

## ORDINANCE 2010-35

### AN ORDINANCE REPEALING AND REPLACING CHAPTER 28 OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, TITLED "PUBLIC RECORDS," AND ESTABLISHING A NEW CHAPTER 28, IN ORDER TO COMPLY WITH OF THE NEW OPEN PUBLIC RECORDS ACT STATUTORY REQUIREMENTS AS SET FORTH IN N.J.S.A. 47:1A-5.b

**WHEREAS**, recent legislation (the "Legislation") was passed that amends the Open Public Records Act's ("OPRA") fee provision, to set flat rates for paper copies provided to requestors under OPRA; and

**WHEREAS**, according to the Legislation, the fee assessed for the duplication of a government record in the form of printed matter shall be \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger; however, if a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record; and

**WHEREAS**, Governor Christie signed the Legislation into law, and accordingly, the new OPRA fees will take effect on November 9, 2010; and

**WHEREAS**, the Township Committee has determined that it is appropriate to amend the Code of the Township of Hillsborough in order to establish OPRA copying fees in accordance with the Legislation.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Hillsborough, County of Somerset and State of New Jersey that Chapter 28 of the Code, titled "Public Records" is hereby repealed and replaced as follows:

1. §28 –Public Records.

**28-1 Public Records.** The public records of the Township of Hillsborough shall be accessible for examination and copying in accordance with N.J.S.A. 47:1A-1 et. seq. upon the terms and conditions as hereinafter provided. Such inspection shall be made only at reasonable times during business hours and without interference with the conduct of the affairs of the office or other place where such records are kept or maintained. The Township of Hillsborough is entitled to charge and collect fees for the reproduction of any public records, pursuant to N.J.S.A. 47:1A-5. The fee for the reproduction of public records pursuant to N.J.S.A. 47:1A-5 shall be \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger. The Township shall be permitted to charge the actual cost of duplicating the record if it can demonstrate that the actual cost exceeds the foregoing rates.

A. The Clerk of the Township of Hillsborough and any other department so authorized under statute or ordinance shall, upon providing photocopies of documents requested, also charge requestor for the following:

(1) The actual cost for any document sent by mail, including cost of envelope and postage.

(2) Photographs will be photocopied at the rate established herein. If requests are made for duplicate photographs, the actual cost of making the photograph shall be charged.

(3) Any item that cannot be photocopied by the Township, or not otherwise provided for by ordinance, shall be subject to a charge based on actual costs incurred in making the copy.

(4) Duplication of videotapes/dvds will be charged for the actual cost of the videotape/dvd.

B. Any citizen who is seeking a copy of documents not currently stored on Township property will be charged for the retrieval and delivery of such documents as well as the cost of sending the documents back to the original location.

C. Should a citizen request information or documents in a medium not routinely maintained by the Township or requiring substantial amount of manipulation or programming of information technology, then the custodian of records can charge the actual cost of duplication and a service charge that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the Township attributable to the Township for programming, clerical and supervisory assistance required, or both, per N.J.S.A. 47:1A-5.

D. The custodian of records shall also charge a requestor for information or documents and the cost of postage should the request include mailing of the documents to the requestor.

**28-2 Fees Set by Resolution.** Any fee for the copying or reproducing of items not set forth herein and any changes to the fee schedule set forth herein may be established, supplemented or amended by resolution of the governing body of the Township of Hillsborough.

**28-3 Severability.** If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**28-4 Repealer.** Any ordinances, or parts or ordinances, inconsistent with the foregoing are hereby repealed.

This Ordinance shall take effect upon its adoption, passage and publication according to law.

**ATTEST:**

**TOWNSHIP OF HILLSBOROUGH:**

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Kevin P. Davis, Clerk

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Frank DelCore, Mayor

*Introduced: November 9, 2010*

*Published: November 18, 2010*

*Public Hearing: December 14, 2010*

*Adopted: December 14, 2010*

*Published: December 23, 2010*

*Send to e-code: December 15, 2010*