

ORDINANCE NO. 1531

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REPEALING SECTION 19-98. – “WATER AND SEWER CAPACITY FEES”, IN CHAPTER 19 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED “UTILITIES”; AMENDING CHAPTER 29 ENTITLED “LAND DEVELOPMENT REGULATIONS”, ARTICLE 3 ENTITLED “DEVELOPMENT REVIEW”, SPECIFICALLY AT DIVISION 14 “NEW DEVELOPMENT, IMPACT FEES”; REPEALING TRANSPORTATION IMPACT FEES; ADOPTING NEW STORMWATER IMPACT FEES; COMBINING PARKS AND LIBRARY IMPACT FEES; COMBINING GENERAL GOVERNMENT AND POLICE IMPACT FEES; AMENDING LAND USE CATEGORIES WITHIN THE PARKS AND RECREATION AND GENERAL GOVERNMENT IMPACT FEE SCHEDULES; ASSESSING WATER AND SEWER IMPACT FEES ON THE BASIS OF WATER METER CAPACITY RATHER THAN LAND USE TYPE; ADOPTING AN UPDATED IMPACT FEE STUDY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING RULES OF CONSTRUCTION; PROVIDING FINDINGS; PROVIDING FOR CONFLICT SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council has authority to adopt this ordinance through general home rule powers pursuant to Article VIII of the 1968 Florida Constitution, and Chapters 166 and 163, Florida Statutes; and

WHEREAS, the City of North Miami (“City”) has hired a consultant to conduct an updated impact fee study to determine if changes need to be made to the current impact fee calculation and fee amounts; and

WHEREAS, planning for the necessary expansion of parks and recreation (including libraries), general government (including police), water, sewer, and stormwater improvements needed to accommodate the increased demands resulting from new development is a responsibility of the City and is in the best interest of public health, safety, and welfare; and

WHEREAS, the City has studied the necessity for and implications of, the imposition of impact fees for funding the expansion of the City’s parks and recreation, general government, water, sewer, and stormwater facilities, and

WHEREAS, the City has found and determined that impact fees are appropriate for funding the expansion of the City’s parks and recreation, general government, water, sewer, and stormwater facilities, and

WHEREAS, the City has found and determined that the water and sewer capacity fees should be renamed water and sewer impact fees and be located in the impact fee ordinance in the

best interest of the citizens of the City of North Miami; and

WHEREAS, the City has found and determined that an amendment to the impact fee ordinance is necessary and in the best interest of the citizens of the City of North Miami; and

WHEREAS, this ordinance shall apply to the incorporated area of the City of North Miami and within its water and sewer service areas; and

WHEREAS, the Mayor and City Council desires to hereby formally adopt this ordinance.

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

Section 1. Repeal Transportation Fees. Transportation impact fees are hereby repealed.

Section 2. Adopt Impact Fee Study The Impact Fees Study prepared by Duncan Associates on August 25, 2024 is hereby adopted.

Section 3. Repeal Capacity Fees. Section 19-98. – Water and Sewer Capacity Fees of the City of North Miami Code of Ordinances is hereby repealed.

Section 4. Amend Impact Fee Ordinance. Division 14 – New Development; Impact Fees of Article 3, Chapter 29 of the City of North Miami Code of Ordinances is hereby amended as follows.

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CITY OF NORTH MIAMI CODE OF ORDINANCES

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 3: DEVELOPMENT REVIEW

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DIVISION 14. – NEW DEVELOPMENT; IMPACT FEES

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Sec. 3-1401. - Short title.

This division chapter shall be known and may be cited to as the “City of North Miami Development Impact Fees Act Ordinance.”

Sec. 3-1402. - Findings.

A. The city council hereby finds and declares that:

1. 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.

2. The potential for development of properties is a direct result of city policy as expressed in the city comprehensive plan and as implemented via the city zoning ordinances and map.

3. 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.

4. The amount of the "impact fee" to be imposed shall be based upon the average amount of the public facility capacity demand attributable to new development and the average cost of additional capital facilities, capital improvements, services and capital equipment needed to provide additional capacity.

