

RESOLUTION NO. 2013-30

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, ADOPTING A POLICY FOR THE INSPECTION OR COPYING OF PUBLIC RECORDS; ESTABLISHING PROCEDURES FOR PROCESSING A PUBLIC RECORDS REQUEST; ESTABLISHING A SCHEDULE OF FEES TO BE CHARGED FOR LOCATING, RETRIEVING, COPYING, REDACTING, AND FILING PUBLIC RECORDS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the state of Florida has determined that providing access to public records is a statutory duty imposed by the Legislature upon all custodians of records, and

WHEREAS, municipalities are authorized by Chapter 119, Florida Statutes, to establish reasonable fees for inspecting or copying public records, and

WHEREAS, the City of Palm Bay has been utilizing established guidelines to process requests for public records since 1997, and

WHEREAS, the City of Palm Bay desires to adopt and formalize such procedures for processing requests for public records to ensure City-wide consistency and compliance with state law when responding to such requests.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City Council hereby adopts a policy for inspecting or copying public records, which is, by reference, incorporated herein as Exhibit A.

SECTION 2. The provisions within this resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2013-19, of the City Council of the City of Palm Bay, Brevard County, Florida, on August 13, 2013.


William Capote, MAYOR

ATTEST:


Alice Passmore, CITY CLERK

Review by CAO: 

EXHIBIT A

PUBLIC RECORDS REQUEST

REFERENCE

[Chapter 119, Florida Statutes](#)

ALL DEPARTMENTS

The State of Florida has determined that providing access to public records is a statutory duty imposed by the Legislature upon all custodians of records and should not be considered a profit-making or revenue-generating operation. The supervision and safekeeping of records is one of the prime duties custodians assume when they take office and the law fixes no compensation for such duties.

All city records, with the exception of exempted or confidential information or records, identified by Florida Statutes 119, or other applicable sections of the Florida Statutes, or other lawful citations, shall be open for inspection and copying by any person desiring to do so.

PURPOSE

The purpose of this policy is to affirm the public's right to access city records, to set forth the procedures that will facilitate accessibility of information to members of the public, and to establish fees to be levied by the City to cover the cost of responding to public records requests.

DEFINITIONS

Copy –

A duplicate or reproduction of a record which may include the conversion of a record from one media to another media.

Employee Custodian –

Employee who has supervision and control over a public record or has legal responsibility for its care, keeping, or guardianship.

Extensive Use –

It will take longer than 30 minutes to locate, review for confidential/exempt information, redact, copy, and refile requested records.

Public Records –

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, text messages, voicemail, information/records exchanged through social media, or other material regardless of physical form or characteristics **made or received** pursuant to law or ordinance or **in connection with** transaction of **official business by the City** intended to perpetuate, communicate, or formalize knowledge.

Records Coordinator –

Employee with substantial knowledge of the operation and records and information within a department/division, designated as responsible for processing the respective records pursuant to the Records and Information Management Program.

Records Custodian –

Employee designated as responsible for the processing of public records requests within a specific department or division of the City for the records maintained therein.

RMLO –

Records Management Liaison Officer designated in writing to the Florida Department of State; administers the City's Records and Information Management Program.

PROCEDURE

A. Requests for Readily Available Records

"Readily available records" are those that are:

- easily retrievable;
- regularly disseminated to the public;
- do not require additional review in order to determine whether they contain exempt information; and
- take less than thirty (30) minutes to locate, retrieve, copy, and refile.

Any Employee or Records Custodian who receives a public records request for this type of record should comply as soon as practicable. Fees for copies shall be pursuant to Section I herein.

B. Requests for Records by the Public

1. All requests, other than for 'Readily Available Records' or those to be processed by other Records Custodians, received by City personnel from the public for the inspection or copies of City records, shall be directed to the Office of the City Clerk, regardless of the media used for submission of the request, i.e., verbal, phone, e-mail, written, etc. If received by: a) e-mail, forward the e-mail; b) in writing, send written document interoffice mail or scan and e-mail; c) verbal, direct the requestor to the City Clerk's Office.

a) Subpoenas requesting the production of records shall be processed pursuant to these procedures.

2. Exceptions.

a) Exceptions to the above are public records requests received for records maintained by the:

- Risk Management Division
- Building Division
- Police Department (excluding Code Compliance Division)
- GIS Division
- Fire Department
- City Attorney's Office

Records Custodians designated by these divisions and departments shall process the requests. The names of the employees within the divisions/departments who are responsible for receiving and responding to the requests shall be provided to the City Clerk. The Records Custodians shall keep a record of the requests indicating the dates the requests were received and the dates the requests were finalized.

- 1) Should the request received by any of the above divisions/departments also pertain to other departments that maintain records relating to same, the request is to be sent to the Office of the City Clerk, which will follow through with processing the request in conjunction with the other departments.
- b) The above Divisions and Departments shall promptly acknowledge to the requestor receipt of the request and respond in good faith.
- c) The City Attorney's Office shall process requests on which there is pending or existing litigation.
 - 1) A request by an attorney for information only is not a public records request. However, it is suggested that the City Attorney's Office be consulted prior to releasing the information.
- d) Fees charged for records shall be pursuant to Section I herein.

