

EXHIBIT 1  
ORDINANCE NO. 2017-

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION," ARTICLE IV "DEPARTMENTS," CHAPTER 3, "LEGAL DEPARTMENT," SECTIONS 2-361 TO 2-368, TO UPDATE THE DUTIES AND RESPONSIBILITIES OF THE CITY ATTORNEY; AUTHORIZING DIRECT PROCUREMENT OF LEGAL SERVICES RETAINED BY THE CITY ATTORNEY; REPEALING SECTIONS 2-365 TO 2-368 TO ELIMINATE THE SEPARATE POSITION OF CITY PROSECUTOR; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Attorney is one of three City Officers required by the City Charter and one of only two officers appointed by the City Commission; and

**WHEREAS**, most provisions of the City's Code relating to the City Attorney have not been amended since 1980 and longstanding practices of the City and the City Attorney's office have not been codified; and

**WHEREAS**, the City Charter requires that the City Attorney ensure that the City is represented in all legal proceedings, a number of which require specific expertise or other outside counsel to avoid legal conflicts; and

**WHEREAS**, the City Code contains provisions regulating the selection of professional services that the Commission has, in practice, never intended to apply to the City Attorney's selection of legal services, including outside counsel, legal experts, and legal support; and

**WHEREAS**, the City's Code contains a separate position of City Prosecutor that has not been filled by the City Commission and is not necessary or advisable in light of current practices for municipal violations; and

**WHEREAS**, the City Attorney recommends that the Code be revised to reflect the current longstanding practices of the City with respect to the City Attorney's Office and that the

separate position of City Prosecutor be eliminated as unnecessary and redundant to the responsibilities of the City Attorney; and

**WHEREAS**, the Mayor and City Commission find that the City Attorney's recommendations increase transparency and accountability and are in the best interest of the City of Hallandale Beach.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:**

**SECTION 1.** The foregoing "Whereas" clauses are confirmed as true and incorporated herein.

**SECTION 2.** Chapter 2 Administration, Article IV. Departments, Chapter 3, Legal Department, of the City's Code of Ordinances is amended to read as follows:

**Sec. 2-361. - City ~~a~~Attorney Responsibilities and ~~to function as head of department;~~ ~~q~~Qualifications.**

~~The legal department of the city~~ There shall be under the supervision of a city attorney appointed by the city commission to serve at the pleasure of the commission a City Attorney. The city attorney shall be a member of The Florida Bar, shall have no history of disciplinary action by the Florida Bar, and, if an individual, shall not during his or her tenure of office engage in any private practice of law. The City Attorney shall be the head of the City Attorney's Office and in this capacity shall have the following powers and responsibilities:

(a) To act as the legal advisor for the City and all of its officers in all matters relating to their official powers and duties.

(b) To prepare or review all ordinances, resolutions, contracts, bonds and other written instruments in which the municipality is concerned, and shall endorse on each his/her approval of the form, language, and execution thereof with respect to legal sufficiency.

(c) Prosecute or defend, directly or through other designated counsel, for and on behalf of the City, all complaints, suits and legal proceedings before any court or other legally constituted tribunal.

- (d) To attend meetings of the City Commission, or delegate as necessary.
- (e) Recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.
- (f) Render opinions and/or reports on legal matters affecting the City as the Commission may direct.
- (g) Examine and approve as to legal sufficiency all contracts, franchises, deeds or other undertakings of the city.
- (h) Participate, as he/she determines necessary, in the negotiation process for all transactions which involve more than \$50,000.00 and in all negotiations in which the subject matter of a dispute could foreseeably lead to litigation.
- (i) Perform such other professional duties as may be required of him/her by ordinance or resolution of the Commission.
- (j) To appoint and remove personnel as he/she deems necessary to accomplish the duties of the Office of the City Attorney, including all outside counsel and other legal services. All attorneys retained or employed by the city, regardless of the nature or kind of service performed or the title or designation under which they render legal service for the City, shall be under the direct supervision and control of the City Attorney, except special outside counsel or legal services directly appointed by the City Commission for specific engagements under Sec. 2-362.

