

Effective Date
May 1, 2020

General Administration
Chapter 1
Policy 1-2

CITY OF WEST PALM BEACH PUBLIC RECORDS REQUEST POLICY

AUTHORITY

The Public Records Request Policy is in keeping with Florida's Constitution, Chapter 119, Florida Statutes, and Section 3.01, City Charter.

POLICY STATEMENT

The policy of the City is to comply with Chapter 119, Florida Statutes (Public Records) when handling public records requests.

PURPOSE

This policy establishes procedural direction in compliance with Chapter 119, Florida Statutes, by providing the public with the right to access City records to which they are entitled.

SCOPE OF APPLICABILITY

This policy applies to all City employees. Where provisions of this policy conflict with other departmental policies or procedures, this policy shall prevail.

DEFINITIONS

Certified Copy – a copy of a document issued by a court or government agency guaranteed to be a true and exact copy of the original.

Custodian of Public Records – the City Clerk has custody of all official City documents, such as ordinances, resolutions, and contracts, and retains all records in accordance with applicable laws regarding records retention. It is recognized that each department will have official City documents/public records; thus, the department head or his/her designee shall have supervisory control over such documents and records and have the legal responsibility for the care, keeping, or guardianship of them. An employee who has an official document may not be the custodian, but may maintain control of the document for its temporary safekeeping.

Exemption – a provision of law which provides that a specified record or meeting, or portion thereof, is not subject to access requirements of Sections 119.07 and 286.011, Florida Statutes, or § 24, Art. I of the Florida Constitution. Records, or portions thereof, which are exempt shall not be produce or copied in response to a public records request.

Good Faith Response – reasonable efforts made to determine from other employees within the City whether such records exist and, if so, the location at which the record can be accessed.

Public Record – as defined under section 119.011, Florida Statutes, it shall include: all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data

processing software, or other material (including e-mail and text messages), regardless of 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.

Public Record Request – a request to inspect or obtain copies of written documents maintained by the City in the ordinary course of business. Accordingly, any agency written document (including e-mail and text messages), however prepared, if circulated for review, comment or information, is a public record regardless of whether it is an official expression of policy or marked “preliminary,” “working draft,” or similar label. It is not a request to create a new document or report not used by the City. Requests for information between internal City departments are also not public records requests.

Redact – concealment from a copy of an original public record or from an electronic image that is available for public viewing, that portion of the record containing exempt information.

STANDARDS AND PROCEDURES

A. Types of Requests

Public records requests come in many forms, including verbal requests (in person or by telephone), online, email, letters or subpoenas. Employees are not required to answer questions about a public record, create a new record in response to a request for information, or reformat his/her records in a particular form as demanded by a requestor.

1. Readily Available Documents:

- a. Requests that are easily retrievable, regularly disseminated to the public, and do not require additional review to determine whether they contain exempt information. Examples of readily available documents include meeting minutes, engineering maps, ordinances, and resolutions.
- b. These types of requests should be responded to promptly since the information should be readily available.
- c. These types of requests do not require entry into the online portal.

2. 5-Days Response:

- a. Most public records requests fall within this category. Generally, this type of request is for records or documents maintained in a department and no assembly or review or redacting is required. Generally, there are no issues regarding exempt records.
- b. Every effort should be made to satisfy this type of public records request promptly and within five (5) business days. Please note that if a public records request is ready before the end of five business days, it should be produced immediately and not held until the end of the five business day period.
- c. These types of requests require entry into the City’s online system governing public records requests.

3. Complex Requests:

- a. Requests of such a nature that assembling documents may involve much research, records are in off-site storage, review and/or redaction of information is necessary, or exemptions may exist.
- b. These types of requests require entry into the City's online system governing public records requests.

4. Media Requests:

Requests from media organizations (e.g., newspapers, television stations, radio stations, bloggers, etc.) shall be coordinated with the City's Director of Communications.

B. Processing Public Records Requests

1. Access to public records shall be during normal working hours. Inspection, review and/or copying of City records shall be done under direct supervision in an area secluded from the normal operations of the department. **THE CUSTODIAN OR HIS/HER DESIGNEE OF PUBLIC RECORDS SHALL NEVER LEAVE THE DOCUMENTS UNATTENDED WITH THE REQUESTOR.**
2. Under Florida law, the requestor is not required to put the request in writing. To clarify the exact scope of the public records request and ensure the correct information is retrieved and provided in a timely manner, it is suggested that City staff record details of the request and determine if the requestor wishes to simply inspect records or obtain copies.
3. A person requesting access to or copies of public records is not required to disclose his/her name, address, telephone number or the like to the custodian, unless the custodian is required by law to obtain this information prior to releasing the records.
4. A person requesting access to or copies of public records is not required to show purpose or "special interest" as a condition of access to public records.
5. Any City employee who receives a public records request should comply as soon as practicable by either referring the request to a department supervisor or providing review and/or a copy of the information requested.
6. All employees who have custody of a public record shall permit the record to be inspected and copied for any person desiring to do so, at any reasonable time, under reasonable conditions, and under the supervision by the custodian of the public record or his/her designee.
7. The custodian of public records and his/her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.