C. Request for Records by Elected Official, Governmental Agency, or Subpoena

1. Elected Official –

If a request is received for records that are of an individual interest that is clearly beyond the scope of the duties, responsibilities, and official business of the elected official, the request shall be handled consistently with the procedures outlined herein.

2. Governmental Agencies –

A governmental agency's request for public records is not considered a public records request, unless the agency is taking action against the City. The request is not subject to the procedures as stated herein and shall be handled by the appropriate department/division. A reasonable fee, applicable to the request, may be charged.

3. Subpoena –

a) If a subpoena for records is:

- 1) Served to an employee within a department, the employee is to advise the process server to serve the subpoena to the City Attorney's office. Should the process server refuse, the employee is to accept the subpoena and immediately send it to the City Attorney's Office for processing;
- 2) Received in the mail by an employee, the employee is to send the subpoena immediately to the City Attorney's Office for processing.

D. Processing Public Records Requests

1. The City Clerk, as RMLO to the State of Florida, is the chief administrator of the City's records and the enforcing officer of the administrative policy pertaining to public records requests. The City shall make every effort to respond fully to all public records requests as quickly as possible. The City Clerk or respective Records Custodian shall be responsible for monitoring timely performance.
2. If determined by the Office of the City Clerk or Records Custodian that the public records request for the inspection or copies of records will require 'extensive use' of services to respond due to the nature or volume of the request, a Thirty Dollar (\$30.00) deposit may be required prior to further processing the request. See Section I regarding additional costs and/or refunds.
3. Upon receipt of a public records request, the Office of the City Clerk shall contact the respective Employee Custodians in the departments/divisions in which the requested records may be maintained and asked to provide one of the following in response to the request:
 - a) an estimate of the number of records;
 - b) copies of the actual records; or
 - c) an inspection of the records.
4. Each Employee Custodian of the requested records is responsible for searching his/her paper, electronic, and e-mail files, and producing same. The Communications and Information Technology Department (CIT) will not be responsible for conducting searches through e-mail files or electronic documents for the Employee Custodian.
5. Some requests may be vague or excessively broad, i.e., one that does not include specification of the type of records requested, the identity of the person(s) who created the record(s) desired, the identification of a time frame for the requested records, or the qualifying City records are voluminous and held in many locations and media forms. In order to avoid producing records that may in fact not be desired, Employee Custodians are encouraged to communicate directly with the requestor in order to clarify the records being sought.
6. Record and Employee Custodians shall be responsible for establishing a log or system to identify the records provided to a requestor should a question arise at a later date as to the records that were produced to fulfill the request.
7. Individuals making public records requests shall not be permitted to utilize a City computer to inspect or copy public records. The requested documents will be copied to the appropriate media to fulfill the request.
8. The City Clerk's Office shall be advised immediately of citizen or news media complaints regarding access to public records. The Clerk's Office shall consult with the City Attorney's Office regarding same.

E. Processing Public Records Requests

1. Employee Custodians must be knowledgeable of the records or information maintained by them that is exempt or confidential. If a question arises as to whether or not a record or information therein is exempt or confidential, it should be addressed to the Office of the City Clerk or respective Records Custodian.
2. If any of the records requested or portions thereof contain exempt or confidential information, the Employee Custodian maintaining the records shall redact (conceal) the exempt or confidential information and the remainder of the record will be provided to the City Clerk or Records Custodian. Contact the Clerk's Office for information on how to properly redact information.
 - a) Should the requestor question the legality of the redaction of information, the City Clerk's Office will provide a form to the Employee Custodian to provide the statutory citation(s) that exempts the information or record.
3. Exempt or confidential information may only be released to those persons and entities designated by law. Exempt or confidential information allowed to be released by an individual about himself/herself shall require the filing of a statement of release with the City Clerk or Records Custodian.
 - a) Copies of release forms received from a federal, state, county, or municipal government are acceptable pursuant to [Section 92.29](#), Florida Statutes.
 - b) Release forms other than from any of the above mentioned agencies shall be originals, signed by the individual and notarized.

F. Requested Record(s) to Be Retained

1. A record(s) that has been requested shall not be disposed of for a period of sixty (60) days after the date on which a request to inspect or copy the record(s) is received by the Employee Custodian from a Records Custodian or the City Clerk.
2. The record(s) is to be retained in the original media in which it was received or created.
3. If a civil action is instituted within the 60-day period of the request, the Employee Custodian of the public record(s) may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.

G. Commercial Entity Request for Social Security Numbers

1. Pursuant to Section 119.071(5), Florida Statutes, a 'commercial entity' engaged in the performance of a 'commercial activity' may access social security numbers through a public records request under specified conditions.
2. Upon receipt of a request, the Office of the City Clerk shall process same pursuant to Section 119.071(5), Florida Statutes.

H. Media Requests

Requests from the media for public records shall be handled consistently with the procedures outlined herein.

