

**ORDINANCE NO. 2021-094**

ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 94 OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH ENTITLED "WATER AND SEWERS", AND IN PARTICULAR, HIALEAH CODE § 94-163 ENTITLED "WATER AND WASTEWATER PAYMENT IN LIEU OF FRANCHISE FEES" TO REDUCE THE LIMITS OF THE RATE SCALE FROM A MINIMUM RATE OF 7.5% AND A MAXIMUM RATE OF 10% TO A NEW MINIMUM RATE OF 3% AND A NEW MAXIMUM RATE OF 6%; REPEALING ALL ORDINANCE OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City is authorized by law to adopt all necessary utility rates, fees, and charges consistent with state law; and

**WHEREAS**, the City intends that the utility rates, fees and charges adequately generate the necessary revenues to meet the projected fiscal requirements of the water and wastewater utility system, including operating expenses, projected capital improvements and debt service on any outstanding or future bond issues; and

**WHEREAS**, the water and wastewater payment in lieu of a franchise fee, enacted in part to enable the City to collect a reasonable payment from the utility for the use and occupation of the rights-of-way and public lands within the city, is an operating expense of the utility that must be budgeted and paid to the City in the manner provided by City Code; and

**WHEREAS**, from time to time, the City needs to increase utility rates, fees, and charges to account for increases in the County's wholesale rates, adjust for inflation, achieve a reasonable rate or return on its utility operations and maintain financial stability; and

**WHEREAS**, the City finds that there exists a risk that future rate increases necessary to generate sufficient revenues may cause the service to become unaffordable to its utility customers; and

**WHEREAS**, in order to balance rising operational costs, generate adequate revenues to maintain financial stability and keep utility rates, fees and charges affordable, the City finds it is in the best interest of the all its taxpayers and utility consumers to lower the rate scale and establish a new minimum and new a cap amount to the water and wastewater payment in lieu of franchise fee.

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

**Section 1:** Chapter 94 entitled “Water and Sewers”, Article IV. Procedures for Water and Sewer Services, Division 4. Rates, Fees and Charges, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 94-163 entitled “Water and Wastewater Payment in Lieu of Franchise Fee”, to read as follows:

Chapter 94

**WATER AND SEWERS**

\* \* \*

**ARTICLE IV. PROCEDURES OF WATER AND SEWER SERVICES**

\* \* \*

**DIVISION 4. RATES, FEES AND CHARGES**

\* \* \*

**Sec. 94-163. Water and wastewater payment in lieu of franchise fee.**

The city hereby adopts a water and wastewater payment in lieu of franchise fee applicable to all sales of water and wastewater service by the city in an amount equal to no less than ~~7.53%~~ and no greater than ~~10.6%~~ of the bi-monthly rates, fees, and charges (including base facility and consumption rates) from the sale of water and wastewater service to customers of the city’s water and wastewater system. The rate for the sale of water and the rate for wastewater service shall be established each fiscal year and adopted concurrently with the adoption of the annual budget for the Utility. If there is no change in either rate from the current fiscal year to the next fiscal year, the city shall reaffirm the rates by resolution. If there is an upward or downward adjustment to either rate from the current fiscal year to the next, the city shall adopt the change by separate ordinance. The city shall provide public notice of the proposed action pursuant to section 166.041(3)(a), Florida Statutes. The city’s water and wastewater utility will budget and transfer to the general fund this payment in lieu of franchise fee on a monthly basis.

**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: 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.

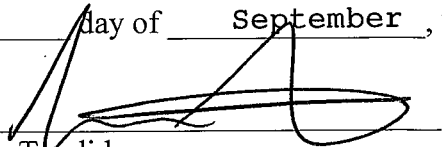
**Section 4: Severability Clause.**

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.

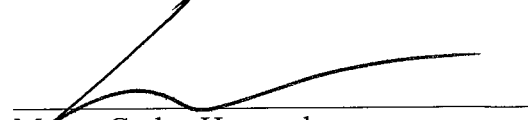
**Section 5: Effective Date.**

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 28 day of September, 2021.

  
\_\_\_\_\_  
Jesus Tundidor  
Council President

Approved on this 7 day of October, 2021.

  
\_\_\_\_\_  
Mayor Carlos Hernandez  
Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Perez, Tundidor, and Zogby voting "Yes" and Council Member Hernandez absent.

Attest:

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.