

Redline

**CITY OF PARKER
PUBLIC RECORDS REQUESTS POLICY**

I. INTRODUCTION

Florida law provides a constitutional right of access to inspect and copy all records made or received in connection with city business. There are few exceptions and there are penalties provided by law if city employees do not comply. The City of Parker ("City") adopts this policy in connection with public records requests.

The City Clerk is the City's designated records custodian and, as such, is the municipal officer charged with ensuring that the City's public records program meets the mandates of Florida's public records laws. The City Clerk may designate a person to act on behalf of the City Clerk as the custodian. The City Clerk or his or her designee is not the only employee responsible for compliance with public records laws.

All employees are responsible for records in their custody. "Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records." §119.07(1)(a), F.S. (~~2022~~2023). "A custodian or public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith." §119.07(1)(c), F.S. (2023).

The purpose of this policy is to provide information and procedures necessary to process records requests in a uniform way and ensure that public records requests are handled in a timely manner. As used herein, the term "City Clerk" shall include the City Clerk or his or her designee.

II. WHAT IS A PUBLIC RECORD?

Under Florida law, public records are "all documents, papers, letters, emails, maps, books, tapes, photographs, films, sound recordings data processing software, or other material, regardless of physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business" §119.02(12), F.S. However, some items may be exempt or contain confidential information and not be subject to disclosure.

Any exemption or confidentiality must be specifically prescribed by a statute. Some common examples of information

that is exempt from production under the public records law are:

- Social security numbers
- Medical records
- Home address, telephone numbers, date of birth, and photos of the following City personnel, whether current or former: managers, assistant managers, or human resources directors whose duties include hiring and firing employees; firefighters; EMTs; code enforcement officers; magistrates, and certain information regarding their spouse and children.
- Bank account numbers and debit, charge, and credit card numbers
- Any information that would identify or help locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, and social security numbers of such child.
- Attorney work product on imminent or pending lawsuits (until conclusion of litigation)
- Information or plans that can jeopardize the security of public buildings including construction plans, floor plans and types of security systems.
- Video surveillance from City security cameras

A comprehensive list of exempt and confidential material is maintained by the Florida Attorney General and can be accessed at <http://myfloridalegal.com/>

If the nature of a public records request implicates records which are likely to contain exempt or confidential information, the City must review for any redactions which may be necessary.

However, the Florida Legislature amends the statutes comprising the public records law and the exemptions and confidential material provisions from time-to-time. if in doubt, check with the City Clerk's office or the City Attorney.

Personal computers, tablets, and cell phones shall not be used for City business. It is the content that determines whether a record is a public record and, as such, all records related to City business must be retained and accessible in accordance with state law. Therefore, it is the City's policy that any emails in connection with City business received in a personal email account must be promptly forwarded to the City email account. In addition, it is the City's policy that any

text messages in connection with City business sent or received on a private cell phone should be provided to the City Clerk.

III. PUBLIC RECORDS REQUESTS

The City cannot impose rules or conditions which restrict or circumvent a person's right of access to public records. However, under the public record laws, the City can have reasonable policies to ensure protection of its records and exempt or confidential information. This includes taking reasonable steps to ensure records are not destroyed during inspection or copying and to review records for exempt or confidential information.

The City must respond to all requests within a reasonable time. What constitutes as "reasonable" time is based on the nature and volume of the request and, generally, the time it takes to locate the requested records, review the records for exempt or confidential information, and produce the records. Any automatic period of delay is prohibited.

What is a "public records request"?

1. A public records request is a request from any person to inspect or copy (or both) certain documents or records of the City.

2. There is no requirement that the request be made in person or in writing, or be in any particular form.

3. There is no requirement that the request be made to a particular person at the City, such as the City Clerk.

4. The person making the request is not required to identify himself/herself or to provide information about the reason for the request or how the records will be used.

5. The request must be clear enough to enable the City to identify that applicable records and conduct a meaningful search.

The City cannot deny access to public records solely because the request is too broad. However, a special service charge (discussed below) may be required before voluminous records can be produced or made available for inspection. Additionally, the City may ask questions about the request to be

able to identify all applicable records and respond to the request fully and in a timely manner.

General Procedures: Receipt of a Public Records Request

1. Upon receipt of a request for public records, the first obligation is to promptly acknowledge receipt and immediately provide a copy of the request to the City Clerk. If the request is received in written form, the following response should be provided by the City's Clerk to the requestor as soon as practicable:

"We have received your records request and will begin processing. You will be advised of any changes related to this request and whether a deposit will be required. In the meantime, please feel free to contact the City Clerk with any questions."

If the request is oral, the request should be acknowledged immediately by the employee interacting with the requestor, by saying something similar to the following:

"I understand you are making a public records request, let me get someone to help you with that."

Immediately upon receipt of an oral request, the employee or City Council member shall fully advise the City Clerk of the request.

2. Next, determine the following:

a. Exactly what the person is requesting and whether he/she wants to view the records or wants a copy of the records. If it is unclear what is being requested, contact the person for clarification so that applicable records may be identified.

b. Who has custody of the records, i.e., what department? If the requested public records are not within the department that received the request the request should be forwarded to the City Clerk's office. The department should inform the requestor to whom the request has been forwarded.

c. When a public records request is

received for emails or other records relating to a specific City Council member or employee, the City Council member or employee may be notified that such request was received. However, any notice or opportunity to review said records cannot unreasonably delay responding to the public records request.

d. Whether the materials requested exist, are public records, and if so, whether any or all of the requested records are likely to contain exempt or confidential information.

e. Remember, the City is not required to generate or create new records, nor to convert records from one format to another format. However, if the requestor asks for the records in a specific medium, and it is a medium in which the City regularly keeps such records, it must be provided to the requestor in the requested medium. Otherwise, at the sole discretion of the City, electronically maintained public records may be provided in print format.

