

**CITY OF BONITA SPRINGS, FLORIDA
ORDINANCE NO. 19-03**

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING THE PROVISIONS FOR THE RECOVERY OF PROFESSIONAL FEES AND COSTS FOR THE REVIEW OF DEVELOPMENT APPLICATIONS AND PROCEDURES THEREFORE; PROVIDING CONFLICTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Charter provides that the City Council shall have the broadest exercise of home rule powers permitted under the state Constitution and the laws of the state; and

WHEREAS, the City Council has previously determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact an ordinance that provides for the recovery of actual costs from applicants for the City's review of development applications as set forth herein, and for the recovery of fixed fees from applicants for the City's review of certain other development applications; and

WHEREAS, the City of Bonita Springs, Florida adopted Bonita Springs Ordinances No. 17-18 and 18-11, amending and clarifying §2-571 of the Land Development Code, the Fee Schedule for Planning and Zoning; Cost Recovery; Waiver and Adjustment Process, to set forth a fee schedule for recovery of costs in land use permit applications; and

WHEREAS, City Council desires to utilize outside specialized land use counsel, planning, environmental, architectural, appraisal, transportation, engineering, or landscape architectural consultants for applications going to public hearing or may otherwise necessitate the need for outside specialization on a broader as needed basis.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Cost Recovery Fees for Review of Development Applications.

- (a) Cost Recovery Fees. There is hereby imposed a fee for the recovery of various costs of the City's outside fee consultant processing and review of applications, submissions, or requests concerning development, utilization, or improvement of property in the City of Bonita Springs, including, without limitation, the preparation of staff reports, calculation of impact fees or credits, and attendance at the public hearings related to such applications. Such fee is to be equal in amount to the City's actual costs, in terms of outside fee consultants' time expended in such review and processing. The exact amount of the fees, as well as the deposit accounts, are set forth in

LDC §2-571, except that until otherwise superseded by ordinance or resolution of the City Council the deposit amount for Comprehensive Plan and Zoning Amendments is \$2,500. Additionally, development orders or permits for an individual single-family residence are exempt from cost recovery fees under this Ordinance.

- (b) Persons who file any review request which necessitates outside fee consultant review and processing shall pay, prior to or at the time the review request is made, a 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 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 compliance or the Community Development department or other appropriate City agent (depending on 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 months after the project account's closing date.
- (d) The City's outside fee consultants who are involved in the review and processing of the enumerated Cost Recovery 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 adopted rates per hour, as approved by the City Council and available from the City Clerk, shall be charged against the project account. It is the City'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) The Cost Recovery Fee Schedule and the amount of the deposit for the different types of review requests per the Cost Recovery Fee Schedule shall be established by ordinance or resolution of the City Council, which may be amended from time to time. The Cost Recovery Fee Schedule shall be based on the adopted rates per hour of the City's outside fee consultants. In addition to the initial deposit, the applicant shall pay 10% of the deposit fee as an administrative charge for the costs of the City staff review of the application. It is the express intent of the City Council, in enacting this cost recovery program that the City's costs of outside fee consultant review and processing of review requests, as required or necessitated now or in the future by the City's ordinances, resolutions, policies, or procedures, shall be borne by the person initiating the review request.
- (g) The cost recovery fees shall not apply to review requests which are originally initiated by or on behalf of the City of Bonita Springs or another governmental entity so long as the initiating governmental entity does not

charge the City of Bonita Springs for its review, processing, and comment upon the City of Bonita Springs review request of a similar type or nature.

Section 3. Fixed Fees for Review of Development Applications.

- (a) There is hereby imposed a fixable fee certain administrative costs to cover the City's costs of administration of certain development applications, which fee shall not duplicate the cost recovery fee, and which fee or fees shall be established by ordinance of the City Council from time to time. The fixed fee shall be imposed for those applications, including but not limited to, building permits, contractor licensing, and code enforcement hearing fees.
- (b) Upon review should the City's Community Development Department Director determine that the City's review of any development application will incur extraordinary costs not otherwise covered by the fixed fee, the Director may require that the applicant pay a cost recovery fee in addition to the fixed fee.
- (c) The fixed fees shall not apply to review requests which are originally initiated by or on behalf of the City of Bonita Springs or another governmental entity so long as the initiating governmental entity does not charge the City of Bonita Springs of its review, processing, and comment upon the City's review requests of a similar type or nature.

Section 5. Conflicts.

All sections or parts of sections of the City of Bonita Springs Code of Ordinances in conflict herewith are intended to be repealed to the extent of the conflict. Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply. Specifically, the provisions of this Ordinance supersede all requirements and provisions Ordinance 18-11 and conflicting provisions of Section 2-571 of the Land Development Code.

Section 5. Severability.

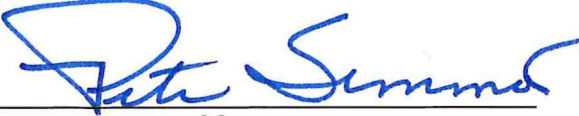
If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be effected by such invalidity.

Section 6. Effective Date.

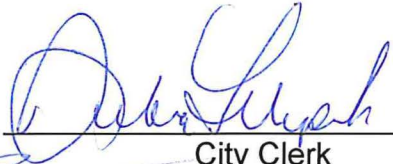
The effective date of this ordinance shall be thirty days from its adoption date, however, it is the intent of City Council to allow staff to apply retroactively the process set forth in this ordinance consistent with the current fee schedule in place.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 17th day of April, 2019.

AUTHENTICATION:



Mayor



City Clerk

APPROVED AS TO FORM: 

City Attorney

Vote:

Carr	Aye	O'Flinn	Aye
DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye		

Date filed with City Clerk: 4/29/19