ORDINANCE NO. 2013-85

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION" OF THE CODE OF ORDINANCES, ARTICLE V. ENTITLED "FINANCE", DIVISION 2. ENTITLED "FEES AND CHARGES", AND IN PARTICULAR AMENDING SECTION 2-871 "DUPLICATION AND CERTIFICATION OF PUBLIC DOCUMENTS" TO DEFINE THE TERM "EXTENSIVE", AND TO AMEND THE SPECIAL SERVICE CHARGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is to clarify the circumstances under which a special service charge may be due when documents are produced in response to a public records request as permitted by law;

WHEREAS, this amendment advances the City's interest in promoting the community's welfare by providing for open and orderly governance and faithful discharge of its obligation to allow open access to all public records under the Florida Public Records Act; and

WHEREAS, this amendment further advances the City's interest in promoting the community's welfare since the purpose of a special service charge is to recover actual costs incurred by the City when responding to public records requests making the City accountable for the expenditure of public funds.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 2 entitled "Administration", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 2

ADMINISTRATION

* * *

ARTICLE V. FINANCE

* * *

DIVISION 2. FEES AND CHARGES

Sec. 2-871. Duplication and certification of public documents.

(a) *Definitions:* For the purposes of this section, the following definitions shall apply:

* * *

(5) *Extensive.* Expending more than fifteen minutes total time to search and locate records responsive to any request, review the records for and redact any exempt or confidential information (including photocopying responsive records for redaction), supervise the inspection of redacted records or photocopy redacted records to provide to the requestor, and re-file any records culled.

(b) *Charges.* The city shall furnish copies of public records in is custody upon payment of the following charges:

	Document	*Charges*
(1)	One-sided duplicated copies consisting of pages not more than 14 inches by 8 ½ inches, for each page	$0.15
(2)	Two-sided duplicated copies consisting of pages of not more than 14 inches by 8 ½ inches, for each page	0.20
(3)	All other duplicated copies	Actual cost of duplication
(4)	Certification of copies, for each document	1.00
~~(5)~~	~~Microfilm - copies, for each page~~	~~0.15~~
(~~6~~5)	Duplication of audio tape, CD, DVD for each tape, disk or a portion thereof and photographs	~~5.00~~ Actual cost of duplication
(~~7~~)	~~Photographs~~	~~Actual cost of duplication~~

(~~8~~6) City budget 20.00

* * *

(e) *Special service charge.* If ~~a~~ the nature or volume of public records requested to be inspected, examined or copies is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by city personnel involved, or both, the city shall charge, in addition to the actual cost of duplication, a special service based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the services that is incurred by the city or attributable to the city for clerical and supervisory assistance required, or both. A reasonable special service charge for supervisory assistance will also be assessed where the nature or volume of public records requested require supervisory personnel to expend more than fifteen minutes of time to review the responsive records for all applicable exemptions and redaction of all confidential information. When any special service charge is based on the labor cost of the city employees performing the service, the labor cost shall include wages or salary plus any benefits paid to the employee by the city. Special service charges will be computed to the nearest quarter of an hour exceeding fifteen minutes. A schedule of special service charges shall be established by administrative order of the mayor.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as

abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 26 day of November, 2013.

Isis Garcia-Martinez
Council President

Attest: Approved on this 2 day of DEC, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 6-0-1 vote with Council Members, Garcia-Martinez, Casals-Munoz, Caragol, Gonzalez, Hernandez and Lozano voting "Yes", Council Member Cue-Fuente was absent.

CITY OF HIALEAH

OFFICE OF THE MAYOR

Administrative Order on Costs of Photocopying, Inspecting or Photographing Public Records

The intent of this policy is to implement the statutory schedule of permissible costs of copying public records and establish guidelines to impose a special service charge for the photocopying, photographing or inspection of public records in response to requests from the public as allowed for by the Florida Public Records Law.

I. Photocopying Costs

Copies of public records shall be charged according to the following rates:

Size of Copy	Cost
One-sided copies not exceeding 81/2 in x 14 in	$.15 per copy
Two-sided copies not exceeding 81/2 in x 14 in	$.20 per copy
Certified copies	$1.00 per copy
All other copies	Actual cost of duplication

The actual cost of duplication shall include only the cost of the materials and supplies used to make the copies of the record but shall not include any labor costs or overhead costs associated with making the copies of the record. The rates may be amended from time to time as allowed by the Florida Public Records Law or as provided in the Hialeah Code. Subject to the special service charge provided for in Part IV below, there shall be no cost for transmitting an electronic record maintained by the City in electronic format and capable of being transmitted to the requestor by e-mail.

