

CHRISTIA E. ALOU
VILLAGE MANAGER
YENISE JACOBI
VILLAGE CLERK
JOSEPH GELLER
VILLAGE ATTORNEY



MAYOR OMARR C. NICKERSON
VICE MAYOR LUIS PIRELA
COUNCILPERSON ANDERS URBOM
COUNCILPERSON ANNA WARD
COUNCILPERSON DARIAN MARTIN

Regular Council Meeting
Tuesday, June 27, 2023
Agenda
7:00 PM

Statement of Decorum

Any person making a racial or slanderous remark or who becomes boisterous while addressing the Village Council, Staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. No signs or placards shall be allowed in the Village Hall. A person exiting the Village Hall shall do so quietly.

“Pursuant to Florida Statutes, Chapter 286.0105: If a person decided to appeal any decision made by the Board, Agency or Committee with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.”

A. CALL TO ORDER Omarr C. Nickerson, Presiding

B. SILENT MEDITATION & PLEDGE Salute American Flag in Unison

C. ROLL CALL Yenise Jacobi, Village Clerk

D. APPROVAL OF AGENDA

E. GOOD AND WELFARE

(Note: This section of the agenda is reserved in the spirit of a representative democracy “of, by, and for the people” and is specifically provided as a mechanism for the input and solutions on matters of concern of Villagers. We request that comments be limited to **3 MINUTES PER PERSON**, and that speakers and the audience maintain proper decorum at-large. The speaker should keep to only issues on the agenda.

F. CONSENT AGENDA - *Items are routine, self-explanatory matters and are not expected to require discussion or review. Items will be enacted by one motion. If discussion is desired by any member of the Council, that item must be removed from the Consent Agenda and considered separately.*

F1. Approval of the Minutes May 23,2023, Regular Council Meeting.

F2. RESOLUTION State Attorney Prosecution of El Portal Criminal Violations

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING FOR THE APPROVAL OF THE AGREEMENT BETWEEN THE VILLAGE OF EL PORTAL AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE VILLAGE OF EL PORTAL CODE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

G. RESOLUTIONS/ORDINANCES:

G1. ORDINANCES 2nd Reading DOG RESTRAINT LEASH LAW-(BOBBY'S LAW)

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, RELATING TO SIGNS AND ADVERTISING; REVISING CHAPTER 4, ANIMALS, AND ADOPTING A NEW SECTION __ OF CHAPTER 4, AS PROVIDED HEREIN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MAYOR, MANAGER, COMMITTEE & ATTORNEY REPORTS:

H1. Village Manager Report –Christia E. Alou

H2. Village Mayor Report – Omarr C. Nickerson

- FEMA - Weekly Discussions & Updates with Manager Alou and Mr. Yoaly Rodriguez - Program Delivery Manager of the Recovery Division of **FEMA** (*update of funds that have been received*)
- Municipal Water Quality Coordination Meeting (Miami-Dade County, RER & DERM)
- Immigration Summit & Regional Conference - Speaker & Panelist
- El Portal Environmental & Resiliency Meeting - Elizabeth Fata Carpenter, Esq - Chairperson, Sustainability & Resiliency Task Force - Executive Director & Attorney, Everglades Law Center
- Aventura - Business Organization, Chamber of Commerce, Aventura Marketing Council - Board Of Directors Meeting
- Miami-Dade County League of Cities - Executive Board & Board of Directors - Installation Meeting
- Biscayne Bay (Back Bay Study) Sustainability & Resiliency Strategy Meeting
- Village Plaza (Sanctuary Project) (NE 2nd Ave. & NE 87th St.) - Site Plan & Design Meeting
- Greater Miami Shores Chamber of Commerce - Executive Board Meeting
- Coastal Mayors Water Quality Summit Meeting - Executive Session #3 - Palmetto Bay
- FreeBee Free Shuttle Service Meeting - Future Projections, Vehicle & Route Adjustments for El Portal*
- Hurricane Preparedness - Emergency Management Team (MCM) - Meeting & Video Recording
- Chairman's Roundtable Discussion (Aventura Marketing Council - Board Meeting)
- Florida League of Mayors - Regional Breakfast Meeting - Fort Lauderdale (Las Olas Blvd.)
- "State Of The Water" Event - Miami Waterkeeper & Miami-Dade County - Opening Event Speaker

H3. Village Attorney Reports – Joseph Geller

I. **GOOD AND WELFARE**

(Note: This section of the agenda is reserved in the spirit of a representative democracy “of, by, and for the people” and is specifically provided as a mechanism for the input and solutions on matters of concern of Villagers. We request that comments be limited to **3 MINUTES PER PERSON**, and that speakers and the audience maintain proper decorum at-large. The speaker should keep to only issues on the agenda.)