5. The impact fees established in ~~this article~~ ~~division~~ are applicable to development submitting building permit applications accepted as complete by the city on or after ~~October 1, 2010~~ ~~[]~~ and are based on the methodology and data presented in the Impact Fees Study prepared by ~~Duncan Associates TisehlerBise, FiscaL, Economic and Planning Consultants~~, dated ~~August 25, 2024~~ ~~April 17, 2007~~, (hereinafter referred to as "impact fees study" ~~—2007~~). The city council hereby adopts and incorporates by reference the impact fees study ~~—2007~~. A copy of the impact fees study ~~—2007~~ was submitted as a part of the record of the public hearings on the ordinance, and a copy of the impact fees study ~~—2007~~ shall be maintained on file in the office of the city clerk.

B. The city council hereby finds and declares that the impact fees imposed herein upon new development ~~as further described below~~, in order to finance public facilities and capital equipment needed to accommodate the demand created by new development are in the best interest of the city and its residents, are equitable, and do not impose an unfair burden on such development. The city council hereby finds and declares that ~~all~~ new development, as defined herein, within the city ~~limits~~ generates an increased demand for system improvements for ~~parks and recreation (including library)~~ facilities, ~~police, general government (including police)~~ facilities, and ~~water/sewer stormwater~~ facilities, and that ~~all~~ new ~~residential~~ development within the city's ~~water and sewer service areas~~ ~~also~~ generates an increased demand for ~~water and sewer~~ facilities, ~~respectively parks and recreation facilities, library facilities and transportation~~. The city council hereby finds and declares that the system improvements to be funded by the impact fees imposed herein will provide benefit to ~~all~~ new development in the areas where the city provides those services.

Sec. 3-1403. - Intent.

This division-chapter is intended to impose impact fees, payable at the time of building permit issuance, in order to fund capital improvements, capital facility capacity, and capital equipment needed to address demand for public facilities attributable to new development. This division-chapter is not intended to authorize imposition of fees related to capital facility or equipment needs attributable to existing development. This division-chapter is intended to allow new development in compliance with the comprehensive plan and to provide a mechanism for new development to help address the burdens created by new development.

Sec. 3-1404. - Authority.

The city council is authorized to establish and adopt an impact fees ordinance-act pursuant to the authority granted by the Florida Impact Fee Act, F.S. section 163.31801, the Florida Constitution, article VII, sections 1(f), 1(g) and 2(b), the Municipal Home Rule Powers Act, F.S. Ch. 166, as amended, the City of North Miami Charter, and the Community Planning Act, as amended. In addition, the Community Planning Act, as amended, encourages the use of innovative land development regulations, including impact fees. The provisions of this division-chapter shall not be construed to limit the power of the city to adopt such ordinance pursuant to any other source of local authority nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with these Land Development Regulations-LDRs.

Sec. 3-1405. - Definitions.

For the purpose of this division-chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicant shall mean the property owner, or duly designated agent of the property owner, of land on which an application for a building permit is submitted and impact fees are due pursuant to this division-chapter, or shall mean the property owner or duly designated agent of the property owner of land identified in a credit agreement pursuant to section 3-1411(e) 3-1410.D where such property owner or agent is responsible for the provision of system improvements.

Appropriation shall mean, for purposes of this division-chapter, funds identified in the capital budget related to a system improvement.

~~Call of service shall mean calls recorded by the police department as "dispatch calls," which require a response by a sworn officer, and may require the filing of a written report by the officer.~~

~~Capacity fees shall mean the portion of the impact fee imposed at building permit issuance for the development's proportionate share of the average cost of water system improvements and sewer system improvements.~~

Capital budget shall mean the city current fiscal year capital budget which is the first year of the five-year capital improvements program plan and which identifies capital projects that are proposed to be initiated in that fiscal year or to receive any changes in funding in that fiscal year.

Capital improvement program plan (CIP) shall mean the city current five-year program of proposed capital improvements, which identifies all capital projects that are proposed to be initiated during the five-year period.

General government facilities services system improvements shall mean system improvements that add capacity to city administrative office space, maintenance facilities, and associated land for all city functions except parks and recreation facilities as herein defined, and capital equipment, parking/garage parking garage space and vehicle fleet for all the departments of the city.

Impact fee shall mean a fee imposed at building permit issuance and calculated based upon a new development's proportionate share of the average cost of system improvements required to accommodate new development.

Impervious cover shall mean surface areas of a parcel of real property that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, excluding such areas within public rights-of-way.

Industrial/warehouse shall mean any of the following:

Industrial - a facility primarily intended for the production or assembly of goods, processing of foods, mining of raw materials, or similar activities. Typical uses include factories, welding shops, wholesale bakeries, and utility plants.

