



To: Desiree Liguori, Administrative Analyst for Development Service

From: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Florida House of Representatives- CS/CS/HB 1021-
Residential Painting Permit

Date: June 30, 2017

My opinion is that the City may continue to require a color pallet review under section 3-205 of the Zoning Code to ensure that the color pallet of a residence complies with the Board of Architects pre-approved color pallet, or that if it does not, that approval of the Board of Architects has been obtained. Any change in color would still require a zoning permit or other form of approval. This is in the nature of an approval related to aesthetics and is therefore not precluded by the statute, as what is being regulated is the color. In other words, the City would not be reviewing the technical aspects of the paint work as part of the permit process (although this could be a subject for later Code Enforcement), it would be reviewing any change in color to determine if it would be allowed. If the City did not require a zoning permit or approval, any time a residence changed its color, the residence would be in violation of the Zoning Code. Such an outcome is not logical and would undermine the purpose of both the statute and the Zoning Code.

Because this is an aesthetic review that requires staff time at a cost to the City, it is my opinion that a fee could be charged and defended. Nevertheless, I would recommend not charging a fee here, or at least having an administrative suspension of fees for a set period of time, while the City determines how other municipalities are implementing the provision and whether there are any court decisions issued that provide guidance.

Please note, as this is a new statute, there have not been cases providing guidance, which limits my ability to predict how a court would interpret the statute. I am asking my office to follow this statute to see if more authority becomes available.

This opinion is issued pursuant to section 2-201(e)(1) and (8) of the City Code, as well as section 2-702 of the Zoning Code.

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Florida House of Representatives- CS/CS/HB 1021- Residential Painting Permit
Date: Friday, June 30, 2017 5:10:23 PM
Attachments: [image004.png](#)
[image001.png](#)
Importance: High

Please publish.

Craig E. Leen, City Attorney

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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Friday, June 30, 2017 5:10 PM
To: Liguori, Desiree <dliguori@coralgables.com>
Cc: Iglesias, Peter <piglesias@coralgables.com>; Lopez, Manuel <mlopez@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Mindreau, Carlos A. <cmindreau@coralgables.com>; Goizueta, Virginia <vgoizueta@coralgables.com>; Wu, Charles <cwu@coralgables.com>; Garcia, Dayron <dgarcia@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>; Ramos, Miriam <mramos@coralgables.com>; Throckmorton, Stephanie <sthrockmorton@coralgables.com>
Subject: RE: Florida House of Representatives- CS/CS/HB 1021- Residential Painting Permit
Importance: High

[City Attorney Opinion](#)

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Celebrating 90 years of a dream realized.

From: Liguori, Desiree

Sent: Friday, June 30, 2017 2:46 PM

To: Leen, Craig <cleen@coralgables.com>

Cc: Iglesias, Peter <piglesias@coralgables.com>; Lopez, Manuel <mlopez@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Mindreau, Carlos A. <cmindreau@coralgables.com>; Goizueta, Virginia <vgoizueta@coralgables.com>; Wu, Charles <cwu@coralgables.com>; Garcia, Dayron <DGarcia@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>

Subject: Florida House of Representatives- CS/CS/HB 1021- Residential Painting Permit

Importance: High

Good afternoon Craig,

We need some clarification in regards to the legislative changes made to residential painting permit.

It states in Section 15: A local government may not require an owner of a residence to obtain a permit to paint such residence, regardless of whether the residence is owned by a limited liability company. I have attached the entire bill for your review. The new regulation is effective July 1, 2017 and as we issue paint permits we need clarification on several aspects. Currently for paint permits we charge a zoning permit fee, document preservation and ordinance 2006-27 filing fee, along with issuing a Zoning Permit.

1. Will the department be allowed to charge any fees, rather than a permit fee instead charge a review fee?
2. Will the residents submit an application and approve the application as a permit cannot be issued?

Please advise as on Monday we must follow the new regulation.

Thank you,

Desiree Liguori

Administrative Analyst

Development Services

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