his designee; and
  - c. If the project is providing affordable home ownership, then, prior to the issuance of building permits, the applicant shall provide the city with a covenant and deed restrictions, in forms acceptable to the city attorney, which assure that such units remain affordable for a period of at least 30 years and that the home owner(s) be responsible for submitting proof of such to the city manager, or his designee, on an annual basis, the required covenants shall include enforcement and penalty language to address non-compliance.
3. At such time that the property is sold or transferred the impact fees will be due to the city in their entirety

No impact fee credit shall be paid or provided until any land has been dedicated and conveyed to the city and/or the facilities have been constructed and accepted or alternatively until a bond has been posted to ensure the conveyance and/or construction. Any bond shall be issued by a state surety and in a form acceptable to the city attorney and risk manager. The city's obligation to pay impact fee credits shall be limited to the impact fees collected from the development for a period not to exceed ten (10) years from the date of approval of the agreement. The credit agreement shall provide for forfeiture of any impact fee credit remaining at the end of such ten-year period. The credit applicant shall agree to provide recorded notice to subsequent purchasers/owners of the property receiving the credit, if any, that may be available to such purchasers and shall agree to indemnify the city for any and all costs and liabilities arising from any claims by others related to the impact fee credit.

**Sec. 3-1411. - Appeal to city council.**

- A. A petition determination by the city manager shall be final unless a written notice of appeal to the city council is filed with the director of the department of building and zoning within twenty (20) days of the date of the written determination by the city manager, together with payment of a five hundred dollar (\$500.00) fee. Such appeal may be filed by the applicant, the petitioner, or by any officer, department, board, commission, or agency of the city. The above-specified city

entities shall not be required to pay said fee. Failure to timely file a request for review of a petition determination shall waive any right to any further review of the petition determination.

- B. The director of building and zoning shall then certify such appeals through the office of the city manager.
- C. Appeals shall be filed on a form provided by the city and accompanied by five (5) copies of all documents for consideration by the city council including but not limited to the petition submittal and all accompanying documents, the petition determination and any additional documents, exhibits, technical reports, or other written evidence the appellant wants the city council to consider. Should the appellant want to submit additional written material after the initial filing of notice of appeal, five (5) complete copies of such material shall be submitted to the director of building and zoning no later than thirty (30) days prior to the hearing date. If any material is submitted after that date the city council shall reschedule the hearing to a later date to provide adequate time for review of the material by city staff and the city manager notwithstanding the ninety-day period established under subsection D.
- D. The city council on review shall have full power to affirm, reverse, or modify the action of the city manager so long as such council action is based on applicable law and the provisions of this article. The appeal shall be heard by the city council not more than ninety (90) days after the appeal is filed by the appellant.

	Police TOTAL	General Govt. 50% of fees	Trans	Parks	Library
<b>Residential</b>	<b>Per Housing Unit</b>				
Single-family/Duplex	\$635.00	\$1,306.00	\$280.00	\$8,391.00	
<del>\$772.00</del>	<del>\$11,383.00</del>	<del>\$5,691.50</del>			
	<u>\$325.00</u>	<u>\$653.00</u>	<u>\$140.00</u>	<u>\$4,100.00</u>	
	<u>\$386.00</u>	<u>\$5,604.00</u>			
Multi: Low-rise	\$465.00	\$957.00	\$205.00	\$6,149.00	
<del>\$565.00</del>	<del>\$8,341.00</del>	<del>\$4,170.50</del>			
	<u>\$235.00</u>	<u>478.00</u>	<u>\$105.00</u>	<u>\$3,075.00</u>	
	<u>\$285.00</u>	<u>\$4,176.00</u>			
Multi: Mid-rise	\$379.00	\$780.00	\$167.00	\$5,009.00	
<del>\$461.00</del>	<del>\$6,795.00</del>	<del>\$3,397.50</del>			
	<u>\$235.00</u>	<u>\$390.00</u>	<u>\$83.50</u>	<u>\$2,510.00</u>	
	<u>\$231.00</u>	<u>\$3,449.50</u>			
Multi: Hi-rise	\$352.00	\$724.00	\$155.00	\$4,652.00	
<del>\$428.00</del>	<del>\$6,311.00</del>	<del>\$3,155.50</del>			
	<u>\$235.00</u>	<u>\$365.00</u>	<u>\$80.00</u>	<u>\$2,326.00</u>	
	<u>\$224.00</u>	<u>\$3,230.00</u>			
Affordable or	\$325.00	\$365.00	\$80.00	\$3,280.00	
<del>\$224.00</del>	<del>\$4,274.00</del>				
<u>Work Force Housing</u>					

