

ORDINANCE NO. 2018-026

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 PROVIDE FOR DEPOSIT REQUIREMENTS WHEN THE ESTIMATED COSTS OF PRODUCTION EXCEED \$25.00, PROVIDING FOR TIME OF PAYMENT; REQUIRING PAYMENT OF ALL PAST DUE FEES PRIOR TO COMPLYING WITH SUBSEQUENT REQUESTS; AND TO PROVIDE LENGTH OF TIME COPIES WILL BE KEPT AFTER REQUEST IS FULFILLED; 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 City upholds the public's constitutional right to access public records; and

WHEREAS, consistent with the provisions of State law, the City is authorized to charge reasonable costs of producing records in response to requests from the public so that taxpayers should not shoulder the entire expense of responding to an extensive request for records; and

WHEREAS, in order to protect taxpayers from shouldering the entire expense incurred when the City responds to extensive requests for records, the City finds it appropriate to require and advance of fifty percent of the estimated costs of producing the records requested where the estimated costs of production exceed twenty-five dollars;

WHEREAS, in order to avoid waste of valuable public resources, the City finds it is appropriate to require that all past due fees are paid prior to fulfilling any future requests; and

WHEREAS, adopting a deposit policy balances the City's obligation to account for the expenditure of public dollars with the faithful discharge of its obligation to allow open access to all public records under the Florida Public Records Act; and

WHEREAS, this Ordinance protects the public welfare by promoting open and ordered governance.

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.

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(e) *Special service charge.* If the nature or volume of public records requested to be inspected, examined or copied 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 charge which shall be reasonable and shall be 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.

(f) Estimate of service charges and costs; Deposit required. Whenever the City Clerk determines that the anticipated costs or service charges in connection with the inspection, photography or duplication of public records will exceed twenty-five dollars (\$25.00), the City Clerk shall prepare and provide the requestor an estimate of service charges and costs prior to fulfilling the request. The City Clerk shall collect a deposit of fifty percent (50%) of the estimate from the requestor prior to fulfilling the request. The requestor may elect to pay more than the required deposit amount prior to the city fulfilling the request. Any difference between the estimate and the actual costs incurred by the city shall be paid by the requestor prior to the release of any records. Any excess between the actual costs incurred by the city and the payment on the estimate collected by the City Clerk, shall be reimbursed to the requestor.

(fg) Service fee for dishonored check. A service fee of \$25.00, if the face value of the dishonored check, draft, or other order for payment of money to the city does not exceed \$50.00, \$30.00, if the face value exceeds \$50.00 but does not exceed \$300.00, and \$40.00, if the face value exceeds \$300.00, of five percent of the face amount of the check, draft, or money order, whichever is greater, shall be charged for the collection of a dishonored check, draft, or other order for the payment of money to the city. The service fee shall be in addition to all other penalties imposed by law.

(gh) Charges in state law. Any future changes in service fees and charges permitted by the Public Records Law, Chapter 119, Florida Statutes, as amended, shall be adopted: by administrative order of the mayor.

(hi) fDiscovery requests. The charges contained herein shall also apply to discovery requests in connection with matters in litigation.

(i) Recovery of all costs and charges. If a requestor notifies the city the records are no longer needed after the city has fulfilled the

request, the city shall bill the requestor for all costs and charges incurred as provided by this Section. No additional or subsequent requests for public records shall be fulfilled until the requestor pays for all past due costs and charges.

(k) The City Clerk shall not be obligated to maintain copies of records in response to a request for a period of time longer than twenty (20) days after notifying the requestor that the records are ready to be retrieved.

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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.

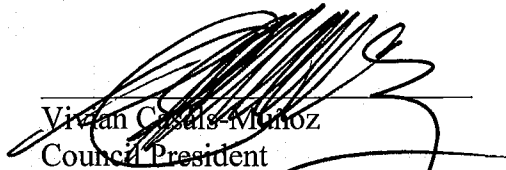
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

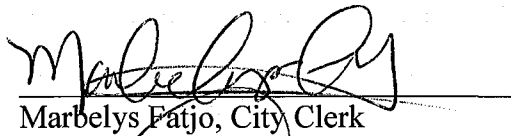
PASSED AND ADOPTED this 27 day of March, 2018.

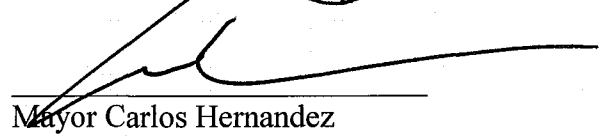
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Vivian Casals-Munoz
Council President

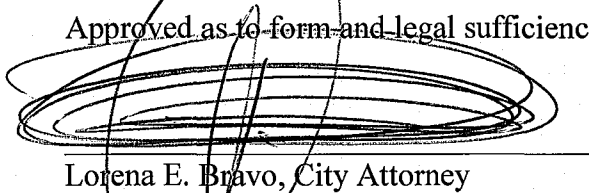
Attest:

Approved on this 6 day of April, 2018.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 7-0 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez, Garcia-Martinez and Cue-Fuente voting "Yes".

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