

ORDINANCE NO. 08-106

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE (THE "TOWN LDC") TO UPDATE AND AMEND ARTICLE 12, FEES; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in Ordinance 05-77, the Town of Miami Lakes (the "Town") adopted Article 12, Fees, of the Town of Miami Lakes Land Development Code ("the Town LDC") implementing a Cost Recovery System and Application Fees For Planning And Zoning Approvals; and

WHEREAS, the Town has analyzed actual costs incurred by the Town for the review of applications for development approvals; and

WHEREAS, the Town Council finds that it is in the best interests of the residents of the Town to place the true costs for services relating to the review of applications for development approvals directly upon those persons deriving the benefit of the review; and

WHEREAS, the Town Council desires to amend the Town LDC and Application Fee schedule; and

WHEREAS, the Local Planning Agency reviewed this request at its September 16, 2008 meeting, and voted to recommend approval.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

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

Section 2. Amendments to Article 12, Fees. Article 12, Fees, of the Town LDC is hereby amended as follows¹:

ARTICLE 12 . FEES

DIVISION 12.1 COST RECOVERY SYSTEM

- (a) **Intent and Purpose.** The intent and purpose of this Division is to ensure that the various costs incurred by the Town, including its outside consultants, in reviewing and processing certain applications for Development Approvals is directly absorbed by those persons deriving the benefit of the review, not the general public.
- (b) **Cost Recovery Imposed.** An administrative fee for the various costs incurred by Town staff and outside consultants for the processing and review of applications, submissions, or requests concerning development, utilization, or improvement of property in the Town, such fee to be equal in amount to the Town's actual costs, in terms of staff and outside consultants' time expended in such review and processing, including advertising and similar directly related charges is imposed. The types of applications for Development Approval that are subject to the provisions of this Division include: Site Plan, Conditional Use, Re-Zonings, Amendments to the Text of the Land Development Regulations, Amendments to the Comprehensive Plan, Amendments to the Future Land Use Map and Preliminary and Final Plats, Waiver of Plat, Right-of-Way Vacation, Modification of Resolutions, Appeal of Administrative Decisions, and Concurrency Exemptions, Determinations and Reservations, as specified in Division 12.2. The Town Council may, by resolution, amend the fees, cost recovery deposits and list of Development Approvals that are subject to Cost Recovery.
- (c) **Cost Recovery Deposit.** Any person who files any application for a Development Approval which necessitates Town staff or outside consultant review and processing shall pay, prior to or at the time the application is made, an initial cost recovery deposit which shall be credited toward the fee charged for such review and processing, and shall pay additional deposits as may be required from time to time. A debit based upon the actual time expended reviewing an application and

¹ Additions are shown in underline and deletions are shown in ~~strikethrough~~.

the applicable hourly rate shall be charged against the cost recovery deposit.

- (d) **Supplemental Deposit.** The Town shall monitor the cost recovery deposit on a periodic basis. Whenever the balance is zero or negative, a supplemental deposit shall be required. The Town shall notify the applicant when a supplemental deposit is required. The amount of the supplemental deposit shall be equal to the amount of the original Cost Recovery Deposit. The Town shall not issue any Development Approval until the required supplemental deposit has been deposited with the Town and any Approval granted shall be void if all fees and costs are not paid in full within sixty (60) days of the Approval.
- (e) **Return of Cost Recovery Deposit.** Within 60 days from the date that the applicant receives a Certificate of Occupancy or other applicable final approval from the Town, and the Administrative Official determines that no further action is necessary for the review and processing of the application or the applicant voluntarily withdraws the application, the Town shall refund any remaining cost recovery funds to the applicant. In no event, however, shall the Town refund any remaining cost recovery funds if the applicant fails to obtain a Development Approval within one (1) calendar year of applying for the approval.
- (f) **Records of Work Performed.** The Town shall maintain records of the time expended and tasks conducted regarding each application.
- (g) **Review and Appeal Process.** In the event an applicant is financially unable to pay the Cost Recovery Deposit, or believes the Town overcharged the applicant for the work performed in reviewing and processing an Application, the applicant may:
 - 1. Request that the Administrative Official waive the Cost Recovery Deposit on the basis of a bona fide financial hardship;
or
 - 2. Request a review by the Administrative Official of the work performed by the Town.

Upon a determination by the Administrative Official that the applicant has demonstrated a bona fide financial hardship, or a miscalculation concerning the work performed by the Town on the Application; the Administrative Official may waive or refund a portion or all of the Cost Recovery Deposit.

- (h) **Applicability of Provisions.** This cost recovery program shall not apply to development projects that are originally initiated by or on behalf of the Town.

