

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

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 14, "ENTITLED "BUILDING REGULATIONS," DIVISION 2, "PERMIT FEES," AT SECTIONS 14-61, 14-62 RELATING TO BUILDING PERMIT FEES GENERALLY; WAIVING FEES FOR PHOTOVOLTAIC BUILDING PERMIT FEES; AND MODIFYING THE FEE SCHEDULE CONTAINED IN APPENDIX A IN ORDER TO UPDATE CERTAIN BUILDING FEES AND TO PROVIDE A PERMIT FEE REDUCTION OF 40% FOR MINOR, IN-KIND, HURRICANE REPAIRS FOR A THREE MONTH PERIOD; PROVIDING FOR RETROACTIVE APPLICATION TO FIRST READING, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Miami Beach amended its fee code and implemented the new fee schedule on June 2, 2014; and

**WHEREAS**, in implementation of the City's building permit software system, it was determined, that certain fees could not be entered into the system; and

**WHEREAS**, certain other fees were reviewed and modified to better reflect actual costs; and

**WHEREAS**, due to Hurricane Irma, the City would like to reduce permitting fees for a limited period of three months for property owners to seek permits for minor in-kind repairs not exceeding \$20,000; and

**WHEREAS**, in applying an ordinance retroactively (1) there is clear evidence of legislative intent to apply the law retroactively, and (2) when allowed, the retroactive application is constitutionally permissible, in that the new law does not create new obligations, impose new penalties, or impair vested rights. *Jasinski v. City of Miami*, 269 F.Supp.2d 1341 (SD Fla. 2003); and

**WHEREAS**, for purposes of determining whether the retroactive application of a municipal ordinance impairs a vested right under Florida law, a vested right is defined as an immediate, fixed right of present enjoyment, *Id.*; and

**WHEREAS**, the reduction in permitting fees is not the retroactive application of a tax; and

**WHEREAS**, the City is not interfering with a vested right obtained as a result of a final order from a City Land Use Board, or permit already obtained under the Florida Building Code; and

**WHEREAS**, the amendments set forth below are necessary to accomplish the above objectives.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** Chapter 14, "Building Regulations," Article II, "Construction Fees," Division, "Permit Fees," is hereby amended as follows:

Fees," is hereby amended as follows:

\* \* \*

**Sec. 14-61 Permit fees, generally.**

(a) *Levied.* Permits, inspections and other fees of the building department of the city are hereby levied and imposed and shall apply to building, plumbing, electrical and mechanical permits and other activities undertaken by that department as specified in Appendix A. Permit fee line items include, but are not limited to: building, plumbing, electrical, and mechanical as well as those line items associated with planning, fire, and public works. In addition, all permits will include line items for outside agencies: State of Florida, Department of Business and Professional Regulation (DBPR), Building Code Administrators and Inspectors (BCAI), and Miami Dade County Building Code Compliance Office (BCCO). The Mayor and City Commission of the City of Miami Beach may direct the City Manager to waive building permit fees that include building, planning, public works, parking, fire, and environmental permits that are directly related to City projects.

\* \* \*

(g) *Inspection fee hourly rate.* ~~The inspection fee hourly rate, shall be as specified in Appendix A, is determined at the beginning of each fiscal year based on the building department's approved overhead and indirect costs and the resources assigned to the inspection program.~~

(h) *Plans re-review fee.* ~~When extra plans reviews are due to the failure to correct code violations Florida Building Code discipline requirements specifically and continuously noted in each rejection, including, but not limited to, egress, fire protection, structural stability, energy, accessibility, lighting ventilation, electrical, mechanical, plumbing, and gas systems, or other requirements identified by the rule of the Florida Building Commission, in compliance with F.S. § 553.80(2)(b), each time after the third such review that plans are rejected for the same code violation requirement, a fee four times the amount of the proportion of the permit fee shall be attributed to plans review.~~ shall be charged, per discipline, as delineated in Appendix A.

(i) *Expedited plans review and inspection fee.* Upon request from the applicant, the department may schedule an expedited plans review or inspection, on an overtime basis by city staff. When such service is provided, a fee as specified in appendix A shall be charged, in addition to the regular permit fee and other applicable fees. Expedited plan review service may be requested by the applicant with a cost plus fee incurred at a charge, per discipline, as delineated in appendix A, in addition to the regular permit fee and other applicable fees. other applicable fees required for the work.