Warehouse - an establishment primarily engaged in the display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Typical uses include wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations and major mail processing centers.

Mini-warehouse - an enclosed storage facility containing independent, fully enclosed bays that are typically leased to persons for storage of their household goods or personal property.

Library system improvement shall mean land, capital improvements, capital facilities and capital equipment that add capacity to the city library system.

Multifamily high rise shall mean any group of fifty (50) or more units occupying a single building site.

Multifamily low rise shall mean one (1) unit attached and any set of units up to nineteen (19) units.

Multi-family mid-rise shall mean any group of twenty (20) to fifty (50) units occupying a single building site a building containing two or more dwelling units, excluding single-family attached (townhome) units. It includes duplexes, apartments, and residential condominiums.

New development shall mean the carrying out of any building activity, or the making of any material change in the use of a structure or land, the installation of a water meter, or the making of

a connection to the sewer system that requires the issuance of a building permit and which generates demand for capital facilities and equipment over and above the previously existing documented use of the structure or land development site, but excluding governmental uses government-owned and operated facilities and de minimis development under section 3-1406.

Nonresidential development shall mean all new development other than residential development and governmental uses, as herein defined, and including, but not limited to, industrial, manufacturing, warehousing, mini warehousing, lodging, schools and daycare, hospital, nursing home, general office, medical dental office, business park, and commercial uses.

Office shall mean a building exclusively containing establishments providing executive, management, administrative, financial, medical or professional services, and which may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, or childcare facilities. It may be the upper floors of a multi-story office building, excluding ground floor retail uses. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, telephone answering, and telephone marketing offices; medical offices and hospitals, emergency care centers, and veterinary clinics; institutions of higher education; technical or trade schools; music, radio and television recording and broadcasting studios; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations. This category does not include an office use within a shopping center or an administrative office that is ancillary to a different primary use of the site.

Owner occupied units shall mean dwelling units for individual sale by a developer and intended for occupancy by an owner as owner's principal or primary residence or homestead, as opposed to rental residential development.

Parks and recreation system improvement facilities shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to the city wide park system parks and library facilities, related administrative space and maintenance and storage facilities, community centers, swimming pools, gymnasiums, tennis courts, ballfields, and similar recreational improvements and associated land, or public pools/gymnasiums. City wide parks include those parks that have capital improvements that draw patrons from the entire geographic area of the city, including but not limited to, ball fields used for league play, swimming pools and buildings used for recreation programs.

Police system improvement shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to the city police system.

Retail/commercial shall mean a shopping center or a free-standing retail or commercial use. A shopping center shall mean an integrated group of commercial establishments planned, developed, owned or managed as a unit. A retail or commercial use shall mean the use of a building or structure primarily for the sale to the public of services, goods, or foods that have not been made, assembled or otherwise changed in ways generally associated with manufacturing or basic food processing in the same building or structure. This category includes, but is not limited to, all uses located in shopping centers and the following typical types of free-standing uses: amusement park, bank, bar, camera shop, car wash, convenience store, department store, discount store, florist shop, golf

course or driving range, health or fitness club, hobby, toy and game shop, hotel or motel, laundromat, laundry or dry cleaning, lawn and garden supply store, marina, massage establishment, movie theater, music store, newsstand, racetrack, recreation facility, restaurant, service station, specialty retail shop, used merchandise store, variety store, and vehicle and equipment rental.

Sewer system improvement facilities shall mean land, capital improvements, capital facilities and capital equipment that add capacity to the city's sewer treatment and collection and conveyance system and associated improvement and land, but excluding gravity lines and force mains less than 16 inches in diameter and associated improvements and land.

Single-family detached/attached shall mean a building containing only one dwelling-detached one (1) unit dwellings, or one of multiple units attached on one or both sides to other units and separated by a wall that separates the units from the ground through the roof, also referred to as a townhome.

Stormwater facilities shall mean the city system of flood prevention and mitigation and associated land and improvements, including but not limited to pumps, storm drains, auger wells, catch basins, and french drains.

System improvements shall mean improvements that expand the capacity of a set of improvements for a particular public facility type, if such capacity can be quantified, or otherwise enhance the ability of such systems to provide the same level of service to new development as is currently provided to existing development. System improvements do not include the replacement, repair, rehabilitation, or maintenance of existing facilities.

Transportation system improvement shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to the city's bike path, pedestrian and transit system.