DIVISION 12.2 APPLICATION FEES FOR PLANNING AND ZONING APPROVALS

Development Approval Requested	Application Fee	Deposit
* Cost Deposit, in addition to the Application Fee, for Notification and Recording Costs for all applications which require notification and recording and are not cost recovery		
After-the-fact Development Approval	\$500 plus the Application Fees or Cost Recovery participation for the applicable Development Approval	
Variances		
<i>Variance Application Fees Cover up to three (3) variances.</i>	\$50 for each additional Variance after the first 3	
<i>Administrative</i>	\$350 plus notification and recording costs	\$650 *
<i>Public Hearing</i>		
One Single Family, Two Family, or Townhouse Unit	\$750 plus notification and recording costs	\$650 *
Multi-Family	\$1100 plus notification and recording costs	\$650 *
Commercial and Industrial	\$1700 plus notification and recording costs	\$650 *
Signs	\$1100 plus notification and recording costs	\$650 *
All Others	\$1100 plus notification and recording costs	\$650 *
Site Plan Review		
<i>Administrative</i>		
Individual Single Family on Waterfront Lot	\$100 plus notification costs	\$50 *
Individual Townhouse	\$100 plus notification costs	\$50 *
Individual Single Family or Two Family Residential	\$100 plus notification costs	\$50 *
All Others	Cost Recovery	\$1000
<i>Public Hearing</i>		
Single Family, Two Family and Townhouse Developments	Cost Recovery	\$3500
All Others	Cost Recovery	\$3500

Development Approval Requested	Application Fee	Deposit

Conditional Uses		
Liquor Spacing	\$1100	\$650 *
All Others	Cost Recovery	\$5000
Development Approval Extension		
By Administrative Official	\$250 plus notification and recording costs	\$250 *
By Town Council	\$750 plus notification and recording costs	\$650 *
Modification of an Existing Resolution		
Individual Single Family, Two Family or Townhouse Unit	\$750 plus notification and recording costs	\$650 *
All Others	Cost Recovery	\$1500
Amend Comprehensive Plan, Land Use Map, Text of Land Development Regulations, or Zoning Map	Cost Recovery	\$5000
Plats		
Preliminary	Cost Recovery	\$5000
Final	Cost Recovery	\$5000
Waiver of Plat / Lot Split	Cost Recovery	\$5000
Right-of-Way Vacation	Cost Recovery	\$5000
Appeal of Administrative Decision		
Appeal of Administrative Variance for Individual Single Family, Two-Family, or Townhouse	\$1500 plus notification and recording costs	\$650 *
Appeal of All Other Administrative Variances	\$2500 plus notification and recording costs	\$650 *
Appeal of Administrative Site Plan for Individual Single Family, Two-Family, or Townhouse (including Waterfront Lots)	\$1500 plus notification and recording costs	\$650 *
Appeal of All Other Administrative Site Plans	\$2500 plus notification and recording costs	\$650 *
Appeal of All Other Administrative Decisions	\$2500 plus notification and recording costs	\$650 *

All Other Public Hearings	\$1100 plus notification and recording costs	\$650 *
Zoning Letters		
Individual Residential Lot	\$100	
All Others	\$150	
Review of Alcoholic Beverage License		
Special Event	\$50	
All Others	\$125	
Development Agreements	Cost Recovery	\$5000
Concurrency		
Exemption	\$750	
Determination (without traffic impact analysis)	\$750	
Determination (with traffic impact analysis)	Cost Recovery	\$1500
Reservation	Cost Recovery	\$5000
Proportionate Fair Share (including agreement)	Cost Recovery	\$5000

Note:

Many administrative approvals and all public hearings require notification posted on the property, advertised in the newspaper and mailed to property owners within a required radius around the subject property and the final Development Order reflecting the Town Council's action will be recorded by the Town Clerk in the Office of the Miami-Dade County Clerk of Court. In addition to the above fees the applicant shall be responsible for the cost of these notifications and recording.

Section 3. Inclusion In The Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section", or other appropriate word.

Section 4. 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 5. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

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The foregoing Ordinance was offered by Councilmember MARY COLLINS, who moved its adoption on first reading. The motion was seconded by VICE MAYOR NANCY SIMON and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Nancy Simon	<u>yes</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador	<u>absent</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Richard Pulido	<u>absent</u>
Councilmember Roberto Alonso	<u>absent</u>

PASSED AND ADOPTED on first reading this 16 day of September, 2008.

The foregoing Ordinance was offered by Councilmember MARY COLLINS, who moved its adoption on second reading. The motion was seconded by Councilmember Roberto Meador, and upon being put to a vote, the vote was as follows:

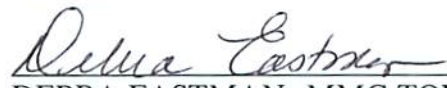
Mayor Michael Pizzi	<u>yes</u>
Vice-Mayor Richard Pulido	<u>absent</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador	<u>yes</u>
Councilmember Nick Perdomo	<u>absent</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember	<u> </u>

PASSED AND ADOPTED on second reading this 21st day of October, 2008.



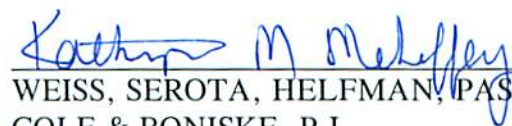
MICHAEL PIZZI
MAYOR

ATTEST:



DEBRA EASTMAN, MMC TOWN CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF MIAMI LAKES ONLY:



WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
TOWN ATTORNEY