**Sec. 2-362. – Duties of city attorney; ~~o~~Other counsel authorized.**

~~It shall be the duty of the city attorney to act as legal advisor to the city commission, the city manager, department heads and all boards of the city. He shall prepare all ordinances, resolutions or regulations submitted for consideration of the commission. He shall examine and approve as to legal sufficiency all contracts, franchises, deeds or other undertakings of the city and shall participate in the negotiation process for all transactions which involve more than \$50,000.00. The city attorney shall also partake in all negotiations in which the subject matter of a dispute could foreseeably lead to litigation. He shall represent the city in bond validations, condemnations under eminent domain, and other legal proceedings in which the city is a party; however, t~~The city commission may, in its discretion, directly associate other special counsel in any matter in which the city has an interest, and pay the compensation of such associate counsel. The police and fire pension board may retain its own attorney at the pension fund's expense. ~~The police and fire pension board may also retain the services of the city attorney under terms and conditions acceptable to the board and to the city commission.~~

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118 **Sec. 2-363. - Compensation of personnel. ~~Attorney to attend commission meetings;~~**  
119 **~~other duties as prescribed.~~**

120 The compensation of the city attorney and all other personnel of the legal department  
121 shall be fixed by the commission in the annual budget. It shall be paid by the city in the  
122 same manner as salaries of other city employees are paid. Funds budgeted for unfilled  
123 positions may be utilized for temporary services or reallocated to other positions as  
124 necessary. ~~The city attorney shall attend meetings of the city commission and shall perform~~  
125 ~~such other duties as the commission may by resolution or ordinance provide.~~

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127 **~~Sec. 2-364 - Compensation of personnel as fixed.~~ Procurement Authority for Legal**  
128 **Services Retained by City Attorney.**

129 Due to the highly specialized nature of selecting legal services, the provisions of this  
130 Code relating to competitive procurement, delegated spending limits, bid protests and other  
131 procurement regulations shall not apply to retaining services of law firms or other outside  
132 counsel for any reason, nor to expert witnesses, appraisal services, legal support, trial  
133 consultants or similar persons or firms deemed by the City Attorney as necessary to address  
134 the City's legal needs. These services will be selected by the City Attorney, provided  
135 authorized funds are available in the annual budget. Nevertheless, in selecting outside  
136 counsel and other legal services, the City Attorney should be mindful of the costs involved  
137 and should strive to select those firms and individuals who are the most qualified and who  
138 can provide the services to the City at a reasonable cost. The City Attorney shall provide  
139 notice of retainers and periodic reports to the City Commission of the costs for legal  
140 services. ~~The compensation of the city attorney and all other personnel of the legal~~  
141 ~~department shall be fixed by the commission in the annual budget. It shall be paid by the city~~  
142 ~~in the same manner as salaries of other city employees are paid.~~

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144 **SECTION 3.** Sections 2-365 through 2-368 are hereby repealed in their entirety and  
145 shall be reserved for future use.

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147 **SECTION 4. Conflict.** All ordinances or portions of the Code of Ordinances of the  
148 City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to  
149 the extent of such conflict.

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151 **SECTION 5. Severability.** Should any provision of this ordinance be declared by a  
152 court of competent jurisdiction to be invalid, the same shall not affect the validity of the  
153 ordinance as a whole, or any part thereof, other than the part declared to be invalid.

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155 **SECTION 6. Codification.** It is the intention of the Mayor and the City Commission  
156 that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect

157 such intention the words "ordinance" or "section" may be changed to other appropriate  
158 words.

159 **SECTION 7. Effective Date.** This Ordinance shall take effect immediately upon  
160 adoption on second reading.

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162 PASSED AND ADOPTED on 1<sup>st</sup> reading on \_\_\_\_\_, 2017.

163 PASSED AND ADOPTED on 2<sup>nd</sup> reading on \_\_\_\_\_, 2017.

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JOY F. COOPER  
MAYOR

169 SPONSORED BY: CITY ATTORNEY

170 ATTEST:

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MARIO BATAILLE, CMC  
174 CITY CLERK

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176 APPROVED AS TO LEGAL SUFFICIENCY and  
177 FORM

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JENNIFER MERINO  
181 CITY ATTORNEY