Water system improvements facilities shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to the city's water supply, treatment/distribution, and distribution system, including associated improvements and land, but excluding water lines less than 16 inches in diameter and associated improvements and land.

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

This division article shall be uniformly applicable to all new development within the city limits for parks and recreation, general government, and stormwater facilities, new or enlarged capacity connections to the city water system for water facilities, and new or enlarged capacity connections to the city sewer system for sewer facilities. It shall not be applicable to any government-owned and operated facility, and the appropriate impact fees shall be collected prior to issuance of a building permit, except where a building permit is issued for:

A. Additions, remodels, rehabilitation or other improvements to an existing structure and reconstruction of a demolished structure which results in no net increase in the number of residential dwelling units for residential structures.

B. Any development which is government owned and operated facility.

Sec. 3-1407. - Imposition of impact fees.

Fees: Impact fees are hereby levied on all new development imposed pursuant to this division, as set forth in the following fee schedules, and as included in the Impact Fee Schedule that may be adjusted by the city council from time to time.

Parks and recreation, general government, and water impact fees shall be phased in over four years, starting at 25% of the maximum updated fees calculated in the impact fee study in year 1, then increasing to 50% in year 2, 75% in year 3, and 100% in year 4, rounded to the nearest dollar. The year 1 fees will be assessed on the effective date of this ordinance, and fees for subsequent years will be assessed beginning one year from the date the fees for the previous year began being assessed.

The impact fees for water and sewer shall be assessed at 100% of the maximum updated fees calculated in the impact fee study on the effective date of this ordinance.

A. Parks and recreation impact fee schedule.

<u>Land Use Type</u>	<u>Unit</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
Single Family Det./Att.	<u>Dwelling</u>	\$2,937	\$4,112	\$4,993	\$5,874
Multi-Family	<u>Dwelling</u>	\$1,986	\$2,780	\$3,375	\$3,971

B. General government impact fee schedule.

<u>Land Use Type</u>	<u>Unit</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
Single Family Det./Att.	<u>Dwelling</u>	\$1,329	\$1,860	\$2,258	\$2,657
Multi-Family	<u>Dwelling</u>	\$919	\$1,287	\$1,562	\$1,838
Retail/Commercial	<u>1,000 sq. ft.</u>	\$2,214	\$3,100	\$3,764	\$4,428
Office	<u>1,000 sq. ft.</u>	\$1,279	\$1,790	\$2,173	\$2,557
Industrial/Warehouse	<u>1,000 sq. ft.</u>	\$201	\$281	\$341	\$401
Public/Institutional	<u>1,000 sq. ft.</u>	\$677	\$948	\$1,151	\$1,354

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C. Water impact fee schedule.

<u>Water Meter Size</u>	<u>Meter Type</u>	<u>Fee/Meter Year 1</u>	<u>Fee/Meter Year 2</u>	<u>Fee/Meter Year 3</u>	<u>Fee/Meter Year 4</u>
3/4"	Disc	\$4,532	\$6,344	\$7,704	\$9,063
1"	Disc	\$7,568	\$10,595	\$12,865	\$15,135
1.5"	Disc	\$15,090	\$21,125	\$25,652	\$30,179
2"	Disc	\$24,153	\$33,814	\$41,059	\$48,305
1.5"	Turbine	\$48,350	\$67,690	\$82,195	\$96,700
2"	Turbine	\$60,404	\$84,565	\$102,686	\$120,807
3"	Turbine	\$135,942	\$190,319	\$231,101	\$271,884
4"	Turbine	\$302,109	\$422,952	\$513,584	\$604,217
5"	Turbine	\$422,916	\$592,082	\$718,956	\$845,831
6"	Turbine	\$604,172	\$845,840	\$1,027,092	\$1,208,343
8"	Turbine	\$1,057,312	\$1,480,236	\$1,797,430	\$2,114,623

D. Sewer impact fee schedule.

<u>Water Meter Size</u>	<u>Meter Type</u>	<u>Fee per Meter</u>
3/4"	Non-Turbine	\$1,768
1"	Non-Turbine	\$2,953
1.5"	Non-Turbine	\$5,887
2"	Non-Turbine	\$9,423
1.5"	Turbine	\$18,865
2"	Turbine	\$23,567
3"	Turbine	\$53,040
4"	Turbine	\$117,873
5"	Turbine	\$165,007
6"	Turbine	\$235,727
8"	Turbine	\$412,527

E. Stormwater impact fee schedule.

Fee per square foot of impervious cover: \$0.78

~~B. Capacity fees for water system improvements and sewer system improvements shall be levied pursuant to the schedule set forth in chapter 19, article III, division 4, section 19-98, "Water and sewer capacity fees," in the City Code.~~

~~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 authority to amend this chapter at any time.

