

CITY COUNCIL RESOLUTION NO. 2023-016

**A RESOLUTION OF THE CITY OF LAKE CITY, FLORIDA,
ADOPTING A PUBLIC RECORD REQUESTS POLICY; PROVIDING
FOR REPEAL OF PREVIOUS POLICIES; PROVIDING FOR
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Lake City, Florida (hereinafter the “City”), has coordinated and drafted a Public Record Requests Policy (hereinafter the “Policy”); and

WHEREAS, the Policy is intended to establish standard procedures for efficient and timely processing of public record requests and to ensure they are processed in accordance with the City of Lake City Charter, Florida Department of State, requirements of Chapter 119, Florida Statutes, also known as the Public Record Act and Florida Administrative Code Rule 1B-24.001(3)(b); and

WHEREAS, the City Council finds that it is in the City’s best interests and the interests of its citizens to adopt the Policy, attached hereto as “Exhibit A”, and made a part of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are all true and accurate and are hereby made a part of this resolution.

Section 2. The Public Record Requests Policy is hereby adopted and authorized for implementation.

Section 3. Conflict. All resolutions or parts of resolutions in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 4. Severability. If any provision of this resolution or its application to any person or circumstance is held invalid, the invalidity does not affect other provision or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 5. This resolution shall be in effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the City Council this ____ day of February 2023.

CITY OF LAKE CITY, FLORIDA

By: _____
Stephen M. Witt, Mayor

ATTEST

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Audrey E. Sikes, City Clerk

By: _____
Thomas J. Kennon, III,
City Attorney



Effective: _____

PURPOSE

The objective of this policy is to establish standard procedures for efficient and timely processing of public record requests in accordance with the Florida Department of State, requirements of Chapter 119, Florida Statutes, also known as the Public Record Act and Florida Administrative Code Rule 1B-24.001(3)(b). The City of Lake City is committed to providing a high level of service in an open, transparent setting to assist the public in their right to inspect and obtain copies of City records. This policy replaces Administrative Directive #27.

Under Florida Law, any material prepared in connection with official business that is intended to perpetuate, communicate or formalize knowledge, is a public record. Included are: documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, email or other material, regardless of physical form or characteristic, made or received in connection with the transaction of official business by the City of Lake City.

SCOPE

This policy shall apply to all Lake City employees. All City employees should understand that responding to a public records request is a governmental service and there is a responsibility to act accordingly. The public's right to access public records is "virtually unfettered." In the absence of an exemption or exception, records shall be produced no matter how inconvenient or burdensome.

Department Heads should inform all affected employees within their supervision of this policy and its requirements. Department Heads should know and train their employees on which public records are available in their department and what sensitive information those records may contain.

The City Clerk is the municipal officer charged with the responsibility of ensuring the City's public records program meets the mandates of the Public Records Act. The City Clerk is the Public Records Custodian. The Public Records Custodian, or designee, shall be responsible for arranging all training in compliance with the Public Records Act. The City's Public Records Custodian, or designee, will coordinate the response to all public records requests submitted to the City. Department Heads, or their designee, shall act as Public Records Custodian for their respective departments and will assist the City's Public Records Custodian, or designee, when necessary.

DEFINITIONS

Actual Cost of Duplication: Defined by Florida Statutes Section 119.011(1), and as may be amended from time to time by the Florida Legislature. The "actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

Arbitrary Time for Inspection: While the custodian may reasonably restrict inspection to those hours during which his or her office is open to the public. Record custodians are not authorized to establish an arbitrary time during which records may or may not be inspected.

Confidential Records: Records that are not subject to inspection and releasable only to those persons or entities designated through state statute.

Employee: All individuals employed by the City whether, union, non-union, elected official or contractor.

Exempt Records: Exempt records have a statutory citation allowing the agency to not release the records, however they are not prohibited from disclosing the documents in all circumstances. In addition, reasonable time is allowed to review, redact and produce a record, which may contain information that is exempt from disclosure. The custodian of the record must state in writing and with particularity the reasons for the conclusion that the record is exempt from inspection. FS 119.07(1)(f).

The legislature has often amended the Public Records Act, making some materials exempt from public inspection that were not exempt previously, and removing the exempt status from certain materials that were previously considered exempt. Therefore, when in doubt as to what is or what is not exempt, employees should check with the City Clerk's Office who will work with the employee to research the request.

Public Record: Under Florida Law, any material prepared in connection with official business that is intended to perpetuate, communicate or formalize knowledge, is a public record, with certain exceptions. Section 119.011 (12), Florida Statutes, defines "public records" to include: All documents, papers, letters, maps, books, tapes, photographs, films, sounds 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 any agency which are used to perpetuate, communicate, or formalize knowledge. This includes electronic communications like emails, text messages and electronic data.

