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ORDINANCE NO. 2017-12

AN ORDINANCE OF WELLINGTON, FLORIDA'S COUNCIL, AMENDING WELLINGTON CODE OF ORDINANCES BY REPEALING CHAPTER 2 "ADMINISTRATION", ARTICLE VIII "RECOVERY OF COSTS OF ADMINISTRATIVE REVIEW AND PROCESSING", SECTION 2-361 "COST RECOVERY"; AND CREATING SECTION 2-361 "DEVELOPMENT APPLICATION FEE"; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Council of Wellington, Florida, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider changes to its code of ordinances; and

WHEREAS, the Village of Wellington has determined that the existing cost recovery fee collection system established in Chapter 2, Article VIII of the Code of Ordinances should be repealed in its entirety and replaced with an alternative development application fee system and schedule; and

WHEREAS, Chapter 2, Article VIII, Section 2-361 of the Code of Ordinances is proposed to be repealed in its entirety; and

WHEREAS, Chapter 2, Article VIII, Section 2-361 of the Code of Ordinances is proposed to be created to establish an alternative fee structure and schedule for planning applications based on flat development application fees and escrow deposits to cover professional services and other costs associated with an application; and

WHEREAS, a new fee schedule for Planning and Zoning applications shall be established by Resolution of Wellington, Florida's Council; and

WHEREAS, the Council has determined that the establishment of a new development application flat fee system and schedule in lieu of the current cost recovery system will improve efficiency and establish proportionate cost sharing between the public and private petition applicants.

NOW, THEREFORE, BE IT ORDAINED BY WELLINGTON, FLORIDA'S COUNCIL, THAT:

SECTION 1: Section 2-361 "Cost Recovery" of Article VIII "Recovery of Costs of Administrative Review and Processing" of Chapter 2 "Administration" of the Code of Ordinances of the Village of Wellington, Florida, is hereby repealed in its entirety (Exhibit A).

SECTION 2: Section 2-361 "Development Application Fees" of Article VIII "Recovery of Costs of Administrative Review and Processing" of Chapter 2 "Administration" of the Code of Ordinances of the Village of Wellington, Florida, is hereby created to establish the new fee structure for all planning applications. (Exhibit A)

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SECTION 3. Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision; then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

PASSED this ____ day of _____, 2017 upon first reading.

PASSED AND ADOPTED this _____ day of _____, 2017, on second and final reading.

WELLINGTON:

FOR AGAINST

BY: _____	_____	_____
Anne Gerwig, Mayor		
_____	_____	_____
John T. McGovern, Vice Mayor		
_____	_____	_____
Michael Drahos, Councilman		
_____	_____	_____
Michael J. Napoleone, Councilman		
_____	_____	_____
Tanya Siskind, Councilwoman		

ATTEST:

BY: _____
 Chevelle D. Nubin, Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
 Laurie Cohen, Village Attorney

Exhibit A

~~Sec. 2-361. Cost recovery.~~

~~(a) There is hereby imposed an administrative fee, for the various costs of the vVillage's administrative and outside fee consultant processing and review of applications, submissions, or requests concerning proposed matters affecting cable television service within the village (including applications for franchises, franchise renewal proposals, transfer control proposals, and proposals charging rates or service standards) or concerning development, utilization, or improvement of realty in the Village of Wellington (including but not limited to review and processing of plat applications, applications for plat waiver), proposed oversized off-site water distribution/transmission main and sewer collection/force main facilities, installation of utility lines and pipes, land use plan proposed amendments, planned or existing street, pavement, sidewalk, street marker signs, seawall, bridge installation, culvert or drainage facilities, modifications to site plans, applications variances, applications for physical development variances, certain building inspections, applications for and periodic review of development of regional impact orders, unity of title reviews, a change in zoning, pre and post-permit conferences and project reviews (specifically including but not limited to the development, monitoring, and completion of critical path governmental approval reports and all review and monitoring incident to or in any way related to such reports), and certain building plan, and bridge installation plan reviews and inspections as explained in subsection (e) herein (hereafter, "review requests"), such fee to be equal in amount to the village's actual costs, in terms of staff and outside fee consultants' time expended in such review and processing, and a surcharge for certain requested fast-tracking plan reviews and inspections as provided for in subsection (e), including advertising and similar directly related charges.~~