J. ADJOURNMENT:

Mayor & Councilpersons

In accordance with the American With Disabilities Act of 1990, all persons with disabilities and who need special accommodations to participate in this meeting due to that disability should contact the Village Clerk's Office at (305) 795-7880 no later than two (2) business days prior to such proceeding.



STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
E. R. GRAHAM BUILDING
1350 N.W. 12TH AVENUE
MIAMI, FLORIDA 33136-2111

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

TELEPHONE (305) 547-0100
www.miamiSAO.com

May 24, 2023

Ms. Christia Alou
Village Manager
Village of El Portal
500 NE 87 Street
El Portal FL 33138

Dear Ms. Alou:

Legislation passed in 2004 to implement Revision 7 to Article V of the Florida Constitution provides that the State Attorney may prosecute municipal ordinances only if (1) the ordinance violation is ancillary to a felony prosecution (s. 27.02(1), Florida Statutes), or (2) the county/municipality has entered into a contract with the State Attorney for these prosecutions (s. 27.34(1), Florida Statutes).

Enclosed please find the following:

1. Proposed agreement for the prosecution of ordinance violations for the period of October 1, 2022 – September 30, 2023. Please sign three originals and return to this office as soon as possible. If you desire to make changes to the contract and want an electronic version of this document, please contact me at donlhorn@miamisao.com and I will forward you a copy. This contract is for the prosecution of ordinances only; the State Attorney's Office has no statutory authority to handle appeals relating to the constitutionality of ordinances. If you choose to not have the Office of the State Attorney prosecute municipal ordinance violations in accordance with sections 4 & 5 of Chapter 2004-265, Laws of Florida, you are requested to send a letter to that effect to the above address as soon as possible.
2. Billing for ordinance violations for your jurisdiction for the period of October 1 – December 31, 2022. The billing reflects data from the Clerk of the Court's database, which list ordinance violations for which the county/municipality is being charged a filing fee pursuant to s.27.34(1), Florida Statutes.



Please Recycle

Ms. Christia Alou

Page 2

You are being billed at the statutorily prescribed rate of \$50 per hour. Our estimate is that, on average, it takes approximately 20 minutes per case; therefore, you are being charged at the rate of \$16.67 per case. *The total amount due can be found at the end of this letter.* Please note that this is the charge for ordinance prosecution only. Pursuant to state law, there are separate charges for indigent defense from the Public Defender and filing fees from the Clerk of the Court.

You are requested to review the invoice when you receive it. Please note items that you dispute, deduct their cost, and remit the remainder payable to the State of Florida to:

Fiscal Division
Office of the State Attorney
E. R. Graham Building
1350 N.W. 12th Avenue
Miami, FL 33136-2111

Any items under dispute will be reviewed by our staff and re-invoiced in the following quarter if necessary.

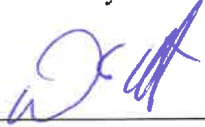
If you have any questions about the procedures discussed above, or the contract, please do not hesitate to contact me at 305-547-0564.

Number of Cases: 1

Total Cost: \$ 16.67

Sincerely,

KATHERINE FERNANDEZ RUNDLE
State Attorney

By: 

Don L. Horn
Chief Assistant for Administration

DLH:cj
Enclosure



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JOB-NUM: J972400
PROGRAM: CJSB838

OFFICE OF THE STATE ATTORNEY - 11TH CIRCUIT
ORDINANCE BILLING REPORT
ORDINANCE CHARGES FILED IN NOV, 2022

DATE: 12/02/2022
REPORT PAGE: 9

INVOICED TO: EL PORTAL

PAGE: 1

<u>CASE #</u>	<u>POLICE #</u>	<u>NAME</u>	<u>CHARGE DATE</u>	<u>CHARGE NUMBER / DESCRIPTION</u>
B22022685	EP22111900073	HARRIS	11/19/2022	18-18 DISORDERLY INTOX
CASE COUNT:		1		

AGREEMENT BETWEEN VILLAGE OF EL PORTAL AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE
Village of El Portal CODE

This agreement is entered into this _____ day of _____, 2023, by and between Village of El Portal, a political subdivision of the State of Florida (hereinafter referred to as the “City”) and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida (hereinafter referred to as “State Attorney”).

