

ORDINANCE NO. 2015- XX

AN ORDINANCE OF THE MAYOR AND COUNCIL AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER XXIV "ZONING AND LAND DEVELOPMENT", ARTICLE XV "OTHER DEVELOPMENT REVIEW PROCEDURES", SECTION 24-170 "RESERVED" AND SECTION 24-180 "DENIALS, NOTICES, AND FEES" TO REQUIRE THAT CHARGES INCURRED BY THE CITY FOR CONSULTANTS NECESSARY FOR REVIEW OF ANY ZONING APPLICATION BE PAID BY THE APPLICANT IN ACCORDANCE WITH THE ACTUAL HOURLY RATES AND IN ADDITION TO ANY OTHER APPLICATION FEES REQUIRED BY LAW; PROVIDING THAT THE APPLICANT SHALL REIMBURSE THE CITY FOR THE COST OF CONSULTANT SERVICES UPON SUBMISSION OF A VOUCHER; PROVIDING FOR THE ESTABLISHMENT OF AN ESCROW ACCOUNT FROM WHICH WITHDRAWALS MAY BE MADE TO REIMBURSE THE CITY FOR THE PROFESSIONAL REVIEW SERVICES; PROVIDING THAT THE BALANCE IN THE ESCROW ACCOUNT, WHEN REDUCED TO ONE-THIRD OF THE INITIAL AMOUNT, SHALL BE REPLENISHED BY THE APPLICANT AND THAT THE CITY MAY SUSPEND REVIEW OF THE APPLICATION FOR FAILURE TO REPLENISH THE ESCROW ACCOUNT; AND FURTHER PROVIDING THAT A BUILDING PERMIT OR CERTIFICATE OF USE AND OCCUPANCY SHALL NOT BE ISSUED UNLESS ALL PROFESSIONAL REVIEW FEES CHARGED IN CONNECTION WITH THE APPLICANT'S PROJECT HAVE BEEN REIMBURSED; PROVIDING THAT ALL FEES REQUIRED UNDER THIS ORDINANCE SHALL BE COLLECTED BY THE CITY MANAGER OR DESIGNEE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, from time to time it is necessary for the City of North Miami Beach to retain independent consultants in connection with zoning applications, including engineering, traffic, planning, legal, technical, environmental, or professional(s) in order to assess and make a recommendation on the applications; and

WHEREAS, the City should be reimbursed for the actual charges for such services, provided it maintains a separate escrow account for these amounts; and

WHEREAS, these fees are in addition to any and all other fees required by any other law, rule, or regulation of the City Code; and

WHEREAS, the City's Planning and Zoning Board, as the Local Planning Agency, held a duly noticed public hearing on October 19, 2015, and reviewed the proposed amendment for consistency with the City of North Miami Beach's Comprehensive Plan, and recommends approval by a vote of __ to __ ; and

WHEREAS, the City Council believes the proposed amendment is consistent with the North Miami Beach Comprehensive Plan and is in the best interests of the City.

NOW THEREFORE, BE IT ORDAINED by the City Council of the city of North Miami Beach, Florida, as follows:

Section 1. The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. The City Council of the City of North Miami Beach, Florida Zoning and Land Development Code is amended as follows:

Chapter XXIV Zoning And Land Development

Article XV Other Development Review Procedures

Sec. 24-170 - ~~Reserved.~~ Cost Recovery for Consulting Services.

- A) Established. The City Manager or designee in the review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or environmental consultant or professional(s) retained by the City as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the City and such consultant. Charges made by the City shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid on submission of a City voucher. The applicant shall reimburse the City for the cost of such consultant or employed professional services upon submission of a copy of the voucher and within thirty (30) days of submission of a copy of the voucher. These fees are in addition to any and all other fees required by other law, rule, or regulation of the City code.

- B) Escrow Accounts. At the time of submission of any application or thereafter, the City Manager or designee based on his/her evaluation of the nature and complexity of the application, may require an escrow account be established. The applicant shall then provide funds to the City for deposit into the account, in an amount determined by the City Manager or designee. Withdrawals from that account shall be made to reimburse the City for the cost of professional review services. The applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in the escrow account is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds to bring the balance up to the amount of the initial deposit. If the account is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement for such additional deposit, the City may suspend its review of the application. An application shall be deemed incomplete if any amount is outstanding. A building permit or certificate of use and occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. Once all pertinent charges have been paid, the City shall refund to the applicant any funds remaining on deposit.
- C) Collection of Fees. All fees required pursuant to this chapter shall be collected by the City Manager or designee.

Sec. 24-180 - Denials, Notices and Fees.

- (C) Filing Fees. All applications shall be accompanied by an official filing fee which shall be used to defray expenses for administration, notices and advertisements, additional fees may be required pursuant to Section 24-170. The fees are specified in the Land Development Fee Schedule which is Appendix A of this Chapter.

Section 3. It is the intention of the City Council of the City of North Miami Beach 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 of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and word "Ordinance" may be changed to "Section," "Article" or other appropriate word as the codifier may deem fit.

Section 4. Repealer. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 5 Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be

affected by such invalidity.

Section 6. Effective Date. This Ordinance shall become effective ten days after adoption on second reading.

APPROVED BY TITLE-ONLY on first reading this XXst day of August, 2015.

APPROVED AND ADOPTED on second reading this ____ day of _____, 2015.

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

JOSE SMITH
CITY ATTORNEY

SPONSORED BY: