

To: The Honorable Mayor and Council Members

From: Wisler Pierre-Louis, P.E., Public Works Director

Date: November 24, 2015

RE: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 19 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "UTILITIES", BY AMENDING ARTICLE IV, DIVISION 5, SPECIFICALLY AT SECTION 19-194, ENTITLED "COLLECTION OF PRO RATA COST OF EXTENSION FACILITY FROM SUBSEQUENT APPLICANTS; REFUND", BY DELETING SAID SECTION FROM THE CODE AS INEFFECTIVE AND OBSOLETE, AND TO MITIGATE POTENTIAL FINANCIAL LIABILITY TO THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

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**RECOMMENDATION**

Staff is requesting that the Mayor and City Council of the City of North Miami, Florida, hereby approve amending Chapter 19 of the City of North Miami Code of Ordinances, entitled "Utilities", by amending Article IV, Division 5, specifically at Section 19-194, entitled "Collection of Pro Rata Cost of Extension Facility from Subsequent Applicants; Refund", by deleting said section from the Code as ineffective and obsolete, and to mitigate potential financial liability to the City; providing for conflicts, severability, codification and an effective date.

**BACKGROUND**

Section 19-194 of the City of North Miami Code of Ordinances was introduced circa 1958 and has not been amended since its introduction. The City's development landscape has substantially changed since 1958 to the extent where the City owns, maintains and operates all water and sewer infrastructure situated on all public right-of-ways. Section 19-194 of the Code is currently ineffective and exposes the City to potential financial liability resulting from disputes between

developing property owners. The proposed revisions to this Code section will mitigate potential financial liability to the City.

**ATTACHMENT(S)**

Proposed Ordinance

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

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 19 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED “UTILITIES”, BY AMENDING ARTICLE IV, DIVISION 5, SPECIFICALLY AT SECTION 19-194, ENTITLED “COLLECTION OF PRO RATA COST OF EXTENSION FACILITY FROM SUBSEQUENT APPLICANTS; REFUND”, BY DELETING SAID SECTION FROM THE CODE AS INEFFECTIVE AND OBSOLETE, AND TO MITIGATE POTENTIAL FINANCIAL LIABILITY TO THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 19-194 of the City of North Miami (“City”) Code of Ordinances (“Code”) has not been amended since its introduction to the Code, circa 1958; and

**WHEREAS**, the periodic review, analysis and rendition of improved versions of the Code is an essential ingredient in the pursuit of equity, the proper and efficient administration of City services, and the preservation and improvement of the quality of life of all City residents; and

**WHEREAS**, since 1958, the City’s development landscape has substantially changed to the extent where the City owns, maintains and operates all water and sewer infrastructure, even when situated on private property; and

**WHEREAS**, Section 19-194 of the Code is currently ineffective and exposes the City to potential financial liability resulting from disputes between developing property owners; and

**WHEREAS**, the City administration respectfully requests that the Mayor and City Council approve the aforementioned revision to the Code; and

**WHEREAS**, the Mayor and City Council find the proposed revision to the Code to be in the City’s best interest.

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

**Section 1. Amendment to Chapter 19, City of North Miami Code of Ordinances.**

The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 19 of the

City of North Miami Code of Ordinances, entitled "Utilities", by amending Article IV, Division 5, specifically at Section 19-194, entitled "Collection of Pro Rata Cost of Extension Facility from Subsequent Applicants; Refund", by deleting said Section from the Code as ineffective and obsolete, and to mitigate potential financial liability to the City, as follows:

**CHAPTER 19 – UTILITIES**

**ARTICLE IV. SEWERS**

**DIVISION 5. SERVICE OUTSIDE OF THE CITY LIMITS OF THE CITY OF NORTH MIAMI**

\* \* \* \* \*

**Sec. 19-193. Right-of-way easement to be furnished by applicant.**

The applicant shall provide without cost to the city any right-of-way easement required to furnish the service requested by the applicant.

**~~Sec. 19-194. Collection of pro rata cost of extension facility from subsequent applicants; refund.~~**

~~For a period of eight (8) years after completion of an extension facility, the city shall collect from each subsequent applicant to be served by such facility, a sum equal to the cost per gallon of initial rated gallonage capacity times the gallonage capacity to be utilized by such applicant or the average cost per foot of the system abutting the subsequent applicant's property, whichever is the greater amount. The city shall refund such sum to the applicant who advanced the total cost of the extension facility within thirty (30) days after connection to the system by the subsequent applicant. The sum so collected for any such subsequent applicant shall be in addition to the actual cost of any additional main extension or increase in pumping capacity, including all house service, risers, and wyes required to serve such applicant. In any event, the aggregate refund to any depositor shall not exceed the original extension deposit or cost. The city may charge any subsequent applicant a five (5) percent administration fee for processing the refund.~~

Secs. ~~19-195~~ 19-194 —19-210. Reserved.

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**Section 2. Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 3. 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 4.** **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” or any other appropriate word. Sections of this Ordinance which are deleted and intended to be moved into a different Chapter of the Code of the Code of Ordinances, shall continue to remain in full force and effect until the adoption of the relevant Code sections are completed, but in no event later than July 31, 2013.

**Section 5.** **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by \_\_\_\_\_ vote of the Mayor and City Council on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED AND ADOPTED** by \_\_\_\_\_ vote of the Mayor and City Council on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

ATTEST:

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
ROLAND C. GALDOS, ESQ.  
INTERIM CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

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

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Dr. Smith Joseph, D.O., Pharm. D.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Vice Mayor Carol Keys, Esq.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Scott Galvin

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Philippe Bien-Aime

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Alix Desulme

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

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