

**RESOLUTION NO. 2017-43**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, ADOPTING A SCHEDULE OF FEES TO BE CHARGED FOR THE RETRIEVAL AND COPYING OF PUBLIC RECORDS; ADOPTING A SPECIAL SERVICE CHARGE FOR EXTENSIVE USE OF INFORMATION TECHNOLOGY RESOURCES OR EXTENSIVE CLERICAL OR SUPERVISORY ASSISTANCE BY CITY PERSONNEL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS:** The Florida Public Records Law, Section 119, Florida Statutes, provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf; and

**WHEREAS:** In the absence of a statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate or formalize knowledge; and

**WHEREAS:** A right of access to records is also recognized in Article I, Section 24 of the Florida Constitution, which applies to virtually all state and local governmental entities, including the legislative, executive and judicial branches of government; and

**WHEREAS:** Under Section 119.011, Florida Statutes, a public record is defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency; and

**WHEREAS:** The custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees within the City whether such a record exist, and if so, the location at which the record can be accessed; and

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**WHEREAS:** Under Section 119.07(4), Florida Statutes, the City is authorized to charge certain fees; and

**WHEREAS:** If the nature or volume of public records requested to be inspected or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the City, or both, the City may 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 service that is actually incurred by the City or attributable to the City for the clerical and supervisory assistance required, or both; and

**WHEREAS:** The City Council wishes to adopt a schedule of fees to be charged for the retrieval and copying of public records and a special service charge for extensive use of information technology resources or extensive clerical or supervisory assistance by City personnel.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA,** that:

**SECTION 1: Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference and are deemed a material part of this Resolution.

**SECTION 2: Fee Schedule.** The following schedule of fees is hereby established for copies of public records in the custody of the City of Fort Myers. Special service charges may apply as defined in Section 4.

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<b>FEE SCHEDULE</b>	
One sided copy:	\$0.15 per page for duplicated copies of not more than 14 x 8.5 inches
Double sided copy:	Additional \$0.05 for each two-sided copy of not more than 14 x 8.5 inches
All other copies/media:	Actual cost of duplication for material and supplies, excluding labor
Certified copies:	\$1.00 per page
Packaging and Shipping:	Actual cost incurred

**SECTION 3: Special Service Charge.** If the nature or volume of public records requested to be inspected or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the City, or both, the City may 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 clerical and supervisory assistance required, or both.

a. Clerical or supervisory assistance includes searching for and/or locating the requested record, reviewing the record for content that is exempt or confidential, redacting qualifying content, and preparing, copying, and submitting the remainder of such record for inspection and copying.

b. The special service charge provided for herein is in addition to the actual cost of duplication.

c. A special service charge is warranted if the nature or volume of the public records requested to be inspected, scanned, or copied requires more than thirty (30) minutes of information technology resources or clerical or supervisory assistance. In determining whether to impose a special service charge, each request will be processed independently and

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associated fees will be quoted and assessed accordingly in quarter hour increments.

d. If multiple City departments are involved, the special service charge will be based on the aggregate amount of time expended by information technology resources, clerical and supervisory assistance.

e. The charge for clerical or supervisory assistance will be no greater than the hourly rate in quarter hour increments, including benefits, of the lowest paid personnel capable of providing such services.

<b>Extensive Use Charge Formula</b>	
Wages	Hourly wage x number of hours worked
FICA	Hourly wage x 0.0765
Retirement	Hourly wage x 0.368
Health Insurance	9182/2080 x number of hours worked
Total Excessive Cost	Sum of Wages, FICA, Retirement, and Health Insurance

**SECTION 4: Payment in Advance.** If fees are expected to be imposed for copies and/or the extensive use of resources, as provided above, the requestor will be advised of estimated costs. An initial deposit of fifty percent (50%) of the total estimated costs may be required of the requesting party before beginning to perform the required work if the estimated cost to fulfill the request is over \$100.00. Full payment will be collected as a precondition to providing the requested materials.

**SECTION 5: Clarification of Requests.** If a vague or excessively broad public records request is received, City personnel are encouraged to communicate with the requesting party in order to clarify the requesting party's intended request and to avoid billing requesting parties for the location and production of records not desired.

**SECTION 6: Definitions.** This resolution adheres to the definitions set forth in Section 119.011, Florida Statutes.

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**SECTION 7: Amendment of Rates and Changes by Resolution.**

The rates and charges established herein shall remain in full force and effect until superseded by a duly enacted resolution of the City Council, but in no event shall any fees and charges imposed by the City exceed the fees and charges allowed by law.

**SECTION 8:** Notwithstanding anything herein to the contrary, this resolution shall be interpreted and applied so as to be fully consistent with state law applicable to public records.

**SECTION 9:** If any word, sentence, clause, phrase, or provision of this resolution, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this resolution shall not be affected thereby.

**SECTION 10:** This resolution shall take effect immediately upon adoption.

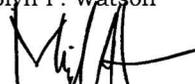
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**PASSED IN PUBLIC SESSION** of the City Council of the City of  
Fort Myers, Florida, this 4th day of December, A.D., 2017.

Aye   
Teresa Watkins Brown

Aye   
Johnny W. Streets, Jr.

\_\_\_\_\_  
Terolyn P. Watson

Aye   
Michael Flanders

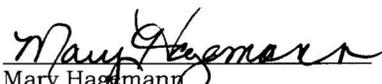
Aye   
Fred Burson

\_\_\_\_\_  
Gaile H. Anthony  
Council Members

**APPROVED** this 4th day of December, A.D., 2017 at  
7:19 o'clock p.m.

Aye   
Randall P. Henderson, Jr.  
Mayor

**FILED** in the Office of the City Clerk this 4th day of December,  
A.D., 2017.

  
Mary Hagmann  
Interim City Clerk