I. Fee Schedule

1. The following fee schedule shall be standard throughout the City, and those departments/divisions listed in Section B, 2, a, above shall comply with same.
2. Fees shall be charged as follows:
 - a) The uniform fee for paper copies, per page, is as follows:

PAPER COPIES – PER PAGE	COST
14" x 8 ½" or less - one sided	\$.15
14" x 8 ½" or less - two sided	\$.20
11" x 17"	\$.15
All sizes above in color	\$.50
11" x 14 7/8" (green bar, computer)	\$.15

MAPS / PLANS:	COST
24" x 36" (black and white)	\$1.50
24" x 36" (color)	\$2.00
Wall maps (color)	\$5.00

GIS MAPS:	COST
8" x 11 ½"	\$ 2.00
11" x 17" or 17" x 22"	\$ 5.00
11" x 17" or 17" x 22" with aerial photo	\$ 8.00
22" x 34" or larger	\$10.00
22" x 34" or larger with aerial photo	\$15.00
Service charge	\$35.00 per hour

- b) Certified copies – (per copy) \$1.00 plus duplication fee in subparagraph (a) above;
- c) Records reproduced by utilization of an outside source shall be the same cost as the actual cost to the City;
- d) Tapes, discs:

TAPES – DISCS DESCRIPTION	COST
1) cassette	\$1.00

TAPES – DISCS DESCRIPTION	COST
2) video	\$2.00
3) CD/DVD	\$1.00
4) CD/DVD with case	\$1.20

The fees above will also include, if applicable, the charge defined in Paragraph 4 below.

- e) The charge for faxed, scanned, and digitized records will be based on the provisions in Paragraph 4 below, if applicable.
 - f) When records can be sent by email and the requestor has not objected to that form of record production or requested production in another media, email should be utilized in the interest of efficiency and to minimize costs. Records containing exempt or confidential information shall not be sent by email.
 - g) If special equipment or paper is required, the charge shall be the actual cost for making the copies.
3. Special service charge for extensive use of services.

- a) If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of clerical or supervisory assistance by personnel of the department or division involved, in addition to the actual cost of duplication, a special service charge of not less than Fifteen Dollars (\$15.00) per hour shall be imposed. The service charge may exceed this amount, based on the actual hourly rate of the lowest paid personnel that can provide the service, not to exceed Twenty-Five Dollars (\$25.00).

The aforementioned excludes personnel mentioned in Subparagraphs b) and c) below.

- b) The cost for the extensive use of information technology resources shall reflect the actual hourly rate of the personnel providing the information.
- c) The charge for records required to be reviewed by legal counsel shall be Thirty-Five Dollars (\$35.00) per hour.
- d) Costs shall be calculated in 15-minute increments. There shall be no charge for the first 30 minutes. This shall be applied only once per each request, no matter how long it takes to process a request.
- e) The following costs, as applicable, shall also be included in the total cost:
 - 1) Postage;
 - 2) Delivery methods other than mail;
 - 3) Envelope or container.

4. Payment.

- a) Deposit. See Section D, 2, above. The deposit shall be applied against the total cost of the records.
- b) A payment in the estimated amount to fulfill the public records request shall be collected by the City Clerk's Office or Records Custodian prior to the cost actually being incurred. This advance payment is in addition to the deposit, if a deposit is required. Upon fulfillment of the request, should the advance payment exceed the actual cost of assistance and duplication of records, a refund will be provided to the requestor. If actual costs exceed the advance payment, the additional payment shall be collected prior to the records being provided to the requestor.
- c) If an individual refuses to pay fees exceeding the advance payment, records totaling the additional amount shall be retained by the city. The requestor shall be billed for the difference between the advance payment and actual cost.
- d) If a public records request is received from an individual who has not paid fees exceeding the advance payment for the records from a previous request, the request shall not be processed until the past due amount is paid.
- e) Records to be picked up by the requestor will be maintained for a period of two (2) weeks after notification to the requestor that the request has been fulfilled. The copies of the records will be disposed of after this date.
 - 1) Should the requestor seek the records after such time, the request will be considered a new request and fees charged accordingly.
 - 2) Any outstanding fees related to the initial request shall be paid prior to processing the subsequent new request.
- f) All fees collected shall be forwarded to the Finance Department for deposit in the City's general fund, except for those fees that can be identified for the Utilities Department and Building Division. Fees collected for the Utilities Department and Building Division shall be deposited in accounts identified by each.

J. Access to Records.

1. For the purpose of this policy, "reasonable" time to provide access to public records is during the business hours of Monday-Friday, 8:30 a.m. to 5:00 p.m.
2. At all times, records requested to be inspected, reviewed, and examined shall be supervised by the Employee Custodian, or the custodian's designee, of the respective public records.

K. Records Custodians – Supplement to Policy

The Records Custodians in the departments/divisions specified in Section B herein shall adhere to this policy in responding to public records requests. A supplement to this policy,

providing additional guidelines for responding to a request, shall be provided to the Records Custodians to further ensure compliance with the law.