

City of Houston, Texas, Ordinance No. 2017-51

AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 2 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO ESTABLISHING FEES FOR SERVICES RELATING TO THE PROVISION OF INFORMATION IN RESPONSE TO SUBPOENAS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, the Houston Fire Department (“HFD”) and the Finance Department (“Finance”) frequently respond to subpoenas for certain records related to fire response services and Emergency Medical Services (“EMS”) when the City of Houston (“the City”) is not a party to the underlying litigation; and

WHEREAS, pursuant to Section 205.3(f) of the Texas Rules of Civil Procedure (“TRCP”), a party who issues a subpoena requiring production of documents or other things must reimburse the non-party (in this case, the City) for the reasonable costs of production; and

WHEREAS, HFD and Finance conducted cost and market studies to determine the cost to the City of producing records pursuant to subpoena; and

WHEREAS, HFD and Finance find that the proposed fees are reasonably related to the cost of responding to these non-party subpoenas; and

WHEREAS, due to the large number of subpoenas HFD and Finance have processed in recent years, the departments desire to clarify the cost of obtaining records pursuant to subpoena by including the fees in the City’s Fee Schedule; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Division 1 of Article IV of Chapter 2 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 2-61 that reads as follows:

"Sec. 2-61. Fees for subpoenaed information related to fire department services.

(a) The fire chief may impose fees for certain services related to providing information and copies of records in response to a subpoena properly served upon the City of Houston, care of the Custodian of Records for the Houston Fire Department, for records relating to fire response and emergency medical services when the city is not a party to the underlying litigation. Fee amounts shall be based upon the cost of providing the services as determined by the fire chief and are stated in the city fee schedule for the following services:

- (1) Production of copies of patient medical records.
- (2) Production of copies of fire records, which include incident reports and additional documents related to specific fire event responses.
- (3) Preparation of affidavits.
- (4) Production of responses to depositions on written questions.

(b) The director of finance may impose fees for providing information and copies of records in response to a subpoena properly served upon the City of Houston, care of the Custodian of Records for the department of finance for fire department services billing information, when the City is not a party to the litigation. Fee amounts shall be based upon the cost of providing the services as determined by the director of finance and are stated in the city fee schedule for the production of responses to depositions on written questions.

(c) No fee shall be imposed under this section if its imposition is prohibited by a valid and applicable state or federal law, and no fee shall be imposed in excess of any fee limitation established by a valid and applicable state or federal law."

Section 3. That the City Council hereby approves the new records information fees established in Section 2-61 of the Code of Ordinances, Houston, Texas, in the amounts shown below:

Houston Fire Department fees:

Description	Statutory Authority	Amount
Copies of patient medical records, 1-25 pages	34-63(a)(1)	\$12.00
Copies of fire records	34-63(a)(2)	\$11.00
Preparation of an affidavit	34-63(a)(3)	\$13.00
Preparation of Responses to Depositions on Written Questions	34-63(a)(4)	\$41.00

Department of Finance fee:

Description	Statutory Authority	Amount
Preparation of Responses to Depositions on Written Questions	2-61	\$41.00

The Director of Finance shall incorporate the new fees into the City Fee Schedule.

Section 4. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 5. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or

invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect on March 1, 2017 or the date of its passage an approval, whichever is later.

PASSED AND APPROVED this 25th day of January, 2017.

Sylvester Turner

Mayor of the City of Houston

Prepared by Legal Dept. _____

TNE:asw 3/8/2017 Assistant City Attorney

Requested by Rodney West, Executive Assistant Chief and former Interim Fire Chief

L.D. File No. 0351600367001