Public Records Request: This shall be defined as a request submitted to any City employee by any person, either orally or in writing, to inspect or copy the City's public records.

Redaction: Defined by Florida Statute Section 119.011(13), as may be amended from time to time by the Florida Legislature. "Redact" means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record exempt or confidential information.

Readily available documents: Documents that are easily accessible and retrievable within a City department and do not require additional review in order to determine whether they contain exempt information.

POLICY GUIDELINES

Reasonable Time / Reasonable Conditions: The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days) for compliance with public record requests. However, the Florida Supreme Court has stated that the only delay in producing records permitted under Ch. 119, F.S., “is the limited reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.” Thus, an agency’s unjustified delay in producing public records constitutes an unlawful refusal to provide access to public records. Reasonable conditions mean that inspection must be done during normal business hours excluding identified City holidays.

Responsibilities

The City Clerk, per the City Charter, shall have custody of all the official records, books and documents of the City. However, Per F.S. 119.07(1)(a), 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 (see definitions), and under the supervision of the custodian of the public records or their designee (as long as the record is not exempt or confidential as outlined in state statute).

Retention

1. Each City of Lake City employee is the custodian of any public record under his or her supervision and control, such as the public records located in an employee’s office desk drawer or any employee’s city emails. As such, each city employee who has public records in his or her custody is required to retain such records in accordance with the records retention schedules established by the Florida Department of State. The record retention schedules, which may be amended from time to time are currently available online at <https://dos.myflorida.com/library-archives/records-management/general-records-schedules/>.
2. Significant advances in information technology have allowed City employees to perform their job functions through the use of numerous electronic devices and systems. For instance, many City employees are equipped with mobile handheld devices on which they can access their City email, send and receive text messages, access the Internet, and receive voicemails. In addition, some City employees may use instant messaging, chat rooms, social networking pages, or other Internet-based tools to accomplish their job that may create or receive public records. If public records are in fact created or received on such devices or systems, City employees are required to retain such records in accordance with Florida’s Public Records Act. All devices and systems used to conduct City business shall have the capability to retain public records created or received by such.
3. City employees’ email and other electronic records are archived using an email archiving software. The City’s information technology personnel are not the custodian of electronic public records for individual City employees or

departments, and City employees shall not rely on information technology personnel to retain public records for which they are the custodian.

Public Records on Personal Electronic Devices

The City recognizes that a person or entity may communicate with a City employee regarding official City business on a personal system to no fault of the City employee. In such an event, City employees shall request the person or entity to communicate with the City employee on the City issued mobile device or on their official City email account. If possible, the City employee shall copy electronic communication onto their official City device or send a copy of the communication to their City account from their personal device. In addition, if public records are in fact created or received, City employees are required to retain such records and make them available for inspection and copying in accordance with Florida's Public Records Act.

Public Records of Terminated Employees

When an employee's employment with the City is terminated, such employee shall deliver all public records, for which he or she is the custodian, to his or her successor, or, if there is none, to his or her supervisor.

Disposal of Public Records

Each Charter Officer shall ensure that public records are disposed of in compliance with Florida Statutes Sections 119.021(2) and 257.36, as may be amended from time to time, and Florida Administrative Code Rule 1B-24, as may be amended from time to time.

Procedures

These procedures shall provide clarity to department heads and additional guidance to all support personnel.

1. Each department will assign a records custodian and a backup records custodian to coordinate and process record requests involving their department, in coordination with the Clerk's Office. Each department's custodians shall attend the public record software training provided by the Clerk's Office.
2. It is each department's responsibility to ensure key staff are properly trained on their individual responsibilities for managing record requests. The City Clerk's Office will provide required annual public records training either in person or via video to the department's records custodians, all front counter employees and any other employee deemed necessary by the department head. This will ensure department staff remains up-to-date on the ever-changing laws.
3. All public record requests should be processed during the City's normal operating hours of 8:00 a.m. – 5:00 p.m. Monday through Friday (excluding City Observed Holidays).
4. All public record requests, including those that are deemed "readily available" per number 5 below, are to be uploaded into and processed through the designated public record software (as selected by the City Clerk) in order to track and

monitor incoming and outgoing requests and to archive a paper trail for legal purposes. Departments are not allowed to opt out of utilizing the designated public records software. If an employee does not have access to the public record software, they may: send the appropriate records to their departmental records custodian to upload on their behalf or send the records to the Clerk's Office to upload on their behalf. Record requests will be processed through one of two record portals: Public Records Request or Police Records Requests. Subpoenas will be processed separately in the portal. The Clerk's Office will oversee and monitor all three portals to ensure all requests are flowing in a timely manner.

