

ORDINANCE NO. 2012-02

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS, UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; BY AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of Florida Law; and

WHEREAS, the City's Cost Recovery Program and related deposit schedule were adopted in 2009 prior to the significant downturn in the economy; and

WHEREAS, the changes in the economic climate have created development activity, scenarios and scales very different from those anticipated in 2009; and

WHEREAS, implementation over the past several years has identified areas of the Cost Recovery Program that need clarification; and

WHEREAS, the City Commission desires to amend the Cost Recovery Program to provide clarity and applicability to the current economic and development environment; and

WHEREAS, the City Commission desires to consolidate development fees, the Cost Recovery Program, and all related procedures into a single section of the City Code to simply implementation and eliminate duplication; and

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at a duly advertised public hearing and recommended approval of the Ordinance; and

WHEREAS, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. City Code Amended. That Chapter 152 "Zoning", of the City of North Bay Village Code of Ordinances is hereby amended to read as follows:¹

Chapter 152 ZONING

* * *

§ 152.105 - Permits, plans, models and specifications fees.

* * *

(D) *Filing fees.*

(1) All persons, firms, or corporations petitioning the Planning and Zoning Board, the City Commission, and the City Administration to process special requests shall be required to pay in advance all fees and expenses necessitating the public notification a in the newspaper, and notices to property owners as provided in this Chapter. ~~The fees are set forth in Appendix A following this chapter.~~

¹ Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

(2) All persons, firms, or corporations applying for permits under the provisions of these regulations or amendments thereto, variances from these regulations, special use exceptions as required by these regulations in certain instances, or a change in the classification of a district or a portion thereof shall be required to pay in advance for all expenses relative thereto, in accordance with fee schedules adopted by the City Commission. Permits for signs and other fees shall be in accordance with fee schedules established by the City Manager.

(3) The payment of such money in advance to the City Clerk shall be a condition precedent to the consideration of such petition, permit, or amendment.

* * *

FEES AND COSTS

§ 152.110 – Filing Fees and Cost Recovery. Charges for consultant services established.

A. Consultants.

1. The city manager and/or his/her designee ~~in~~ as part of the review of any development building and zoning application presented to the city, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) consultants employed or retained by the city (“Consultant(s)”) as the manager shall deem reasonably necessary to enable him/her to review such application as required by law.
2. Charges made by such eConsultants shall be made in accordance 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~~ the eConsultant.
3. ~~Charges made by the city shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid upon submission of a city voucher.~~ The Consultant’s services shall be charged at the hourly rates specified in the particular Consultant’s agreement with the City. The City shall provide the applicant with a copy of the Consultant’s invoice for any services charged against the applicant’s Cost Recovery Deposit.

B. Cost Recovery Established.

1. The applicant shall reimburse the city for the actual cost of ~~such~~ Consultant or employed professional review services ~~within thirty (30) days of receipt of a voucher from the city upon submission by the consultant pursuant to the Cost Recovery Procedures and requirements of subsection C below.~~

2. Payment in full by the applicant to the City of the City's actual expenditures for review of the application ~~Such reimbursement shall be a written condition of the any development order, zoning resolution.~~ These cost recovery deposits fees shall be in addition to any and all other fees required by law, rule, or regulation of the City Code.

§ 152.110.01 - Escrow account.

CA. Cost Recovery Procedures

1. At the time of submission of any application for development approval, or thereafter, the applicant shall pay the minimum Cost Recovery Deposit fee outlined in the Development Approval Fee and Cost Recovery Deposit Schedule ~~recovery cost schedule for planning and zoning services set forth in this section herein,~~ which funds shall be deposited into an a Cost Recovery Escrow Account established for this purpose. Withdrawals shall be made to reimburse the city for the cost of Consultant professional review services.
2. ~~The applicant shall be provided with copies of any city voucher for such services as they are submitted to the city. The City shall provide the applicant with a copy of the Consultant's invoice for any services charged against the applicant's Cost Recovery Escrow Account.~~
3. When the balance in the City's Cost Recovery Escrow Account such escrow is reduced to one-half (1/2) one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such amount is not replenished within thirty (30) calendar days after the applicant is notified, in writing, of the requirement of such additional deposit, the city may shall suspend its review of the application. An and the application shall be deemed withdrawn incomplete if any amount shall be outstanding.
4. If an application is suspended due to nonpayment of the additional escrow deposit specified in subsection 3, a Resubmission Fee shall be paid and the Cost Recovery Deposit shall be replenished to a minimum of one-half (1/2) of the original deposit amount before the application will be reviewed.
5. Prior to the scheduling or noticing of any Board or Commission hearing, the city manager's review of the application shall be complete and the Cost Recovery Escrow Account balance shall be replenished to equal at least one-half (1/2) of the initial deposit amount. A building permit or certificate of 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.