C. 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. 3-1408. - Administration of impact and mobility fees.

A. *Collection of impact and mobility fees.* Impact fees due pursuant to this division these LDRs and mobility fees due pursuant to division 15 shall be collected by the office of building services department prior to issuance of a building permit.

1. Upon receipt and acceptance of a complete application for a building permit for a new development, the building services office department shall determine the amount of the impact fee or mobility fee due.
2. The building services office department shall determine whether or not the development is exempted for the levying of impact or mobility fees.
3. The city manager shall determine whether or not the development is entitled to any credits for the impact or mobility fees as set forth herein.
4. In the case of development activity involving a change from an existing development or use or previously existing development or use on the site, the impact or mobility fee shall be the difference between the computed fee for the proposed development activity and the computed fee for the existing development activity as defined above. No refunds will be given for proposed development activity resulting in a negative fee calculation.

B. *Transfer of funds to finance department.* Upon receipt of impact and mobility fees, the building services office department shall transfer such funds to the city finance department which shall be

responsible for placement of such funds into the appropriate separate accounts by facility type of impact fee. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account. The funds of these accounts shall not be commingled with other funds or revenues of the city.

C. *Establishment and maintenance of accounts.* The city finance department shall establish separate accounts and maintain records for each such account, whereby impact and mobility fees collected are segregated by type of impact fee. A separate account shall be maintained for each type of impact fee and the mobility fee, as follows: Police impact fees; general government impact fees; transportation impact fees; parks and recreation impact fees; and library impact fees. The city shall use its best efforts to appropriate and expend those funds within the appropriate funds.

D. *Maintenance of records.* The city finance department shall maintain and keep adequate financial records for each such account which shall show the source and disbursement of all revenues, which shall account for all moneys received, including revenue by building permit, and which shall document and ensure that the disbursement of funds from each account shall be used solely and exclusively in accordance with provisions of this section chapter. For purposes of petitions for refunds under section 3-1410.C of this division chapter, the expenditure and appropriation of impact fees or mobility fees shall be deemed to occur in the same sequential order as the collection of impact fees or mobility fees, in other words, the first fee in shall be the first fee out.

E. *Impact or mobility fee expenditures.* Impact fees or mobility fees collected pursuant to this chapter shall be expended only for the type of system improvements for which the impact or mobility fee was imposed. Impact fees shall not be expended to eliminate any deficiencies in facilities, land or equipment that may result from adoption of an increased level of services.

Sec. 3-1409. - Administrative fees.

Expenses to be incurred by the city in connection with the administration of the development impact fee ordinance and the mobility fee ordinance in division 15 of this article have been estimated and budgeted and have been determined to be of benefit to the properties therein and shall be reimbursed to impact fee administration fund of the city out of the revenues accruing assessed through the imposition of a service charge in the amount of three (3) percent of the impact or mobility fee due. The nonrefundable service charges are in addition to and shall be paid separately from the impact or mobility fees but shall be payable at the time of application for the building permit and shall be for the sole purpose of defraying expenses as provided herein.

Sec. 3-1410. - Administrative procedures for petitions for impact and mobility fees determinations, refunds, credits and deferrals.

A. Petition process.

1. Petitions for an impact or mobility fee determination, refund of impact fees, and/or credit against impact or mobility fees, deferral of fee payment, or independent fee study shall be submitted using the petition process, requirements and time limits provided herein. All petition

requests except petitions for refunds under subsection ~~(e)~~ 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. 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 division 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 a 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 or mobility 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 or mobility 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 or mobility fees, may petition the city manager for a determination that the amount of the impact or mobility fees imposed on the new development is inappropriate based on ~~any or all of the following factors~~ the specific land use category or water meter size and type applied to the 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 or mobility 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(as), a detailed statement by a qualified professional engineer, planner or other appropriate professional, and, if filed after payment of impact or mobility fees, a dated receipt for payment of the impact or mobility fees issued by the city's building services office-department. Failure to timely file a petition for impact or mobility fee determination shall waive any right to review or recalculation to decrease the impact or mobility fee payment.

