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**ORDINANCE NO. 2013-03**

**AN ORDINANCE OF THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RELATING TO CHAPTER 17 ENTITLED "FEES BONDS AND CHARGES" CREATING A ZONING FEE SCHEDULE AT NEW SECTION 17.6; PROVIDING FOR A SHORT MORATORIUM ON APPLICATIONS SO THAT THE FEE SCHEDULE MAY BE IMPLEMENTED; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and Village Commission of the Village of Biscayne Park desire to implement a global zoning fee schedule; and,

**WHEREAS**, the Village desires to implement a reasonable fee schedule to ensure the cost of advertising of quasi-judicial or other actions are born by the applicant and ensure that the expert witnesses, planner, and village attorney costs associated by an application are the responsibility of the applicant; and,

**WHEREAS**, the Mayor and Village Commission desire to preserve the *status quo*, except as provided below, regarding zoning hearing applications as to properties in the Village while the Village implements its fee schedule, which moratorium would exist until enactment of the fee schedule, or six (6) months, which ever date is shorter; and,

**WHEREAS**, when an ordinance may affect land use, it must be enacted under the same procedures which govern zoning and rezoning, as a moratorium temporarily prohibits a person from building upon his/her property, and is considered a substantial restriction upon land use; *City of Sanidbel v. Buntrock*, 409 So.2d 1073, 1075 (Fla. 2d DCA 1981); and,

**WHEREAS**, to preserve the *status quo* it is necessary to establish a moratorium on the issuance of applications for developments that are within the Village, such temporary moratorium to apply to all zoning requests; and,

**WHEREAS**, to fully preserve the *status quo* it is necessary to implement the pending legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2<sup>nd</sup> DCA 1980).

**WHEREAS**, to preserve the *status quo* it is necessary to establish a moratorium on the issuance of building permits for developments that are within the Village, such temporary moratorium to apply to all residentially zoned properties over an acre in size within the Village for four months to complete the study and adoption of the neighborhood protection ordinance, whichever comes first; and,

**WHEREAS**, to fully preserve the *status quo* it is necessary to implement the pending legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2<sup>nd</sup> DCA 1980).

**WHEREAS**, the moratorium would expire upon enactment of the fee schedule; and,

**WHEREAS**, the Mayor and Village Commission desire to adopt the Planning and Zoning Fee Schedule and implement the associated fee schedule.

**BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:**



- 1 (c) All checks shall be made payable to the "Village of Biscayne Park."  
 2  
 3 (d) All fee schedules established by the Village's building department and all other fee other  
 4 than those described herein, shall remain in effect in the Village until specifically  
 5 repealed.  
 6  
 7 I. *Comprehensive plan.*  
 8 A. *Written interpretation of comprehensive plan provisions relative to a specific*  
 9 *location:*

Size of Parcel of Proposed Development (gross acres)	Fee
Under 1.0 acre	\$114.00
1.0 acre—5.0 acres	\$228.00
5.1 acres—20.0 acres	\$342.00
20.1 acres and over	\$570.00

- 10  
 11 B. *Written interpretation of adopted components' goals, objectives and other text*  
 12 *not related to a specific location:*

	Fee
Each issue/question not related to Level of Service (LOS) Standards	\$114.00
Each issue/question related to LOS Standards	\$171.00

- 13  
 14 C. *Applications to amend the comprehensive plan:*  
 15  
 16 1. *Land use map (LUM).*

Size of Area (gross acres)	Fee
Up to 5.0	\$11,400.00
5.1—10.0	\$21,660.00
10.1—20.0	\$42,750.00

20.1— and up	\$64,410.00
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2. *All elements fee.*

	Fee
Each LOS standard addressing a goal, objective, policy, or a. map	\$51,300.00
Each non-LOS standard addressing a goal, objective b. or policy	\$17,100.00
Each monitoring measures items c.	\$10,260.00
Each capital improvement project line item d.	\$17,100.00
Each text or map change e.	\$17,100.00

II. *Zoning applications.*

A. *Public hearings and administrative modifications.* Except as otherwise provided in B. through D. below, for every application for a zoning change or other zoning application, where a public hearing is required to be held and for every application where notices and advertisement are required, there shall be paid a minimum fee of \$855.00 (\$1,710.00 if the application is the result of a violation). The exact amount of each application fee is established by the addition of the following fees:

Application	Fee
Zone change or text amendment by applicant	\$1,710.00
Change in Use text amendment	\$1,710.00
Non-use variance or site development agreement or site plan	\$1,710.00
Residential/one lot	\$400.00
Special exception	\$2,280.00
Modifications/deletions	\$1,140.00
Unusual use	\$2,280.00
If applicable, in addition for:	
Residential:	\$1,140.00
Size of property:	\$570.00 per 10 acres or portion thereof
Number of units:	\$285.00 per 15 units or portion thereof

- B. *Public Hearing for day cares, religious facilities, ACLF's, nursing homes and convalescent homes.* \$2,280.00 (\$2,850.00 if application is the result of a violation.)
- C. *Public hearing for governmental facilities:* (If applicable) \$1,425.00
- D. *Revisions to public hearing plans.* Submittal of the first revised plan will be processed at no additional cost to the applicant. Subsequent revisions will be

1 processed at an additional charge of \$684.00 per revised plan and shall be paid in  
2 total at the time of submittal.

3  
4 III. *Administrative adjustment applications.* Limited to new construction or an addition to an  
5 existing residence from setback, lot coverage, and building spacing requirement for  
6 single-family residential, duplex, townhouse and accessory residential uses located in the  
7 Village's residential districts:

Application	Fee
Carport (maximum 200 sq.ft.)	\$313.50
Utility shed (maximum 100 sq.ft.)	\$313.50
Fence/wall	\$313.50
Interior/exterior integration area	\$313.50
Setback adjustments for attached/detached structure(s)	\$598.50
Any administrative adjustment involving tennis court, swimming pool or other recreational use	\$741.00
Any adjustment for the construction of a new residence	\$963.30
Other adjustments such as, but not limited to, lot area, lot frontage, lot coverage	\$741.00

8 Only one fee shall be assessed; should an application involve two (2) or more adjustments of a different  
9 category, the greater shall apply.

10  
11 IV. *Administrative site plan reviews (when no public hearing is required).*

12 A. Individual single-family, two family, or live/work unit .....\$50.00

13 B. All other uses:

14 Minimum fee .....\$1,500.00 plus

15 Per acre ....\$500.00 and

16 Per 10 units or portion thereof .....\$200.00 or

17 Per 5,000 sq. ft. or portion thereof .....\$200.00

18 Submittal of the first revised plan will be assessed at no additional cost.

19 Subsequent revisions will be processed at an additional charge of \$250.00 per  
20 revised plan.

21 C. Entrance feature applications .....\$570.00

22 First plan revision will be processed at no charge. Subsequent revisions will be  
23 processed at \$250.00 each.

24  
25 V. *General information.*

26 A. *Application fees.* All applications fees shall be paid in total, at the time of filing  
27 of an application, and no fee shall be credited or refunded except when  
28 adjustment is warranted or deemed necessary due to departmental error. A refund  
29 of 50 percent of an original application fee may be refunded upon the withdrawal  
30 of an application when the written request for withdrawal is received within 30  
31 days of the date of application.

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- B. *Mailing fees; notices.* In addition to the zoning fees set forth herein, items requiring notice shall be assessed a fee of \$0.57 cents per notice for each notice required to be mailed in accordance with the Village's code. These fees shall be assessed for every occasion on which notices are mailed.
  
- C. Processing costs will be charged equal to actual staff time and related costs for matters which involve research, including review of legal agreements. A minimum fee of \$85.00 shall be charged.
  
- D. *Preparation of special studies or reports.* For special studies or reports that are not prepared as part of the regular work program of the Village and are found by the Village to be necessary to prepare recommendations related to planning and zoning applications, the applicant shall pay the actual cost incurred for any such required professional services. Specifically, the Village shall charge the applicant the direct cost of review by employed/hired consultants and professionals, engineers, planners, legal, technical or environmental consultants deemed reasonably necessary by the Village to review any application. Charges shall be in accord with the hourly rate charges by such employed professionals or consultants. The applicant shall reimburse the Village for the cost of such upon submission of an invoice within 30 days. Failure to make payment shall result in a discontinuance of review/processing of an application; or rescinding of the final development order for failure to comply with a material condition to the approval.
  