5. Public records cannot be withheld at the request of the sender. Any employee who receives a request for readily available records from their department, should comply immediately by providing a copy of the information as requested (see definitions). The City is not legally allowed to make the requestor wait if the records are “readily available” unless the information is exempt from disclosure. If an employee is unsure, they should check with the City Clerk’s Office. For purposes of tracking responses to public record requests, any readily available records released by a department must also be provided to the City Clerk’s Office.
6. Requests that involve current or pending litigation or anything personnel related will be processed directly through the City Clerk’s Office in coordination with Human Resources and/or Safety Risk Management and/or the City Attorney’s Office. Human Resources and/or Safety Risk Management and/or the City Attorney’s Office will review and provide appropriate feedback.
7. Each department is responsible for redacting (see definition) the records prior to uploading them into the public record software. If an employee does not have access to the public record software, they will send the redacted records to either their departmental records custodian or the Clerk’s Office to upload on their behalf. The Clerk’s Office will review to ensure the proper redactions have been made. Reasonable time (see definitions) is allowed to review, redact and produce a record that may contain exempt or confidential information.
8. If the records custodian or departmental designee contends that a record or part of a record is exempt from inspection or production, they must state the basis for the exemption, including the statutory citation to the exemption in writing. The exemption must be on applicable form. Exemptions will be reviewed by the City Clerk’s Office.
9. A requestor is not required to show a “legitimate” or “noncommercial interest” as a condition of access. The Public Records Act requires no showing of purpose or “special interest” as a condition of access to public records. Unless authorized by law, an agency may not ask the requestor to produce identification as a condition to providing the records or demand the request be placed in writing, except for healthcare information which is protected by Federal Law.

10. A records custodian is not required to give out “information” from the records of his or her office. For example, the City is not required to produce an employee, such as the Finance Director, to answer questions regarding the financial records of the City. However, it is always in our best interest to answer basic inquiries. Additionally, we do not provide records that do not currently exist via “standing requests”.
11. A custodian or departmental designee is not required to create a new record to respond to a request. We do however, have to provide non-exempt records in the format they exist. For example, a request is for an Excel spreadsheet but we maintain the information in Word. We do not need to create an Excel spreadsheet. However, the Clerk’s Office does not consider “running a report” from a software program as creating a new record, unless there is a charge by the software provider to run the report or an unreasonable amount of time is required to set up the report.
12. A custodian or departmental designee shall provide only what is requested. A request cannot be denied because it is “overbroad”.
13. When the City has been notified of pending litigation, the Clerk’s Office will place a litigation hold on the disposition of any and all records related to the issue. The hold will remain in place until the litigation has concluded and has been notified by the Human Resources Department and/or Safety Risk Management and/or the City Attorney.
14. All public records must be retained in accordance with retention schedules approved by the Department of State. Per F.S. 119.07(1)(h), a public record may not be disposed of for a period of 30 days after the date on which a record request was made.
15. The City Clerk’s Office will assist all departments with public record questions. The Government in the Sunshine Manual, Florida Attorney General Opinions and Florida Statues are excellent sources of information.

Guidelines for Providing a Public Record

Florida law states that every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf. Requests to view public records do not have to be in writing. Florida law provides that a custodian of public records has no right to require a person to state the reason why an individual desires to inspect or copy a public record. A person requesting a public record does not have to fill out a form to do so. Even though it cannot be required of them, all requestors should be encouraged to input their requests into the public record software program. If they do not want to do this, staff can input it for them. This should assist staff in clarifying the exact scope of the request. Requestors should be asked to specify whether they wish to inspect records or obtain copies.

Procedure for Processing Public Records Requests

Public records requests, other than “readily available documents” described above, will be coordinated by the City Clerk or designee in coordination with the various departments.

1. The Clerk’s Office, upon receipt of a record request via the software portal will:
 - a. Determine exactly what the person is requesting, including what record(s) he/she is looking for and whether he/she wants to view the records or wants a copy of the records. If it is unclear what is being requested, the person will be contacted requesting clarification.
 - b. Determine who has custody of the records, i.e., which department has control of the record.
 - c. Forward the request to each department that may have records pertaining to the request. Email will include:
 - Initial request
 - Ask for estimated time to complete request (if it will take more than 3 business days to complete, the department must provide an estimated time for completion to the Clerk’s Office within 3 business days of receipt of request).
 - Advise a “Special Service Fee” shall be imposed on requests that take more than 30 minutes to complete.
 - Advise an advance deposit of 50% shall be required prior to work being completed if request will require extensive work.
 - Request department to contact the Clerk’s Office with an estimate of time involved to produce the request and an estimate of pages. The Clerk’s Office will notify the requestor of the estimated time involved and cost to produce the record.