WHEREAS, the City finds that in order to maintain and improve the health, safety, and welfare of this community, it is necessary to adequately enforce and prosecute violations of the City’s Municipal Code; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the City for reimbursement.

NOW, THEREFORE, the parties hereto agree as follows:



ARTICLE I
Services

The State Attorney agrees to prosecute municipal ordinance violations as authorized in Sections 27.02, and 27.34, Florida Statutes. The City agrees to remit, subject to the terms outlined in Article III of this agreement, to the State Attorney the required funds to reimburse for costs associated with the prosecution of violations of the Municipal Code for the period of Oct 1 of current year through Sept 30 of following year. The State Attorney shall provide such clerical and professional personnel as may be required for the performance of any of the functions of the State Attorney as set forth in this agreement. This agreement does not commit the City to pay for the prosecution of Municipal Code violations ancillary to state prosecution or for the prosecution of municipal ordinance violations not punishable by incarceration. This agreement specifically does not authorize the State to handle appeals of municipal ordinances on constitutional grounds, which shall remain the responsibility of the municipality that passed the ordinance.

ARTICLE II
Terms

This agreement shall expire on September 30, 2023, unless terminated earlier pursuant to Article VII of this agreement. Under no circumstances shall the City be liable to continue or extend this agreement beyond this date. This agreement may only be amended in writing, through a document executed by duly authorized representatives of the signatories to this agreement.

ARTICLE III
Payment Schedule

The City agrees to reimburse the State Attorney on an hourly basis for services rendered at a rate of Fifty dollars (\$50) per hour. On a quarterly basis, the State Attorney shall provide the City with an invoice including, but not limited to, the hours of services rendered, number of cases prosecuted as set forth in this agreement, and the total amount due for payment for the previous month. The City shall remit each payment within ten (10) days after receiving said invoice from the State Attorney.

ARTICLE IV
Responsibilities

The City does not delegate any of its responsibilities or powers to the State Attorney other than those enumerated in this agreement. The State Attorney does not delegate any of its responsibilities or powers to the City other than those enumerated in this agreement.

ARTICLE V
Reporting

All required reports shall be submitted to the _____.



ARTICLE VI
Indemnification

It is expressly understood and intended that the State Attorney is only a recipient of the reimbursements paid by the City and is not an agent of the City. The respective parties agree, subject to the provisions of Chapter 768.28 (17), Florida Statutes, that they will hold each other harmless from any claims arising from this agreement.

ARTICLE VII
Termination

Either party may terminate this agreement at any time with or without cause by furnishing written notice to the other party with no less than ninety (90) days' notice.

ARTICLE VIII
Service Charges

This agreement is contingent upon all City funding provided, and any interest earned thereon, not being subject to any State service charges or administrative assessments.

ARTICLE IX
Non-Discrimination

The State Attorney agrees to abide and be governed by Title II of the Americans with Disabilities Act of 1990, Title VI and VII, Civil Rights Act of 1964 (42 USC 200d, e) and Title Viii of the Civil Rights Act of 1968, as amended, which provides in part that there will not be discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this contract, in regard to persons served, or in regard to employees or applicants for employment and it is expressly understood that upon receipt of evidence of discrimination, the City shall have the right to terminate said agreement.



IN WITNESS THEREOF, the parties have caused this agreement to be executed by their respective and duly authorized officers the day and year first above written.

ATTEST:

NAME City Commission

By: _____ By: _____
POSITION

ATTEST State Attorney's Office
Eleventh Judicial Circuit

By: _____ By: _____
Don L. Horn
Chief Assistant State Attorney
for Administration



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RESOLUTION NO. 2023-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING FOR THE APPROVAL OF THE AGREEMENT BETWEEN THE VILLAGE OF EL PORTAL AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE VILLAGE OF EL PORTAL CODE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of El Portal (the “Village”) and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida (“State Attorney”) both desire to maintain and improve the health, safety, and welfare of this community; and

WHEREAS, the Village finds it is necessary to adequately enforce and prosecute violations of the Village’s Municipal Code; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the Village for reimbursement; and

WHEREAS, the Village hereby finds the Agreement between the Village and the State Attorney, attached hereto as Exhibit A and made a part of this Resolution, to be in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE OF VILLAGE OF EL PORTAL:

Section 1: The above recitals are true and correct and incorporated herein by reference.

RESOLUTION 2023-

Section 2: The Village of El Portal hereby approves and adopts the Agreement between the Village of El Portal and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida attached hereto as Exhibit A.