~~Recovery costs of administrative review and processing for each category of application:~~

~~Land Use Plan Amendment\$15,000.00~~

~~Rezoning10,000.00~~

~~Site Plan Review (conditional uses, variances10,000.00~~

~~Site Plan Modification (no Commission review)4,000.00~~

~~Unusual and New Uses10,000.00~~

~~Special Use Exception10,000.00~~

~~Request for encroachments, variances, etc. single family2,500.00~~

~~Plat10,000.00~~

~~Waiver of Plat3,000.00~~

~~Appeals of Administrative Decisions3,000.00~~

~~Temporary Uses (except garage sales) bond required2,500.00~~

~~The City shall be reimbursed for Planning and Zoning services not categorized herein under this schedule in accordance with Appendix A. of the City Code.~~

D. Review of Consultant's Charges

Upon a determination by the City Manager or his/her designee that there has been a miscalculation concerning a Consultant's fees, the city manager or his/her designee is authorized to review the charges and issue a credit or refund a portion of the Cost Recovery Deposit.

E. Schedule of fees and cost recovery deposits.

No new development application shall be accepted and no building permit or certificate of occupancy shall be issued for any property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full. All fees and Cost Recovery Deposits shall be paid according to the *Development Approval Fee and Cost Recovery Deposit Schedule* below:

Development Approval Fee and Cost Recovery Deposit Schedule

| <u>Type of Request</u> | <u>Filing Fee</u> | <u>Cost Recovery Deposit *</u> |
|--|-----------------------------------|--------------------------------|
| <u>Land Use Plan Map/Comprehensive Plan Text Amendment</u> | <u>\$2,000.00</u> | <u>\$10,000.00</u> |
| <u>Rezoning or Code Text Amendment</u> | <u>\$2,000.00</u> | <u>\$10,000.00</u> |
| <u>Site Plan Review</u> | | |
| <u>Residential - 1 unit, Existing Commercial</u> | <u>\$1,000.00</u> | <u>\$2,000.00</u> |
| <u>Residential over 1 unit, New Commercial (BASE + SIZE/UNIT FEES)</u> | <u>\$1,000.00 BASE</u> | <u>\$6,000.00</u> |
| <u>SIZE/UNIT FEES</u> | | |
| <u>Size of Building (non-residential, square feet) Fee</u> | | |
| <u>399 and under</u> | <u>\$700.00</u> | |
| <u>400 – 19,999</u> | <u>\$1,100.00</u> | |
| <u>20,000 – 99,999</u> | <u>\$2,500.00</u> | |
| <u>100,000 and over</u> | <u>\$3,500.00</u> | |
| <u>Number of Units (residential) Fee</u> | | |
| <u>2 – 19</u> | <u>\$900.00</u> | |
| <u>20 – 100</u> | <u>\$1,500.00</u> | |
| <u>101 – 199</u> | <u>\$2,500.00</u> | |
| <u>200 and over</u> | <u>\$3,500.00</u> | |
| <u>Site Plan Modification (No Commission review)</u> | | |
| <u>Residential - 1 unit, Existing Commercial</u> | <u>\$600.00</u> | <u>\$1,000.00</u> |
| <u>Residential over 1 unit, New Commercial</u> | <u>\$600.00</u> | <u>\$4,000.00</u> |
| <u>Site Plan Modification (Commission review)</u> | | |
| <u>Residential - 1 unit, Existing Commercial</u> | <u>\$1,000.00</u> | <u>\$2,000.00</u> |
| <u>Residential over 1 unit, New Commercial</u> | <u>\$1,000.00</u> | <u>\$6,000.00</u> |
| <u>Site Plan Renewal</u> | | |
| <u>Residential - 1 unit, Existing Commercial</u> | <u>50% of original filing fee</u> | <u>\$1,000.00</u> |
| <u>Residential over 1 unit, New Commercial</u> | <u>50% of original filing fee</u> | <u>\$2,000.00</u> |