\* \* \*

(m) *Electronic concurrent plan processing.* In order to create a more efficient permitting process, the building department ~~will~~ may be implementing procedures to process plans electronically via an automated workflow. Once implemented, the department ~~will~~ may request that applicants submit plans in an electronic format. If the applicant chooses to submit paper plans, the director, or his designee has the authority to invoice for reimbursement of the conversion of documents submitted to an electronic format

\* \* \*

(o) *Private provider fee.* When a property owner uses the services of a licensed private company for plan review and inspections services (Private Provider), the fee will be assessed as a regular building permit with a discount of 25 40 percent of the original building permit fee. If only the plan

~~review or the inspections are done by the Private Provider, then the fee will be assessed as a regular building permit with a discount of 12.5 25 percent of the original building permit fee.~~

(p) Photovoltaic waiver. All photovoltaic related building permit fees will be waived to promote the use of photovoltaic energy.

**Sec. 14-62. Building permits.**

\* \* \*

(b) *Refunds, time limitations, cancellations, change of contractor.* The fees charged pursuant to the schedule in appendix A, provided the same are for a permit required by Section 105.1 of the Florida Building Code, may be refunded by the building official subject to the following:

(1) No refunds shall be made on requests involving:

- a. ~~Permit fees of the m~~Minimum permit fee(s) and upfront fee(s) [14-62(a)] as specified in Appendix A ~~or less~~; or
- b. Permits for which plans review has commenced or inspections performed; or

\* \* \*

- f. Permits under which work has commenced as evidenced by any recorded inspection having been made by the department-city, unless the refund is due to an overcharge by the city.

\* \* \*

(3) Permits under which no inspections were performed are entitled to a 50 percent refund of the building permit fee line item if requested within 90 days of permit issuance. No refund shall be provided after 90 days expires.

~~A full refund less the minimum up-front permit fee and any outside agency fees shall be granted to a permit applicant who requests a refund in writing within one year of payment, provided that no plan review has commenced.~~

~~A full refund less the minimum permit fee as specified in appendix A or the up-front permit fee, whichever amount is greater, rounded down to the nearest dollar, and any outside agency fees shall be granted to a permit applicant who requests a refund in writing within one year of payment, provided that a permit has not been issued.~~

~~A full refund less the minimum permit fee as specified in appendix A or the up-front permit fee, whichever amount is greater, rounded down to the nearest dollar, and any outside agency fees shall be granted to a permit holder (to whom a permit has been issued) who requests a refund in writing within one year of payment, provided:~~

~~a. That the permit holder makes a written request prior to the permit expiration date; and~~

~~b. That no work as evidenced by any recorded inspection has commenced under such permit~~

\* \* \*

(7) Where the permit is revoked, or becomes null and void, or expires because of lack of work or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work, pursuant to Section 105.4.1.1 of the Florida Building Code. If no more than 180 days of the expiration date of the original permit has passed, and no refund has been made according to this section, the applicant may apply to renew the permit. The reapplication must be covering the same project and involving the same plans, and must be submitted with the plans and the applicant's validated copy of the original permit. A fee of 25 percent of the original permit fee, plus an additional processing fee equivalent to the minimum permit fee as specified in appendix A, shall be charged for a renewal under these circumstances. No additional fees for outside agency line items will be imposed.

For permits that have expired where the only missing component is one or more final inspections, the fee for reopening the permit, performing the final inspection(s), and providing a final approval on the permit shall be charged based on the minimum building permit fee.

\* \* \*

**SECTION 2.** Attached to this Ordinance is amended Appendix A, amending certain building permit fees.

**SECTION 3. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

**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 held invalid, the remainder shall not be affected by such invalidity.

