

CITY OF NEW SMYRNA BEACH
PUBLIC RECORDS REQUEST POLICY

I. **INTRODUCTION**

It is the policy of the City of New Smyrna Beach ("City") that all municipal records, with the exception of exempted records identified by Section 119.07 or other applicable sections of Florida Statutes, shall be open for personal inspection by any person.

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the 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 the City. (F.S., Sec. 119.011(1)).

II. **OBJECTIVE**

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.

III. **AUTHORITY**

This procedure was approved by the City Commission on April 22, 2008.

IV. **PROCEDURE**

A. **Processing Public Records Requests**

(1) **Requests for Records**

Any employee receiving a records request shall notify the requestor that any public records requests are to be made to the City Clerk's Office and refer them accordingly. The Police Department and Fire Department Records Custodian may provide copies directly to the public of arrest reports, accident reports, internal investigation reports and rescue reports which are subject to release following redaction of any exempt information.

(2) **Requests for Readily Available Documents**

"Readily available documents" are those that are easily retrievable, regularly disseminated to the public, and do not require additional

review in order to determine whether they contain exempt information, such as meeting minutes, program information sheets, engineering maps, and personnel files which have already had exempt information redacted. Since the documents are readily available, there will not be a charge for the labor in retrieving the requested documents, but any copies requested by the requestor will be charged as indicated in IV(B) below.

(3) Requests for Other Documents

- (a) The City Clerk or designee will reduce any verbal request to writing in order to assist staff in determining the exact scope of the request. Requestors should specify whether they wish to simply inspect records, or obtain copies. The City Clerk or designee will scan and e-mail the completed form to the appropriate department head.
- (b) After the receipt of a Public Records request, the City Clerk's Office will acknowledge the request promptly and in a reasonable time forward it to appropriate City departments which may have records responsive to the request.
- (c) Department heads receiving an e-mailed public records request from the City Clerk's Office will respond in a reasonable time as to whether they have any responsive documents and what the estimated amount of retrieval time will be. If any of the responsive documents are stored off-site, the department will promptly notify the City Clerk's Office as to the estimated time for retrieval.
- (d) If departments that have responsive records in their possession indicate that cumulatively the retrieval of the records will take more than fifteen minutes, the City Clerk's Office will contact the requestor with an estimated labor charge for the retrieval. Departments will provide the City Clerk's Office with the name and hourly compensation cost (including benefits) of the employee who will be doing the retrieval. They should select the lowest-paid employee capable of efficiently retrieving the records.
- (e) The City Clerk's Office will notify the requestor of the estimate and confirm whether the requestor is willing to pay the labor charges and copying charges, if any. The City Clerk's Office will confirm with the requestor if the City must be paid in advance of the requestor's receipt of the records. For large requests (those requiring more than \$50 in labor

charges and/or copy charges), the City shall require an advance deposit of 100% of the estimated costs prior to beginning retrieval.

- (f) The City will within a reasonable time make every effort to respond fully to all public records requests and the City Clerk's Office will be responsible for monitoring timely performance.
- (g) 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. The City Attorney's Office should be contacted for clarification of exemptions under F.S. 119.
- (h) Florida law provides a schedule for the length of retention of various types of public records. Staff shall contact the Office of the City Clerk for assistance in determining the correct retention schedules and to arrange for destruction in accordance with the state-mandated procedures. In no event shall staff proceed with destruction of records that are the subject of a current Public Records Act request or records that are currently at issue in pending litigation.

(4) Unavailable Records

The custodian is not required to create public records to respond to a request from the public for inspection or copying. The custodian is not required to reformat records to respond to a request for inspection or copying. However, the custodian may reformat records in order to delete exempt information in response to a request for inspection or copying and require the requestor to pay the cost of reformatting.

(5) Media Requests

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

B. Charges for Public Records

(1) General

- (a) The charge for a duplication in black and white of a one-sided letter size (8 1/2" x 11"), legal size (8 1/2" x 14") or

oversize (11" x 17") document, capable of being reproduced on existing City equipment, shall be fifteen cents (\$.15) per copy. Duplication of two-sided pages shall be twenty cents (\$.20) per copy. Color copies shall be twenty-one cents (\$.21) per one-sided copy and thirty-two cents (\$.32) per two-sided copy.

- (b) The charge for copies of documents on microfiche shall be twenty-five cents (\$.25) each.
- (c) For large single documents not covered above (i.e., blueprints, maps, plats, etc.), the charge shall be the actual cost to the City for outside reproduction.
- (d) For books and other multi-page volumes printed by the City (i.e., annual budget, growth management plan, various financial reports), the charge shall be the actual cost for outside reproduction.
- (e) The charge for a certified copy of a public record shall be one dollar (\$1.00) per certification, plus the applicable copy charges.

(2) Multi-Media Public Records Requests

- (a) If a photographic reproduction is requested, the charge shall be the actual cost for outside reproduction.
- (b) The charge for copies of cassette tapes, videotapes or other such media shall be the cost to the City, plus applicable labor charges.

(3) Information Systems

- (a) The charge for paper output copies generated from a computer system shall be in accordance with (1)(a) above. The charge for output to any other medium (i.e., diskette, tape cartridge, tape reel, etc.) shall be the cost to the City for such medium. Labor charges may also apply.
- (b) Charges shall be imposed for the "extensive use of information technology." The department should provide the City Clerk's Office with the name and hourly rate of the employee who will be processing the data. They should select the lowest-paid employee capable of retrieving the data. In the event non-staff consulting assistance is needed

to provide the information, the hourly rate will be based on the rate charged by the non-staff consulting agency.

(4) Labor Charges

For extensive requests requiring more than 15 minutes of staff time, a labor charge will be imposed. Such charge shall be the product of the employee's total hourly compensation cost (including benefits), multiplied by the actual hours worked to accommodate the request, measured in tenths of an hour.

(5) Revenue Collection and Receipts

A receipt for payment of costs associated with public records shall be given to the requestor upon payment of the applicable fee. All fees collected shall be forwarded to the Finance Department for deposit in the City's General Fund.

(6) Access to Records

(a) For the purpose of this policy, "reasonable" time to provide access to public records is during working hours, Monday through Friday, 8:30 a.m. to 4:30 p.m. At all times records will be inspected, reviewed and copied under supervision by the custodian of the public records requested, or the custodian's designee, pursuant to F.S. 119.07(4)(d).

(b) A reasonable special service charge will be imposed based on the actual labor cost for clerical personnel who may be required due to the nature or volume of a public records request to safeguard such records from loss or destruction during their inspection.

(7) Dissemination to the Public to Fulfill Municipal Purposes

The City Manager or designee is authorized to copy and distribute public records without charge to the requestor(s) when it is deemed appropriate to fulfill municipal purposes.

(a) Providing copies of public records to other public agencies may be deemed to fulfill a municipal purpose.

(b) Copies of newsletters, agendas, and other documents intended to provide public information may be deemed to fulfill a municipal purpose.

- (c) In other instances the City Manager or designee may deem that implementation of policy or the conduct of operations can be effectuated by waiving fees for the inspection and copying of specific public records in order to fulfill municipal purposes.

V. LAW ENFORCEMENT RECORDS

Copies of traffic-related law enforcement records shall be subject to fees as outlined in F.S. 321.23.

VI. REFERENCE

Florida Public Records Law, Chapter 119, Florida Statutes.

- VII. This policy is created for internal purposes only and shall not be construed to impose any legal duty or obligation to any third party.

VIII. EFFECTIVE DATE

This policy will become effective on April 22, 2008.