| | | |
|--|-----------------------|--------------------|
| Dock Waiver | <u>\$300.00</u> | |
| Alcohol Variance | <u>\$600.00</u> | |
| Variances | <u>(per variance)</u> | |
| Residential – 1 unit Non-Use Variances | <u>\$100.00</u> | |
| Residential - 1 unit, Existing Commercial | <u>\$200.00</u> | <u>\$1,000.00</u> |
| Residential over 1 unit, New Commercial | <u>\$600.00</u> | <u>\$2,000.00</u> |
| Sign Variance | <u>\$600.00</u> | |
| Special Use Exception | | |
| Residential - 1 unit, Existing Commercial | <u>\$600.00</u> | <u>\$2,000.00</u> |
| Residential over 1 unit, New Commercial | <u>\$600.00</u> | <u>\$4,000.00</u> |
| Conditional Use | | |
| Residential - 1 unit, Existing Commercial | <u>\$600.00</u> | <u>\$2,000.00</u> |
| Residential over 1 unit, New Commercial | <u>\$600.00</u> | <u>\$4,000.00</u> |
| Unusual and New Uses | <u>\$600.00</u> | <u>\$4,000.00</u> |
| Plat | <u>\$1,000.00</u> | <u>\$10,000.00</u> |
| Waiver of Plat | <u>\$1,000.00</u> | <u>\$4,000.00</u> |
| Appeals of Administrative Decision | <u>\$600.00</u> | <u>\$2,000.00</u> |
| * The applicant is responsible for the actual cost of professional review services including but not limited to: engineering, planning, legal, technical, environmental, etc. These review costs shall be deducted from the Cost Recovery Deposit. Depending on the level of expenses, the applicant shall be required to replenish the Cost Recovery Deposit (Section 155.110 C.3.) or if the Cost Recovery Deposit is not entirely expended, the remaining balance will be refunded to the applicant (Section 155.110 I.). | | |

Note: In addition to application fees and cost recovery deposits, advertising and mailing costs shall be paid by the applicant separately.

F. Additional review fees.

The following fees are required as part of the review process in addition to required filing fees and Cost Recovery Deposits:

- (1) advertising; and
- (2) mailing costs.

G. Subsequent review and Resubmission fees.

- (1) A Resubmission Fee shall be required to be submitted by the applicant as specified in this Section.
- (2) If an application is deemed incomplete, is withdrawn prior to the hearing by the Board or Commission, is deemed withdrawn for failure to respond to a request for information necessary for review, or suspended for nonpayment of required additional cost recovery fees within the required timeframe, any subsequent submission shall be accompanied by a Resubmission Fee of 50 percent of the original application filing fee.
- (3) Should the project be substantially changed or modified so that, in the opinion of the City Manager or his/her designee it represents a new project on the same property, the Resubmission Fee shall be equal to the original filing fee appropriate to the particular project.
- (4) If the applicant is required to resubmit plans or supplement the application after the City's initial review, in addition to any required additional Cost Recovery Deposits, any resubmittal shall be accompanied by a minimum review fee of \$100.00.

H. Minimum review fee.

The minimum fee for application and plan review shall be no less than \$100.00.

I. Refund.

- (1) Fees. All fees shall be deemed nonrefundable unless the refund request has been received prior to administrative review or public advertisement.

(2) Cost Recovery Escrow Account. Upon final approval or denial of an application, expiration of any applicable appeal period, and payment of all consultant charges, the city shall refund to the applicant any funds remaining in the Cost Recovery Escrow Account.

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Section 3. City Code Amended. That APPENDIX A of Chapter 152 "Zoning", of the City of North Bay Village Code of Ordinances is hereby deleted in its entirety.

Section 4. Consolidated Land Development Regulations Amended. That Appendix F of the Consolidated Land Development Regulations is hereby deleted in its entirety.