8. A custodian of public records or a person having custody of public records may designate another employee of the agency to permit the inspection and copying of public records, but must disclose the identity of the designee to the person requesting to inspect or copy public records.
9. Copies of documents provided electronically shall be in the form that is maintained daily by the City in the normal course of business.
10. Employees will not answer questions about a public record, create a new record in response to a request for information, or reformat records into a particular form as determined by a requestor.
11. The requestor of a public records request shall be sent an invoice by the employee or supervisor handling the request reflecting the estimated cost of labor and copying charges and requesting any deposit to confirm whether the requestor is willing to pay the charges, if applicable.

C. Copyrighted Materials

Documents and other work protected by Federal copyright laws, such as proprietary or data processing software, shall not be reproduced or copied without permission of the holder of the copyright. However, unless otherwise exempt, such documents are public records and should be made available for inspection under a public records request.

D. Exemptions and Confidential Records

1. Requests for documents which may contain information that is exempt from disclosure under Florida law may be delayed until the records can be reviewed and redacted as necessary by the custodian of the records.
2. Florida law provides specific exemptions to the public records law. Records that are exempt shall not be produced or copied in response to a public records request. Unless a document fits within a specific exemption, it must be produced.
3. Florida law provides, predominantly at Chapter 119, Florida Statutes, the types of records that may be held as confidential and/or exempt from disclosure. Other public record exemptions may be found in Florida law, including, without limitation, Chapters 112, 121, 166, 252, 288, and 365, Florida Statutes; and other Chapters created or amended from time to time.
4. If a City employee has any question(s) as to whether or not all or a portion of a public record is confidential, exempt from disclosure, and/or subject to redaction, they should contact the Office of the City Attorney.

E. Charges for Public Records

1. The City will not charge for copying documents of five or less single-sided pages of letter or legal size.

2. If the document requested is something that is generally provided to the public without charge, such as current event calendars, agendas, or public information announcements, there will be no charge for copying.
3. The charge for a duplication of a one-sided document that is 14 inches by 8-1/2 inches or less shall be 15 cents each. Duplication of two-sided documents of the same size shall be 20 cents each.
4. An additional charge of up to \$1.00 per copy may be assessed for a certified copy of a public record.
5. The charge for all other types of media including, but not limited to, compact discs, large maps and drawings, microfiche, etc., shall be reflective of the actual cost of the media and supplies used to duplicate the public record. The City shall not use public records requests to make a profit.
6. There shall be no charge for travel time and retrieval costs for public records stored off-premises. There shall also be no additional charge for overhead costs, such as utilities or other office expenses, to the charge for public records.
7. Other government entities shall be charged for public record requests in accordance with this policy.
8. For requests requiring more than 15 minutes of staff time, in accordance with Chapter 119, Florida Statutes, a labor charge shall be imposed. Such charge shall be the result of the employee's hourly rate of pay, including benefits, multiplied by the actual time worked to accommodate the request and measured to the tenth of an hour. If supervisory assistance is required to review a request before it is released, an appropriate charge related to the supervisory review is reasonable.
9. The City requires that prior to researching and/or assembling complex and/or voluminous public records requests, the department shall collect a fifty percent estimated deposit from the requestor. If the deposit provided to the City is more than the actual cost of handling the public records request, a refund will be provided.
10. The City will require a public records requestor to pay past due fees for records compiled by a previous request before complying with the requestor's subsequent requests.
11. City staff will provide the requestor with an invoice for the fee, if any, required for assembling documents. The department with the records or the Clerk's Office will then provide the requested documents to the requestor once the receipt showing payment is provided.
12. The City shall make a good faith effort to contact the requestor when the public records request is completed. The City shall hold the requested material for 30 days from the date of the last communication with the requestor. If the material is not retrieved by the requestor within 30 days from the date of the last communication with the requestor, the City shall destroy the material and any deposits shall be retained by the City.

Failure to comply with this policy may result in disciplinary action up to and including separation of employment.

Policy 1-2 is effective on this 1st day of May 2020.



Keith A. James, Mayor