Section 3: The Village Manager is hereby authorized to do all things necessary to carry out the aims of the Resolution.

Section 4: That this Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Village Council of the Village of El Portal Florida, this ___ day of _____, 2023.

Omarr C. Nickerson, Mayor

ATTEST: _____
Yenise Jacobi, CMC, Village Clerk

Approved as to form and legal sufficiency:
Greenspoon Marder, LLP
Village Attorneys

By: _____
Joseph S. Geller, Esq.

Vote:

Councilperson Lightfoot-Ward: ___ (Yes) ___ (No)
Councilperson Martin: ___ (Yes) ___ (No)
Councilperson Urbom: ___ (Yes) ___ (No)
Vice Mayor Pirela: ___ (Yes) ___ (No)

RESOLUTION 2023-

Mayor Nickerson:

____(Yes) ____ (No)

I, Yenise Jacobi, CMC, Village Clerk of the Village of El Portal, Miami-Dade County, Florida, do hereby certify that this is a true and correct copy of Resolution No.: 2023-____ adopted on _____, 2023, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this _____ day of _____, 2023.

Yenise Jacobi, CMC Village Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, RELATING TO SIGNS AND ADVERTISING; REVISING CHAPTER 4, ANIMALS, AND ADOPTING A NEW SECTION ___ OF CHAPTER 4, AS PROVIDED HEREIN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, dangerous dogs are an increasingly serious threat to the safety and welfare of the people of El Portal because of unprovoked attacks, which cause injury and death to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly leash and control their dogs; that existing Village Laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of such dogs; and

WHEREAS, any dog that, according to the records of the appropriate authority, has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property, as the term "severe injury" means any physical injury that results in broken bones, multiple bites, or serious and noticeable lacerations;

has, at least once, severely injured or killed a domestic animal while off the owner's property, as the term "owner" means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian, an owners of dogs shall be liable for any damage done by their dogs to a person or to any animal who has endured an unprovoked attack;

has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority, as the term "unprovoked" means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog;

(b) The Village Council finds that dogs should not be permitted to roam free off your private property. When dogs are off your private property, they must be leashed at all times. Owners must also exercise proper care and control of dogs. While on the owner's property, a dog must be securely confined indoors, or if outdoors, in a manner suitable to prevent the entry of young children and designed to prevent the animal from escaping.

(c) The Village Council finds that a dog is creating a public nuisance when it chases vehicles or persons or when it trespasses or causes damage to another person's private property or on governmental or public property.

WHEREAS, The Village Council desires to update the Village Code to make certain changes, as set forth herein, to said regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF EL PORTAL, FLORIDA COUNCIL, that:

Section 1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Police and code enforcement officials shall investigate reported incidents involving any dog that may be dangerous and, if possible, shall interview the owner and may require a sworn affidavit from any person. Results of any such investigation shall be provided to Miami Dade County Animal Control authorities.

Section 3. Any canine that is owned, or the service of which is employed, by a law enforcement agency, is exempt from any guilt of crime or penalty.

Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human may be exempt from this section if the dog is a licensed service dog and has been trained within those aspects of service.

Section 4: Severance of Invalid Provisions

If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5: Repeal of Ordinances in Conflict

All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

Section 6: Codification

That it is the intention of the Village Council of The Village of El Portal Florida, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of The Village of El Portal Florida's Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7: Effective Date

This ordinance shall take effect immediately following approval and adoption on second reading.

PASSED on first reading, this ____ day of February, 2023.

PASSED AND ADOPTED on 2nd and final reading, this ____ day of _____, 2023.

Omarr C. Nickerson, Mayor
Village of El Portal

ATTEST: _____
Yenise Jacobi CMC, Village Clerk

Approved as to form and legal sufficiency:
Greenspoon Marder LLP
Village Attorneys

By: _____
Joseph S. Geller, Esq.

Vote:

Mayor Nickerson: ____ (Yes) ____ (No)
Vice Mayor Urbom: ____ (Yes) ____ (No)
Councilperson Lightfoot-Ward: ____ (Yes) ____ (No)
Councilperson Martin: ____ (Yes) ____ (No)
Councilperson Pirela: ____ (Yes) ____ (No)

I, Yenise Jacobi, Village Clerk of the Village of El Portal, Miami-Dade County, Florida, do hereby certify that this is a true and correct copy of Resolution No.: 2023-____ adopted on this _____ day _____, 2023, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this _____ day of _____, 2023.

Yenise Jacobi, Village Clerk

