

ORDINANCE NO. 2009-16 OF THE CITY OF LAKE WORTH, FLORIDA, CREATING SECTION 2-10.5 OF CHAPTER 2 OF THE ORDINANCES OF LAKE WORTH TO PROVIDE FOR A SPECIAL SERVICE CHARGE FOR EXTENSIVE USE OF INFORMATION TECHNOLOGY RESOURCES OR EXTENSIVE CLERICAL OR SUPERVISORY ASSISTANCE NEEDED TO FULFILL PUBLIC RECORD REQUESTS; PROVIDING FOR A DEFINITION OF EXTENSIVE RECORDS REQUEST; PROVIDING FOR PAYMENT OF A DEPOSIT PRIOR TO CITY STAFF RESEARCHING OR LOCATING RESPONSIVE RECORDS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 119.07(4), Florida Statutes, authorizes the City of Lake Worth (the "City") to charge for copying public records at fees when responding to public records requests; and

WHEREAS, Section 119.07(4)(d) Florida Statutes, provides that, if the nature or volume of public records requested to be inspected or copied requires extensive use of information technology resources or extensive clerical or supervisory assistance or both, then the City may charge, in addition to the actual cost of duplication, a special service charge; and

WHEREAS, the Second District Court of Appeal ruled in *The Board of County Commissioners of Highlands County v. Colby*, 976 So. 2d 31 (Fla. 2d DCA 2008), that a local government can collect a deposit prior to beginning research pursuant to a public records request, as long as the deposit was reasonable and based on the labor costs that was incurred by or attributable to the County; and

WHEREAS, the Second District Court of Appeal in *Colby* noted that a "policy of requiring an advanced deposit seems prudent given the legislature's determination that taxpayers should not shoulder the entire expense of responding to an extensive request for public records" in *The Board of County Commissioners of Highlands County v. Colby*, 976 So. 2d 31 (Fla. 2d DCA 2008); and

WHEREAS, the City Commission finds that it is in the best interest of the residents of the City of Lake Worth to provide for a special service charge for extensive use of information technology resources or extensive clerical or supervisory assistance needed to fulfill public record requests.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. That Section 2-10.5 of Chapter 2 of the Code of Ordinances is created to read as follows:

2-10.5 Special service charge for extensive use of resources needed to fulfill public record requests.

(a) Public Records Requests:

Pursuant and subject to the limitations and exemptions set forth in Chapter 119, Florida Statutes, the City shall make available public records to any person for inspection or copying. In the event that the City determines that a public records request will require extensive use of information technology resources or will require extensive clerical or supervisory assistance, a special service charge shall be imposed, in addition to the charge for copies.

(b) Definitions:

1. Extensive Use shall mean more than one hour of staff time per request.

2. Special Service Charges:

a. The equivalent of the hourly wage of the employee who renders assistance, which shall include the employee's hourly wage and the cost to the City of all benefits paid to the employee.

b. The charge will be computed to the nearest quarter of an hour exceeding the first hour.

c. If the records requested are stored on computer and must be retrieved and reproduced from such storage, the charges for such reproduced copies shall be based on the time necessary to generate and reproduce such records.

(c) The City may require a deposit equal to the estimated amount for copies, any applicable service charges for extensive requests and, when applicable, the cost of mailing prior to gathering the records requested. If the City's cost to provide the records is less than the amount provided in the deposit, the remaining amount of the deposit shall be returned to the requesting party. In the event the City incurs charges in an amount greater than the deposit, the City shall issue an invoice to the requesting party for the additional charges which shall be payable prior to or upon receipt of the documents requested.

Section 2. If any provision of this Ordinance, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Section 1 of this Ordinance shall be codified.

Section 5. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Mulvehill, seconded by Commissioner Lowe, and upon being put to a vote, the vote was as follows:

Mayor Jeff Clemens	AYE
Vice Mayor Jo-Ann Golden	AYE
Commissioner Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Suzanne Mulvehill	AYE

The Mayor thereupon declared this Ordinance duly passed on first reading on the 21st day of July 2009.

The passage of this Ordinance on second reading was moved by Commissioner Mulvehill, seconded by Vice Mayor Golden, and upon being put to a vote, the vote was as follows:


Mayor Jeff Clemens	AYE
Vice Mayor Jo-Ann Golden	AYE
Commissioner Retha Lowe	AYE
Commissioner Cara Jennings	NAY
Commissioner Suzanne Mulvehill	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on the 4th day of August, 2009.

LAKE WORTH CITY COMMISSION

By: 
Jeff Clemens, Mayor

ATTEST:


Pamela J. Lopez, City Clerk