**SECTION 6. RETROACTIVE APPLICATION - EFFECTIVE DATE.**

This ordinance shall take effect immediately upon adoption of this ordinance, RETROACTIVE to First Reading, September 25, 2017, due to Hurricane Irma recovery efforts.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Philip Levine, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

First Reading: \_\_\_\_\_, 2017

Second Reading: \_\_\_\_\_, 2017

Underline = new language

~~Strikethrough~~ = deleted language

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

9/29/17  
\_\_\_\_\_  
Date

**APPENDIX A - FEE SCHEDULE**

**FEE SCHEDULE**

This appendix includes all fees and charges established by the City Commission that are referred to in the indicated sections of the Code of Ordinances:

Section this Code <u>Code Section</u>	Description	Amount
	Subpart a. General Ordinances	
	Chapter 14. Building Regulations Part I	
	Division 2. Permit Fees	
14-61(b)	Double fees for starting work prior to issuance of permit, plus the following penalty:	
	First offense	<del>100.00</del> 500.00
	Second offense	<del>250.00</del> 1,000.00
	Subsequent offenses	<del>1,000.00</del> 2,000.00
14-61(c)(1)	Reinspection fee:	<u>200.00</u>
	In compliance with F.S § 553.80(2)(c), any subsequent reinspection after the first reinspection shall be charged four times the cost of first inspection or first reinspection, whichever is greater. The cost of inspections is calculated based on the actual time spent by the inspector multiplied by the inspection fee hourly rate, as specified in subsection 14-61(g). The actual time of inspection is rounded up to the hour	
	First Inspection	0.00
	Second and subsequent reinspection(s): Based on four times the cost of first inspection or first reinspection, whichever is greater at a rate pursuant to 14-61 (g)	<u>200.00</u>
	Reinspection of existing building to determine compliance with the applicable Building Code: Based on four times the cost of first inspection or first reinspection, whichever is greater. The cost of inspections is calculated based on the actual time spent by the inspector multiplied by the inspection fee hourly rate, as specified in subsection 14-61(g). The actual time of inspection is rounded up to the hour.	
14-61(e)	Commercial major revisions <del>6 to 30</del> <u>6 to 30 or more</u> pages	500.00
14-61(f)	Commercial total revision <del>31 +</del> <u>31 +</u> pages <u>When determined by the Building Official</u>	50% of Original Permit Fee
	Residential major revision <del>6 to 15</del> <u>6 to 15 or more</u> pages	200.00
	Residential total revision <del>16 +</del> <u>16 +</u> pages <u>When determined by the Building Official</u>	50% of Original Permit Fee
14-61(h)	Plans re-review fee:	
	First and second re-review	0.00
	Plans re-review fee. Pursuant to the Florida Building Commission, and in compliance with F.S. § 553.80(2) (b),	

	when extra plans reviews are due to the failure to correct code <del>violations</del> <u>rejections</u> specifically and continuously noted in each rejection, each time after the third such review that plans are rejected for the same code <del>violations</del> <u>rejections</u> , a fee of four times the amount of the proportion of the permit fee <u>\$250 per discipline</u> shall be attributed to plans review.	
14-61(i)	Expedited plan review and inspection fee: upon request from the applicant, the department may schedule an expedited plans review or inspection on an overtime-basis by department staff. Fee for each review or inspection category requested.	250.00
14-61(n)	Phase permits:	
	Commercial new construction	<del>2,000.00</del> <u>5,000.00</u>
	Commercial alteration	<del>1,500.00</del> <u>4,000.00</u>
	Residential new construction <u>Single Family Residence</u>	<del>1,000.00</del> <u>2,000.00</u>
<u>14-61(p)</u>	<u>Photovoltaic fees</u>	<u>\$0</u>
14-62(a)	Up-front processing fee: Percent of estimated permit fee or the minimum processing fee, whichever is greater.	
	Percent of estimated permit fee rounded up to the nearest \$5.00 increment	<del>20</del> <u>50</u> %
	Minimum up-front fee	50.00
14-62(b)(4)	Change of contractor	100.00
14-62(b)(5)	Change of architect or engineer	100.00
14-62(b)(6)	One time request for building permit extension (permit must not be expired)	100.00
14-62(b)(6)	Additional request for building permit extension (permit must not be expired): Percent of building permit fee line item <u>only</u>	<del>100</del> <u>50</u> %
14-62(c)	Building permit fees:	
	⋮	
	Commercial Permit Fees for Building Permits:	
	<u>New Construction Minimum permit fee</u>	<u>140.00</u>
	<u>Alterations Minimum permit fee</u>	<u>100.00</u>
	Permit fee for a building whose estimated construction cost is equal to or less than <del>\$30</del> <u>\$35</u> million is <del>2.0</del> <u>1.9</u> % of the cost of construction as approved by the Building Official or his designee, plus 1.0% of the construction cost for any amount over <del>\$30</del> <u>\$35</u> million <u>but less than or equal to \$100 million</u> ; and 0.25% of costs exceeding <u>\$100 million</u> as approved by the Building Official or his designee.	
	Residential Permit Fees for Building Permits:	
	<u>New Construction Minimum permit fee</u>	<u>120.00</u>
	<u>Alterations Minimum permit fee</u>	<u>90.00</u>
	Residential: Single-family, Duplex: Permit fee for a building whose estimated construction cost is equal to or less than <del>\$1</del> <u>1.5</u> million is <del>1.8</del> <u>1.7</u> % of	