C. *Petitions for refund of impact or mobility fees.*

1. The current owner of property on which an impact or mobility 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 ~~ten (10), five (5)~~ years of the date of payment of the impact or mobility fee, or if the building permit for which the impact or mobility fee has been paid has lapsed for non-commencement of construction, or if the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact or mobility 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 or mobility 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 notarized 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 or mobility fee issued by the city's building services office-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 or mobility fees.*

1. Any applicant as defined in this division-article who elects to construct or dedicate all or a portion of a system improvement as defined in this division-article, or who escrows money with the city for the construction of a system improvement shall, if all criteria in this article ~~and this~~

subsection E.D are fulfilled, be granted a credit for such contribution against the impact or mobility 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 the proposed schedule for completion of any construction/dedications identified identification of the 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 but not limited to~~ the land use type(s), number of units/gross floor area, anticipated development schedule, and legal descriptions of the subject property. Any and all system 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 subsection D. 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 or mobility fee credits shall waive any right to impact fee such credits.

2. A credit shall be granted and the amount of the credit shall be determined by the city manager, in his 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 be 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 or mobility 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 or mobility 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 of improvements and the value of any dedicated land ~~or methodology to determine the value of any dedicated land. The agreement shall describe~~ the obligations and responsibilities of the applicant and the city, 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 for use of credits; and
- h. Timing of ~~payments~~ actions by the city.

4. No ~~impact or mobility~~ 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~~ allow the use of ~~impact or mobility~~ fee credits instead of fee payment 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 or mobility~~ 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.

5. Any excess approved credit beyond the current impact or mobility fees that would be required for the proposed development may be transferred to other developments that benefit from the dedications or improvements for which the credit was provided. Any such transfer of credits must be registered with and approved by the development services department.

6. In the event that the impact fees are increased after the date of the credit agreement, the amount of the remaining credits shall be increased as necessary to ensure that the credit holder receives the full benefit of the intensity or density repaid by the credit when it was first established. To implement this requirement of the Florida impact fee act, the city shall use the following procedures.

a. For credit agreements established after the effective date of this ordinance, the city shall compute weighted average percentage increases based on the mix of remaining land use types for the parks and recreation impact fees, general government impact fees, and mobility fees and apply those percentages to any outstanding credit balances for these three facility types. Outstanding credit balances for water and sewer impact fees shall be increased by the weighted average increases derived from the mix of remaining water meter sizes/types for the original proposed development, and outstanding credit balances for stormwater impact fees shall be increased by the percentage increase in the fee per square foot of impervious cover.

b. For credit agreements established before the effective date of this ordinance, a comparable procedure shall be used for parks and recreation and general government impact fee credits. A comparable procedure shall also be used for water and sewer impact fee credits where a weighted average percentage increase can be determined, but this will generally only be possible where the remaining mix of land uses consists exclusively of individually-metered housing types or land uses that will all require the smallest meter size.

c. Any adjustments to the amount of outstanding credit balances shall be made within thirty (30) days of the effective date of any fee increases.

E. *Deferral of impact or mobility 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 or mobility fees due on affordable housing and workforce housing dwelling units developed within the City. The city shall require, under the program, a covenant running with the land covering the assignment of affordable and workforce housing, annual reporting due prior to September 30th, and any other requirements deemed necessary or appropriate for participation in the affordable housing and workforce housing impact or mobility 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 or mobility 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 or mobility 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 thirty (30) years and 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 or mobility fees will be due to the city in their entirety.

4. ~~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.~~

F. Independent fee study.

1. The feepayer may elect, prior to paying the impact or mobility fees from the fee schedules, to utilize an independent fee study prepared by a qualified professional for one or more of the applicable fees. The feepayer shall provide the city manager notice of intent to utilize an independent fee computation study prior to the issuance of any building permit on the property for which the fee is due. Nothing in this section shall allow a building permit for development activity to be issued without the payment of the applicable impact or mobility fees.

2. If the feepayer elects to utilize an independent fee study, the feepayer shall, at his or her own expense, prepare and present to the city manager, a study that documents the basis upon which the value of each of the components of the fee formula were determined. The burden shall be upon the feepayer to provide the data, analysis, and reports necessary for the city manager or his or her designee to make a determination. The analysis and report must be based on the same methodology set forth in the impact fee or mobility fee study.

