

ORDINANCE NO. 2015-65

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION", ARTICLE V. FINANCE, DIVISION 2. FEES AND CHARGES, OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, AND IN PARTICULAR, ADDING A NEW SECTION 2-874 ENTITLED "RECOVERY OF COSTS FOR PROFESSIONAL OR CONSULTING SERVICES REQUIRED", PROVIDING FOR THE PAYMENT OF COSTS INCURRED BY THE CITY FOR CONSULTING OR PROFESSIONAL SERVICES THAT MAY BE DEEMED NECESSARY IN THE EVALUATION OR REVIEW OF ANY APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT OR LAND DEVELOPMENT PERMIT BY THE APPLICANT; REQUIRING ADVANCE DEPOSIT OF A PORTION OF ESTIMATED REASONABLE COSTS; PROVIDING FOR THE ESTABLISHMENT OF AN ESCROW ACCOUNT; PROVIDING FOR ENFORCEMENT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, from time to time the City of Hialeah considers it necessary to hire independent consultants to obtain data, studies, surveys or analysis, in connection with comprehensive plan amendments and applications for land development permit, including but not limited to engineers, planners, urban designers, lawyers, or other professionals or technical consultants in land use and zoning related fields, in order to evaluate, assess, review and make recommendations; and

WHEREAS, the City staff has conducted a review of costs incurred by the City for the review of applications for comprehensive plan amendments or land development permits and the existing fee schedules do not fully cover the City's costs in the administration and review of said land development applications and related matters; and

WHEREAS, the City has the right to be reimbursed for the actual cost incurred for such professional consulting services from those persons deriving the benefit of the review, provided it maintains a separate restricted 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 of Hialeah Code; and

WHEREAS, the general purpose and intent of this ordinance is to assess fees to properly administer the City's land use and zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government.

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

Section 1: Chapter 2 entitled "Administration", Article V. Finance, Division 2. Fees and Charges, of the Code of Ordinances of the City of Hialeah, and in particular, adding a new section 2-39 entitled "Recovery of Costs for Professional or Consulting Services Required" as follows:

Chapter 2

ADMINISTRATION

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ARTICLE V. FINANCE

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DIVISION 2. FEES AND CHARGES

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Sec. 2-874. Recovery of Costs for Professional or Consulting Services Required.

- (a) The Planning and Zoning Official in the review or evaluation of any application for a comprehensive plan amendment or land development permit may consult with professionals in the fields of engineering, planning, urban design, architecture, or any other professionals or consultants in a land use or zoning related field, as the Planning and Zoning Official shall deemed reasonably necessary to enable him or her to adequately and thoroughly review, evaluate and make a recommendation on the application as required by law. The Planning and Zoning Official shall notify the applicant whenever the Planning and Zoning Official determines, at any

time during the application process, that it is necessary to retain the services of additional professionals or consultants as provided in this Section 2-874. The Planning and Zoning Official shall have discretion to select the professionals or consultants hired. The applicant shall be responsible to pay for the fees and costs incurred by the City for the professional or consulting services required. The consultant or professional shall be compensated in accordance with the reasonable and customary charges for such services in Miami-Dade County. These fees are in addition to any and all other fees required by the City as established by law, rule, or administrative order.

- (b) The City shall obtain an estimate of fees and costs for services to be rendered by the professionals or consultants the Planning and Zoning Official deems reasonably necessary to enable him or her to adequately and thoroughly review, evaluate and make a recommendation on the application as required by law. Prior to engaging the services of the professional or consultant, the applicant must pay seventy-five percent (75%) of the estimated fees and costs for services to be rendered to the City. The City shall deposit these funds in a restricted account from which payment shall be made to the professionals or consultants hired. The applicant shall be provided with copies of all invoices for such services as they are submitted by the professional or consultant and paid for by the City. When the balance in the account is reduced to fifty percent (50%) of estimated fees and costs for services to be rendered, the applicant shall deposit additional funds with the City to increase the account balance up to the amount of the initial deposit. If such account is not replenished within fifteen (15) days after the applicant is notified in writing of the requirement of such additional deposit, the City may suspend its review of the application. An application shall be deemed incomplete if any amount required pursuant to this Section 2-874 shall be unpaid. A building permit or certificate of occupancy shall not be issued unless all professional or consultant fees and costs required by this Section 2-874 have been paid to the City. Once all fees and costs have been paid, the City shall refund to the applicant any funds remaining on deposit.
- (c) All fees required pursuant to this section shall be collected by the Planning and Zoning Official.

Secs. ~~98-39~~ 98-40 —98-65. - Reserved.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

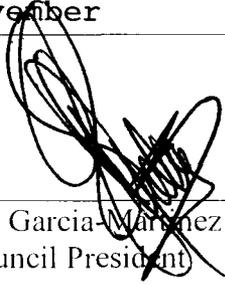
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

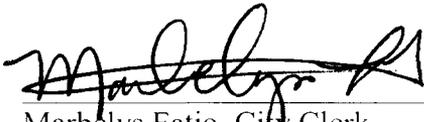
PASSED and ADOPTED this 10 day of November, 2015.



Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of November, 2015.

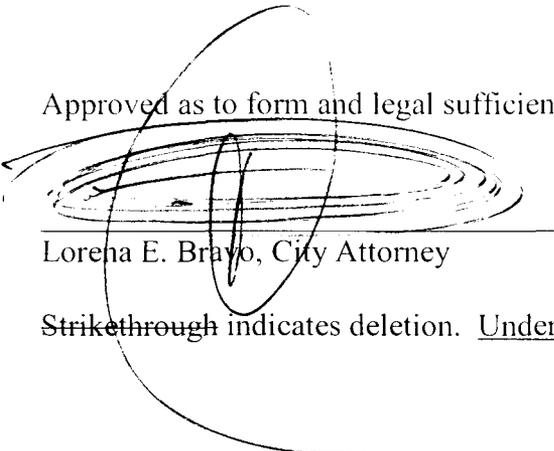


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a (7-0) unanimous vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Hernandez, Gonzalez, Lozano and Casals-Muñoz voting "Yes".

~~Strikethrough~~ indicates deletion. Underline indicates addition.