	the cost of construction as approved by the Building Official or his designee, plus 1.0% of the construction cost for any amount over \$1 1.5 million as approved by the Building Official or his designee	
	Temporary and Special Event Fees	
	Temporary platforms for public assembly, first approval	<del>104.00</del> <u>150.00</u>
	Temporary bleachers for public assembly, first approval	<del>95.00</del> <u>150.00</u>
	Temporary platforms or bleachers for public assembly, re-approval	<del>20.00</del> <u>100.00</u>
	Tents excluding electric and plumbing, per tent	
	• Up to 1,000 square feet	<del>104.00</del> <u>150.00</u>
	• Each additional 1,000 square feet over 1,000	<del>28.00</del> <u>50.00</u>
	Temporary structure/trusses/statues (no electrical or plumbing included)	<del>104.00</del> <u>150.00</u>
	Temporary chiller	<del>462.00</del> <u>500.00</u>
	Temporary generator	<del>237.00</del> <u>500.00</u>
	Construction trailer, per trailer	<del>568.00</del> <u>500.00</u>
	Office trailer, per trailer	<del>686.00</del> <u>500.00</u>
	Temporary power for construction	<del>225.00</del> <u>300.00</u>
	Temporary power for test	<del>189.00</del> <u>200.00</u>
	Temporary multi-seat toilet trailer, per trailer	<del>80.00</del> <u>100.00</u>
	Temporary individual toilet, per event	<del>17.00</del> <u>50.00</u>
	Amusement Rides	<del>60.00</del>
	Temporary electric work on circuses, carnivals, per show	<del>312.00</del>
14-66(1)	Certificate of occupancy fees:	
	Residential units R-1, R-2, and R-3, per unit	<del>110.00</del> <u>150.00</u>
	All commercial occupancies except R-1 and R-2, per square foot	<del>0.05</del> <u>0.07</u>
14-66(1)	Temporary certificate of occupancy or completion fees:	
	100 percent of final certificate of occupancy or completion <u>and letter of final completion</u> fee plus the cost of any additional required inspections. Additional required inspections will be charge based on actual time spent on inspection multiplied by the hourly rate, as specified in section 14-61(h).	<del>200.00</del>
14-66(1)	Certificate of completion fees:	
	Certificate of completion fees for residential	<del>100.00</del>
	Certificate of completion fees for commercial	<del>250.00</del>
	Forty year recertification program fee:	
14-67(a)	Per building	<del>600.00</del>
	Building official approval of 6-month extension for building recertifications	<del>600.00</del>
14-67(b)	Late compliance fee, regular fee, plus	<del>260.00</del>
14-67(c)	New inspection report fee if recertification not completed within 90 days of building's being declared unsafe	<del>312.00</del> <u>300.00</u>
14-69	Employee training, education, safety, and technology procurement and implementation for service enhancement surcharge is 6 percent of each and every	

	<u>Building permit fee</u>	
	<b>Chapter 66. Marine Structures, Facilities and Vehicles</b>	
	Article III. Piers, Docks and Boat Ramps	
66-114(a)	Plans review fee shall be consistent with <u>14-61(h)</u> <del>98-93(a),(b)</del> . Up-front processing fee shall be consistent with 14-62(a),	