~~(b) Persons who file any review request which necessitates administrative or outside fee consultant review and processing shall pay prior to or at the time the review request is made, an initial preliminary 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.~~

~~(c) When the person pays the initial deposit, a financial account for said person's review request (the "project account") will be opened and maintained throughout the entire review process until the person receives a certificate of occupancy or the community services department or engineering and environmental services department (depending of the nature and genesis of the application) determines that no further action is necessary for the review and processing of the review request, at either of which time the project account will be closed and any remaining funds therein shall be refunded to the person depositing same, no later than two (2) months after the project account's closing date. The project account will be monitored on a periodic basis. Whenever the account balance is 20 percent or less of the original escrowed deposits, a supplemental deposit will be required before any further review or processing continues. The person making the initial deposit will be notified when a supplemental deposit will be required. The amount of the supplemental deposit will be 50 percent of the initial deposit. Several supplemental deposits may be necessary depending on the complexity of the review request.~~

~~(d) The staff of the various departments of the Village of Wellington and the village's outside fee consultants who are involved in the review and processing of review~~

~~requests shall maintain records of the time expended and tasks conducted regarding each such request. A debit based upon the time expended and the applicable hourly rate (plus a surcharge as provided in subsection (e) for certain requested work on fast-tracking projects) shall be charged against the project account. For purposes of this program, the applicable hourly rate shall be set forth in a rate resolution passed by the village council which shall take into consideration the factors resulting in a reasonable rate for the services provided including, but not limited, to a weekly salary divided by 40 hours, together with an additional factor reflecting said person's hourly value of fringe and pension benefits, if said staff person is a person who is compensated on a salary basis, as well as the costs of office space, equipment and other overhead costs associated with the function. The applicable hourly rate for review and processing by the village's outside fee consultants shall equal their actual charge for such review and processing, plus 70 percent administrative fees. It is the village's intent that the charges reflect the costs of administering this program, which charge shall be based upon the actual effort involved for such administration.~~

~~(e) This authorized program shall not replace the imposition and collection of structure permit fees, which building permit fees shall be collected to defray the costs of up to two (2) nonpriority structure plan reviews in a normal single-plan review procedure or up to two (2) nonpriority plan reviews in a fast-tracking plan review procedure, and inspections which are not requested on a priority basis and which are requested when the community services department or environment and engineering department is open during regular hours (or during the regular business hours of any village outside fee consultant engineering firm).~~

~~*Fast-tracking* is defined as a method of construction where plans for component parts of a structure are reviewed on an as-being-built (including pre and post-permit meetings with staff for such multiple plan critiques).~~

~~When fast tracking inspections or plan reviews are requested on a priority basis, or when the same plan for a component part of a structure is reviewed more than twice, the applicable rate for staff and outside fee consultants involved in such review and inspections, together with a surcharge of such applicable rate(s) (such surcharge to be implemented, established, and changed from time to time by resolution), shall be assessed against the project account of the person requesting such work.~~

~~When non-fast-tracking inspections or plan reviews are requested on a priority basis, or when the same plan is reviewed more than twice, the applicable rate for staff and outside fee consultants involved in such reviews and inspections shall be assessed against the project account of the person requesting same.~~

~~The cost of any inspections for fast-tracking and non-fast-tracking development which are requested when the community services department or environment and engineering department would normally be closed (or outside of the regular business hours of any village outside fee consultant engineering firm) shall be assessed against the project accounts of the person requesting same.~~