II. Inspection Costs

A special service charge, as provided for in Part IV below, shall be paid by the person requesting to inspect public records if the nature or volume of public records requested to be inspected requires any extensive use of information technology resources, any extensive clerical assistance and/or any extensive supervisory assistance by the City's employees. Inspection of the responsive records shall take place at a reasonable time, under reasonable conditions and under the supervision of the City Clerk or designee.

III. Photographing Costs

A special service charge, as provided for in Part IV below, shall be paid by the person requesting to photograph public records if the nature or volume of public records requested to be photographed requires any extensive use of information technology resources, any extensive clerical assistance and/or any extensive supervisory assistance by the City's employees.

Photographing of public records shall be done under the supervision of the City Clerk or the Clerk's designee in the room where the public records are kept. The City Clerk or designee shall determine whether photographing the records requested in the room or place where the records are regularly kept is impractical or impossible and shall designate an alternate room or place for photographing. There shall be no cost associated with providing a room or place to photograph the records, other than the room or place where the records are regularly kept, so long as the alternate room or place is on City property. If the alternate room or place is not within City property, the expense of providing the same shall be paid by the person requesting to photograph the records. If in the judgment of the City Clerk or designee an alternate room or place for photographing is required, notwithstanding whether the alternate room or place is on City property, the person making the request shall be responsible for a supervisory fee pursuant to the Florida Public Records Law unless a reasonable service charge for the supervision of the records during inspection and/or photographing has already been assessed.

IV. Special Service Charge for Photocopying, Inspecting or Photographing Public Records

In addition to the costs provided for above, the person requesting public records shall be responsible to pay a reasonable special service charge if the nature or volume of public records requested requires any extensive use of information technology resources, any extensive clerical assistance and/or any extensive supervisory assistance by the City's employees. The special service charge shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the City or attributable to the City for the clerical and supervisory assistance required, or both. For purposes of determining when the special service charge shall be assessed, "extensive" shall mean any request which requires more than fifteen minutes total time to search and locate records responsive to the request, review the records for and redact any exempt or confidential information (including photocopying responsive records for redaction), supervise the inspection of redacted records or photocopy redacted records to provide to the requestor, and re-file any records. A reasonable special service charge for supervisory assistance will also be assessed where the nature or volume of public records requested require supervisory personnel to expend more than fifteen minutes of time to review the responsive records for all applicable exemptions and redaction of all confidential information. When any special service charge is based on the labor cost of the City employees performing the service, the labor cost shall include wages or salary plus any benefits paid to the employee by the City. Special service charges will be computed to the nearest quarter of an hour exceeding fifteen minutes.

V. Estimate of Costs and Advance Payment or Deposit Required

The City Clerk or designee shall respond to all requests for information for costs or cost estimates. The City Clerk shall prepare a cost estimate, including a breakdown of costs, time estimates, rate of pay and benefits, and any other information necessary to explain the basis for the estimate, for every request which requires the assessment of a special service charge. The requestor must be notified of the total estimated amount and shall pay the estimated amount prior to any copies being made or provided to the requestor and prior to the use of any extensive information technology resources, or the use of any extensive clerical or supervisory assistance in response to the request. The City Clerk or designee shall notify the requestor of any deficiency between the cost estimate and actual costs incurred as soon as reasonably possible. The requestor must pay any deficiency in advance prior to receiving or inspecting any responsive records. The City Clerk or designee shall reimburse any overage between the cost estimate and actual costs incurred as soon as reasonably practicable after providing all responsive records to the requestor.

VI. Retention of Copies Requested

The City Clerk or designee shall notify the requestor when responsive records are available for inspection, photographing or delivery, if photocopies have been requested. In the case of photocopies, after notifying the requestor of the availability of the photocopies, the City Clerk shall keep the copies for an additional thirty days to allow the requestor the opportunity to collect them from the City Clerk's office. If the requestor does not pick up the photocopies from the City Clerk's office prior to the expiration of the thirty days, the Clerk shall discard the copies. The City Clerk shall bill the requestor who does not pick up any photocopies produced and available to be picked up for any amount of underestimated costs due and unpaid in advance by the requestor. Except for overpaid amounts, the requestor shall not be entitled to any reimbursement of costs paid in advance for photocopies the requestor did not pick up within the thirty day window. The City Clerk or designee shall not fulfill any future requests for public records made by a person who has been billed for and not paid any amount of costs due for a public records request.