	Police	General Govt.	Trans	TOTAL
<b>50% of fees</b>				
<b>Nonresidential</b>	<b>Per Square Foot</b>			
820 Com/shop ctr 25,000 s.f. or less	\$1.29	\$0.48	\$0.10	\$1.87
<del>\$0.94</del>	<u>\$0.65</u>	<u>\$0.24</u>	<u>\$0.05</u>	<u>\$0.94</u>
820 Com/shop ctr 25,001—50,000 s.f.	\$1.12	\$0.41	\$0.08	\$1.62
<del>\$0.81</del>	<u>\$0.56</u>	<u>\$0.21</u>	<u>\$0.04</u>	<u>\$0.81</u>
820 Com/shop ctr 50,001—100,000 s.f.	\$0.93	\$0.36	\$0.07	\$1.37
<del>\$0.69</del>	<u>\$0.47</u>	<u>\$0.18</u>	<u>\$0.04</u>	<u>\$0.69</u>
820 Com/shop ctr 100,001—200,000 s.f.	\$0.80	\$0.32	\$0.06	\$1.19
<del>\$0.60</del>	<u>\$0.40</u>	<u>\$0.16</u>	<u>\$0.03</u>	<u>\$0.59</u>

820 Com/shop ctr 200,001—400,000 s.f. <del>\$0.52</del>	<del>\$0.68</del> <u>\$0.34</u>	<del>\$0.29</del> <u>\$0.15</u>	<del>\$0.06</del> <u>\$0.03</u>	<del>\$1.03</del> <u>\$0.52</u>
710 Office/inst 10,000 s.f. or less <del>\$0.63</del>	<del>\$0.47</del> <u>\$0.24</u>	<del>\$0.65</del> <u>\$0.33</u>	<del>\$0.13</del> <u>\$0.07</u>	<del>\$1.25</del> <u>\$0.64</u>
710 Office/inst 10,001—25,000 s.f. <del>\$0.55</del>	<del>\$0.38</del> <u>\$0.19</u>	<del>\$0.60</del> <u>\$0.30</u>	<del>\$0.12</del> <u>\$0.06</u>	<del>\$1.10</del> <u>\$0.55</u>
710 Office/inst 25,001—50,000 s.f. <del>\$0.51</del>	<del>\$0.33</del> <u>\$0.17</u>	<del>\$0.57</del> <u>\$0.29</u>	<del>\$0.11</del> <u>\$0.06</u>	<del>\$1.01</del> <u>\$0.52</u>
710 Office/inst 50,001—100,000 s.f. <del>\$0.46</del>	<del>\$0.28</del> <u>\$0.14</u>	<del>\$0.54</del> <u>\$0.27</u>	<del>\$0.11</del> <u>\$0.06</u>	<del>\$0.92</del> <u>\$0.47</u>
720 Medical-dental office <del>\$0.73</del>	<del>\$0.75</del> <u>\$0.38</u>	<del>\$0.59</del> <u>\$0.30</u>	<del>\$0.12</del> <u>\$0.06</u>	<del>\$1.46</del> <u>\$0.73</u>
610 Hospital <del>\$0.48</del>	<del>\$0.37</del> <u>\$0.19</u>	<del>\$0.49</del> <u>\$0.25</u>	<del>\$0.10</del> <u>\$0.05</u>	<del>\$0.95</del> <u>\$0.49</u>
770 Business Park <del>\$0.41</del>	<del>\$0.27</del> <u>\$0.14</u>	<del>\$0.46</del> <u>\$0.23</u>	<del>\$0.09</del> <u>\$0.05</u>	<del>\$0.82</del> <u>\$0.42</u>
110 Light Industrial <del>\$0.28</del>	<del>\$0.15</del> <u>\$0.08</u>	<del>\$0.33</del> <u>\$0.17</u>	<del>\$0.07</del> <u>\$0.04</u>	<del>\$0.55</del> <u>\$0.29</u>
140 Manufacturing <del>\$0.20</del>	<del>\$0.08</del> <u>\$0.04</u>	<del>\$0.26</del> <u>\$0.13</u>	<del>\$0.05</del> <u>\$0.03</u>	<del>\$0.39</del> <u>\$0.20</u>
150 Warehousing/ <u>Storage facility</u> <del>\$0.17</del>	<del>\$0.10</del> <u>\$0.05</u>	<del>\$0.19</del> <u>\$0.10</u>	<del>\$0.04</del> <u>\$0.02</u>	<del>\$0.33</del> <u>\$0.17</u>

**Other Residential**

**As Indicated**

320 Lodging (per room)	<del>\$117.00</del>	<del>\$103.00</del>	<del>\$21.00</del>	
<del>\$241.00</del> <del>\$120.50</del>				
<u>\$121.00</u>	<u>\$58.50</u>	<u>\$52.00</u>	<u>\$10.50</u>	
565 Day Care (per student)	<del>\$93.00</del>	<del>\$23.00</del>	<del>\$5.00</del>	
<del>\$121.00</del> <del>\$60.50</del>				
	<u>\$46.50</u>	<u>\$11.50</u>	<u>\$2.50</u>	<u>\$60.50</u>
620 Nursing Home (per bed)	<del>\$49.00</del>	<del>\$52.00</del>	<del>\$10.00</del>	
<del>\$112.00</del> <del>\$56.00</del>				
	<u>\$24.50</u>	<u>\$26.00</u>	<u>\$5.00</u>	<u>\$55.50</u>