- E. *Copies of records, verification of documents, and other processing.*
  - Plan reproduction from microfilm or document larger than 14 inches by 8½ inches per sheet \$5.70
  - Reproduced records/per page \$0.15
  - Doubled sided copy/per page \$0.20
  - Certified copies not including photocopy charge/per page \$1.00
  - Official copy of Certificate of Use record \$10.00
  - Verification of legal description on documents prepared for recordation \$10.00
  - Digital maps, scanned images/per map or image \$5.70
  - Special map requests \$60.00
  - Notary public service/per document 10.00
  - Ordering plans \$5.70
  - Hearing tapes/each \$3.00
  
- F. *Re-advertisement and re-notification for deferred or remanded hearing applications.* For each and every zoning hearing application that is deferred or

1 remanded to a date not yet advertised, a fee shall be paid based on the actual cost  
2 of re-advertisement and re-notification.  
3

4 G. *Late payment charges on unpaid amounts.* Billing covered by contracts,  
5 agreements or other formal arrangements for services rendered by the department  
6 are due within 45 days from the date of the invoice. Full payment of the account  
7 balance must be received by the past due date set forth on the invoice. A monthly  
8 late payment charge will be assessed on any outstanding balance at the rate of ten  
9 percent thereafter, until payment is received in full.  
10

11 H. *Substantial compliance determination.*  
12 \$1,140.00 for residential.  
13 \$1,710.00 for commercial/nonresidential uses.  
14 First plan revision will be processed at no charge, subsequent plan revisions will  
15 be assessed a fee of \$684.00 each.  
16

17 I. *Concurrency review.* A fee of six percent of the total permit fee, CU or zoning  
18 application fee, will be added to original fees where a concurrency review was  
19 performed.

20 Concurrency information letters:

21 Minor letter \$100.00 (requiring routine to moderate research and analysis,  
22 standard preparation and processing time).

23 Major letter \$200.00 (requiring extraordinary research and analysis, and/or  
24 special preparation and handling).  
25 \* \* \*

26  
27 Section 4. Nothing in this ordinance should be construed or applied to abrogate the vested  
28 right of a property owner to develop or utilize his/her property in any other way  
29 commensurate with zoning and other regulations, including any required renewal  
30 of permits for existing legally erected premises.  
31

32 Section 5. All ordinances or parts of ordinances in conflict with the provisions of this  
33 ordinance are repealed.  
34

35 Section 6. This ordinance shall be codified and included in the Code of Ordinances.  
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37 Section 7. If any section, clause, sentence, or phrase of this ordinance is for any reason held  
38 invalid or unconstitutional by a court of competent jurisdiction, the holding shall  
39 not affect the validity of the remaining portions of this ordinance.  
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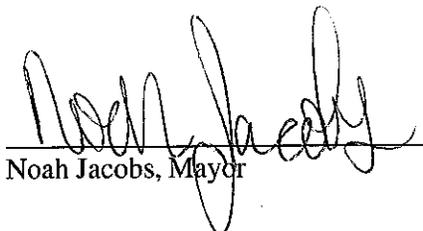
41 Section 8. This ordinance shall take effect immediately upon enactment.  
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44 The foregoing Ordinance was offered by Commissioner Ross, who moved its adoption. The motion was  
45 seconded by Commissioner Anderson and upon being put to a vote, the vote was as follows:  
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1 FIRST READING: March 5, 2013

2 SECOND READING: April 2, 2013

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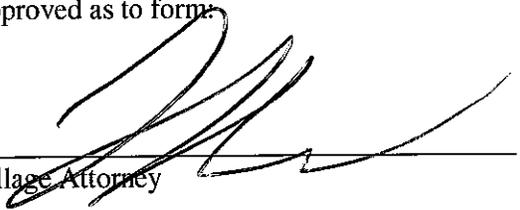
Noah Jacobs, Mayor



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Maria C. Camara, Village Clerk

Approved as to form:



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Village Attorney

**The foregoing ordinance upon being put to a vote, the vote was as follows:**

Mayor Jacobs: Yes  
Vice Mayor Cooper: Absent  
Commissioner Anderson: Yes  
Commissioner Ross: Yes  
Commission Watts: Yes