Section 5. Consolidated Land Development Regulations Amended. That Section 2.7.2 of the Consolidated Land Development Regulations is hereby amended to read as follows:²

§ 2.7.2 - Basic application requirements.

Fifteen copies of the following basic materials shall be submitted together with all required filing fees and deposits required by Section 152.110 of the City Code of Ordinances, before any application for a development order shall be considered complete.

(1) The city's standard application forms, completed, signed by all property owners or their designated agents, and notarized. In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.

(2) A survey at a scale of not less than one inch equals 40 feet, prepared by a registered land survey and not more than one year old and including the legal description of the property, all easements, and rights-of-way.

(3) Site plan, except for single-family residence, and to include physical features in or adjoining the site, proposed driveways, alleys, off street parking and loading areas, storm drainage, sanitary sewer facilities, and lighting systems.

(4) Preliminary floor plans and elevations of proposed buildings at not less than 1/16 inch scale.

² Additions to existing text are shown by underline; deletions from existing text are shown by ~~strikethrough~~.

(5) Location, height, and type of all proposed buildings, walls, signs, landscaping, and open space.

(6) Tabular project summary including total acreage, project density and FAR lot coverage, open space, and number of parking spaces. If variances are being requested, the extent of these variances from requirements shall be noted.

(7) Level of service assessment (see chapter 4).

~~(8) Filing fees. See Appendix F for copy of fee schedule.~~

Section 6. **Repeal.** That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 7. **Severability.** That 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 effect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 8. **Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 9. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by Commissioner Blumberg, seconded by Commissioner Richard Chervony.

THE VOTES WERE AS FOLLOW:

| | |
|-------------------------------|---------------|
| Mayor Connie Leon-Kreps | <u>Yes</u> |
| Vice Mayor Eddie Lim | <u>Yes</u> |
| Commissioner Blumberg | <u>Yes</u> |
| Commissioner Richard Chervony | <u>Yes</u> |
| Commissioner Paul Vogel | <u>Absent</u> |

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this 13th day of March 2012.

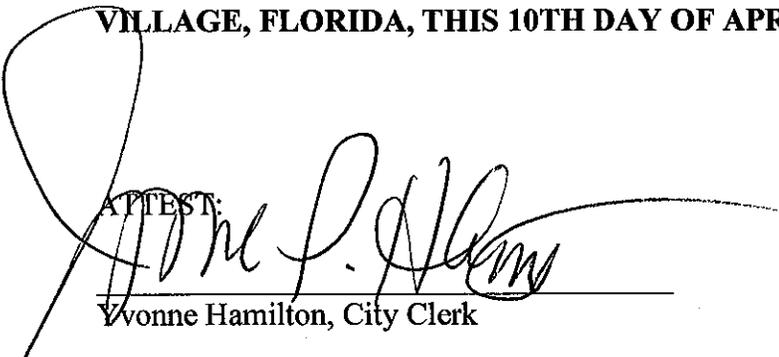
The motion to adopt the foregoing Ordinance on final reading was offered by Commissioner Stuart Blumberg, seconded by Mayor Connie Leon-Kreps.

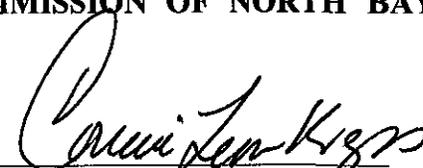
FINAL VOTE ON ADOPTION:

| | |
|-------------------------------|---------------|
| Mayor Connie Leon-Kreps | <u>Yes</u> |
| Vice Mayor Eddie Lim | <u>Yes</u> |
| Commissioner Blumberg | <u>Yes</u> |
| Commissioner Richard Chervony | <u>Yes</u> |
| Commissioner Paul Vogel | <u>Absent</u> |

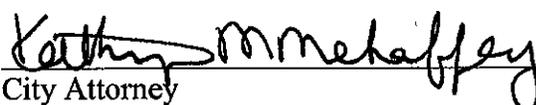
PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS 10TH DAY OF APRIL, 2012.

ATTEST:


Yvonne Hamilton, City Clerk


Connie Leon-Kreps, Mayor

APPROVED AS TO FORM FOR THE USE OF THE CITY OF NORTH BAY VILLAGE ONLY:


City Attorney

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Ordinance: Cost Recovery Program.