3. The city manager shall determine whether the independent fee computation study accomplishes the following:

(a) Adheres to the impact or mobility fee methodology used in the impact or mobility fee study;

(b) Ensures the inputs to the calculation reasonably reflect the long-term impacts (20 years or more) of the development, rather than unique characteristics of the proposed initial occupant or use;

(c) Provides complete, thorough, and accurate information; and

(d) Is prepared by a qualified professional.

4. Upon approval of the independent fee computation study by the city manager based upon a determination that the conditions described above have been fully met, the feepayer shall pay the amount of the fee so computed and be entitled to a refund of any amount previously paid in excess thereof.

Sec. 3-1411. - Appeal to zoning appeals board.

A. A petition determination by the city manager shall be final unless a written notice of appeal to the zoning appeals board is filed with the ~~community planning and development services~~ director within thirty (30) days of the date the written determination by the city manager is filed with the city clerk, 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 ~~community planning and~~ development services director 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 zoning appeals board 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 zoning appeals board 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 building official no later than thirty (30) days prior to the hearing date. If any material is submitted after that date, the zoning appeals board 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 zoning appeals board 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 ~~division article~~. The appeal shall be heard by the zoning appeals board not more than ninety (90) days after the appeal is filed by the appellant. The hearing before the zoning appeals board shall be de novo.

Sec. 3-1412. - Judicial review.

Any request for review of a decision by the zoning appeals board under this article shall be made by filing an appeal within thirty (30) days of such decision being filed with the city clerk, with the circuit court in accordance with the Florida Rules of Appellate Procedure.

Sec. 3-1413. - Effect of impact fee on planning, zoning, subdivision, and other regulations.

This ~~division article~~ shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements or any other aspect of the development of land or provision of public improvements subject to the city comprehensive plan, zoning regulations, subdivisions regulations, or other regulations of the city, all of which shall be operative and remain in full force and effect without limitation with respect to all such development.

Sec. 3-1414. - Impact fees as additional and supplemental requirement.

The payment of impact fees imposed pursuant to this ~~division article~~ is additional and supplemental, and not in substitution, to any other requirements imposed by the city on the development of land or the issuance of building permits. It is intended to be consistent with and to further the objectives and policies of the comprehensive plan, the land development regulations, and to be coordinated with the city's capital improvement program, and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of public facility improvements in conjunction with the development of land. In no event shall a property owner be required to pay impact fees for the same improvements in an amount in excess of the amount calculated pursuant to ~~this division~~ the chapter, provided, however, that a property owner may be

required to provide or pay, pursuant to Miami-Dade County, state and/or city ordinances, policies or regulations, for public facility improvements in addition to payment of impact fees pursuant to this division-article. Nothing in this division-article shall be construed as a guarantee of adequate public facilities at the time of development of any particular property.

Sec. 3-1415. - Alternative collection method.

In the event that the appropriate amount of impact fees due pursuant to this division-chapter are not paid prior to the issuance of a building permit, the city may elect to collect the impact fees due by any other method, which is authorized by law.

* * * * *

Section 5. Repeal. All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

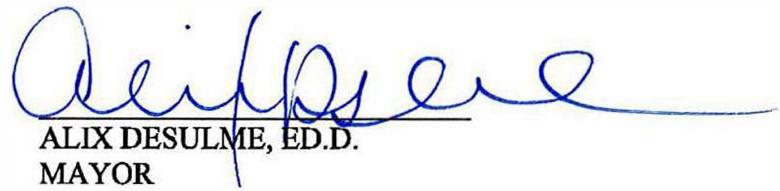
Section 7. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, 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 8. 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 9. Effective Date. Sections 1 and 2 of this Ordinance shall become effective immediately following City Council approval. All other sections shall not become effective until ninety (90) days after public notice is given of adoption by the Mayor and City Council.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 12th day of November, 2024.

PASSED AND ADOPTED by a 4 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 26th day of November, 2024.



ALIX DESULME, ED.D.
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFFREY H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Estime-Irvin

Seconded by: Galvin

Vote:

Mayor Alix Desulme, Ed.D.
Vice-Mayor Mary Estimé-Irvin
Councilman Scott Galvin
Councilwoman Kassandra Timothe, MPA
Councilman Pierre Frantz Charles, M.Ed.

<u>X</u>	(Yes)	(No)
<u>X</u>	(Yes)	(No)
<u>X</u>	(Yes)	(No)
	(Yes)	(No)
<u>X</u>	(Yes)	(No)

Absent