~~(f) The amount of the initial deposit for the different types of review requests shall be established, and from time to time amended, by resolution of the village council. It is the express intent of the Village Council and Mayor of the Village of Wellington, Florida, in enacting this cost recovery program that the village's costs of administrative and outside fee consultant review and processing of review requests, as required or necessitated~~

~~now or in the future by the village's ordinances, resolutions, policies, or procedures, shall be borne by the person initiating the review request. To the extent that this authorized program is not fully implemented by resolution as provided, the fees and charges provided for elsewhere in the Code of Ordinances immediately before the enactment of Ordinance No. 2007-17 (as such may be amended) for such unimplemented review and processing, if any, shall be valid as not inconsistent with this program, fully chargeable, levied, and collected.~~

~~(g) This program shall not apply to review requests which are originally initiated by or on behalf of the Village of Wellington or another governmental entity acting in its governmental capacity; such as, but not limited to, department of transportation highway proposal commentary, reviews of Palm Beach County transportation improvements, review of proposed amendments to the Palm Beach County or local land use plans, and review of developments of regional impact; provided however, that the initiating governmental entity does not charge the Village of Wellington for its review, processing, and comment upon Wellington's review requests of a similar type or nature.~~

~~(h) The preceding subsection (g) shall not apply to review requests which are initiated by another governmental entity or agency acting in a corporate or proprietary capacity, such action including, but not limited to, a governmental entity's review requests incident to the erection of buildings or structures within Wellington (such as post offices, libraries, or governmental office buildings).~~

~~(i) Except as provided herein, any notification provided in this section for supplemental deposits from the Village of Wellington to a person initiating a review request shall be deemed sufficient if made by a telephone call to such person or his or her agent with a confirming certified letter to follow. It shall be the duty of persons initiating review requests to provide on the filed review requests a continuously updated address and telephone number where said persons or their agents can be reached for purposes of such notification. If an attempt to notify a person initiating a review request or his or her agent is frustrated because such furnished phone numbers or addresses were not correct or up to date when the notification attempt was made, such frustrated attempt shall be deemed sufficient notice for purposes of this section.~~

Section 2-361. Development Application Fees

(a) There is hereby imposed an administrative fee to cover all costs associated with the processing submissions, or requests concerning proposed matters of Planning and Zoning applications, including but not limited to site plans, master plans, special permits, and development permits excluding building permits. The fee shall cover all staff costs. Additional escrow shall be collected for outside consultant's fees and required public noticing costs.

(b) A fee structure shall be established, and from time to time amended, by resolution of the Village Council. The fee structure is intended to function by collecting a flat, up front, fee for planning and zoning applications to cover the cost of review by Village staff. An escrow amount will also be collected, if necessary, to pay for any required outside consultants, advertising, or other costs associated with the project. A financial account will be opened and maintained throughout the review process to manage the escrow for the project. This may include requiring additional funds to replenish the escrow account should it be necessary. At such time that the project is finished and closed, any remaining escrow will be refunded to the applicant no later

than two months from the project's closing date. If the account is in the negative and the applicant does not reconcile the deficiency, the applicant will not be able process future development applications on the subject property.

- (c) This program shall not apply to review requests which are originally initiated by or on behalf of the Village of Wellington or another governmental entity acting in its governmental capacity; such as, but not limited to, department of transportation highway proposal commentary, reviews of Palm Beach County transportation improvements, review of proposed amendments to the Palm Beach County or local land use plans, and review of developments of regional impact; provided however, that the initiating governmental entity does not charge the Village of Wellington for its review, processing, and comment upon Wellington's review requests of a similar type or nature.
- (d) The preceding subsection (c) shall not apply to review requests which are initiated by another governmental entity or agency acting in a corporate or proprietary capacity, such action including, but not limited to, a governmental entity's review requests incident to the erection of buildings or structures within Wellington (such as post offices, libraries, or governmental office buildings).