3. The City Clerk shall inform the requestor of availability, format availability, estimated reasonable time for the records to be identified, anticipated time when the records will be ready for inspection or production, and whether a deposit will be required. A deposit shall be required to be paid prior to any request being processed. TheIf the estimated use of information technology resources is extensive or the time involved is projected to be extensive (exceeding 15 minutes) for identification, compilation, copying, inspection and redaction (if required), the deposit will be based upon the anticipated amount of total time (usually in hours) necessary to compile all of the requested documentation and review and possibly redact same times the hourly wage and benefits of the lowest paid City employee with clearance to identify, copy, review, redact and produce the requested documents or data and shall include any amount that would have to be paid by the City to a third party for the space identified in Article IV, Section 7.

4. The City Clerk shall collect a deposit, if required. If a deposit is required, work on the request shall not proceed until the deposit amount is

received in full. Should the total final cost end up being less than the estimated deposit amount, a refund should be issued to the requestor in the amount in excess of the actual costs. Should the total final cost exceed the amount of the estimated deposit, the difference must be paid in full prior to producing the records.

5. Once the deposit is fully paid, the City Clerk shall notify City employee or City Council member to comply with the request. The public records shall be compiled and prepared for inspection or production, reviewed for exempt or confidential material and redactions made, and the documents (after any redactions) delivered to the City Clerk.

a. If records contain confidential or exempt information, the entire record is not necessarily exempt. Exemptions must be narrowly applied and redactions may be necessary to remove the exempt or confidential information but produce the remainder of the record.

b. If access to a record is denied as exempt or confidential, or if exempt or confidential information is redacted, the statutory citation must be provided to the requestor when responding to the request.

c. Review of other department's records such as finance, accounts payable, personnel files, and application files stored with the City Clerk will be performed by the applicable department.

6. Each City employee or City Council member shall deliver the requested items to the City Clerk or provide access to the City Clerk to obtain the records.

7. Collect final charges and costs, if required.

8. Produce records for inspection.

a. Inspection of all public records shall be supervised by the City Clerk.

b. To guard against removal, alteration or

destruction, inspection of records shall take place in plain sight of an employee charged with monitoring and supervising the inspection of records.

Routine public records requests do not necessarily require review or advice from the City Attorney. All public records requests pertaining to pending or threatened litigation is not "routine" and should be forwarded to the City Attorney. City department heads should also contact the City Attorney if they cannot determine whether information is exempt or confidential. Any estimated time for City Attorney review should be included in the estimated cost deposit.

IV. COSTS AND DEPOSITS

The City should recover its anticipated costs from the requestor before the records are required to be produced. In some instances, the fee that the City may charge as costs are prescribed by statute. The requestor should be notified if costs and charges are to be imposed and informed that they will not receive the requested records until paid in full.

The costs prescribed by §119.07(4), F.S., as may be amended or ~~superseded~~^{superseded}, will be charged for the City's public records. Those costs are currently as follows:

1. Fifteen (15) cents for each one-sided copy of each page of not more than 14 inches by 8 ½ inches.
2. Twenty (20) cents for each two-sided copy of each page of not more than 14 inches by 8 ½ inches.
3. For all other copies, the actual cost of duplication of the public record shall be charged; such as special printing costs for documents that have to be sent out.
4. One dollar for each certified copy.
5. Other audio/video media+ such as CDs and DVDs, flash drives shall be charged based on their actual cost to the City.
6. A special service charge for extensive use of information technology resources or extensive (more than 515 minutes to locate, review and copy) clerical or supervisory assistance ~~or technology resources involved by City personnel~~ in addition to the actual

costs.

7. If the documents are only requested to be produced to be photographed, the cost of another room or place necessary to photograph the public records, the expense of providing the same and the cost of supervision services for providing the access for the making of the photographs at a rate of compensation to be agreed upon or if no agreement, the charge shall be determined by the City Clerk.

8. If the City determines that the materials are to be mailed, the actual cost of postage will be added to all other charges imposed.

9. All fees and charges imposed must be paid in full prior to producing the records.

V. REQUESTS TO WHICH THE CITY IS NOT REQUIRED TO PRODUCE RECORDS

1. Under the public records laws, the City is required to provide access to public records. The public records laws do not require any City employee including the City Clerk to answer questions about records or provide information from the records.
2. The City is not required to accept "standing" public records requests or to provide records on a continuing or ongoing basis to a requestor as new records are created.
3. While the City cannot require a requestor to identify themselves, or submit their public records request in a particular form, the City can ask limited questions in response to a SPAM-like emailed request to confirm that the request is legitimately coming from a person. The following language should be used in response:

"This email appears to be a computer-generated message sent by an automated bulk email program or computer-created email account. Therefore, before your request can be processed any further, please respond to confirm that this email was sent by a person. PLEASE NOTE YOU DO NOT NEED TO IDENTIFY YOURSELF OR OFFER ANY REASONING FOR YOUR REQUEST IN RESPONDING TO CONFIRM THAT THIS EMAIL ADDRESS BELONGS TO AND WAS SENT BY A PERSON. If confirmation is not received within three days,

we will have no choice but to consider any request to be withdrawn."

4. Records that are protected by federal copyright will not be provided to a requesting party. In such instances, the City Clerk's office will contact the requesting party to schedule a time in which they may come review the records. City staff shall not assist any party with the reproduction of copyrighted materials.