Any over payments as a result of an advance deposit will be refunded to the requestor.

2. The department will, upon receipt of a record request from the Clerk’s Office:
 - a. Determine whether the records requested are public records, and if so, identify and redact any and all of the information that is exempt or confidential per state statute.
 - b. Provide an estimate to the Clerk’s Office on the amount of time it will take to comply with the request if it will take more than 30 minutes
 - c. Provide the statutory citation for any exempt or confidential information in writing on applicable form to the Clerk’s Office along with the redacted records.

- d. Be particularly aware of social security numbers, medical information, certain addresses and other personal information on protected persons and their family members (e.g., current or former law enforcement officers, code enforcement officers, and others specifically exempted in Chapter 119 or elsewhere in Florida Statutes).
 - e. Provide duplicate copies of any/all hard copy CD's.
3. The Clerk's Office will, upon receiving the records from the department(s):
 - a. Further review the records to ensure proper redaction, provide additional redaction and/or return to department for redaction corrections, if necessary and calculation of fees.
 - b. Notify requestor that records are ready and cost.
4. The Department will, upon receipt of a request needing correction from the Clerk's Office:
 - a. Make necessary redactions and/or corrections to the records and return to the City Clerk's Office as soon as possible but no later than 3 business days (excluding City Observed Holidays).

Human Resources

All public record requests for anything personnel related, received from an attorney's office (personnel related), or in regards to litigation in respect to lawsuits brought against the City, will be sent ONLY to the Human Resources Director and/or the Safety Risk Management and/or legal to review. Human Resources, Safety Risk Management and legal, in coordination with the City Clerk, will decide how to proceed with the record request. This will include all requests for personnel files as the Clerk's Office is not aware of what items are considered on-going litigation(s) cases.

The Clerk's Office will ensure the record request is uploaded into the public record software and an "acknowledgement of request" is sent.

This will keep Human Resources, Safety Risk Management and the Clerk's Office fully updated and engaged in the request to ensure all items are provided appropriately and per law and to ensure sensitive information is not released.

Police and/or Fire Department

- Record requests made to the Police and/or Fire Department for records regarding their own person (accident reports, incident reports, etc.), from the State Attorney's Office or Public Defenders Office are handled directly by the Police and/or Fire Department and responded to accordingly.

- Any other record requests, including from an attorney or involving a potential law suit, are processed through the Clerk's Office.

Requests for E-mail

In order to provide timely and accurate information, a person requesting e-mails shall provide the date range and key words for the search. No requestor shall be provided direct access to e-mail archives. The Information Technology Department will research the e-mail archives and provide the applicable records. The City Clerk's Office will communicate with requestor regarding any applicable fees. The City Clerk's Office or designee, will review e-mails for exempt information, subject to requirements outlined herein.

Fees

Providing access to public records is a statutory duty imposed by the Legislature and should not be considered a profit-making or revenue generating operation. Public information must be open for inspection without charge unless otherwise expressly provided by law.

- The City of Lake City will follow the fee schedule provided for in F.S. 119.07(4)(a)1 authorizes:
- .15 per one-sided copy for 8.5 X 11 and 8.5 X 14
- .20 per each double-sided copy
- \$1.00 certified copies (only the City Clerk or Deputy Clerk can certify records)
- .40 per color copy
- For all other copies, the actual cost of duplication of the public record.
- CD/DVD/Cassette Tapes/Thumb Drives – actual cost of storage medium
- Photos: actual cost of duplication
- Plans: actual cost to send to outside print agency for duplication
- Special Service Fee. 119.07(4)(d) authorizes the imposition of a special service charge to inspect or copy public records when the nature or volume of records to be inspected is such as to require extensive clerical or supervisory assistance, or both. The charge must be reasonable and based on the labor or computer costs actually incurred.
- The City Clerk's Office shall request a 50% deposit or advance payment in cases where a large number of records have been requested or staff time will exceed 30 minutes. The fee shall be communicated to the requestor prior to the work being undertaken. Any difference will be collected or refunded when materials are provided to the requestor.
- The City will provide the first 30 one sided 8 ½ x 11 or 8 ½ x 14 hard copies at no charge.

OTHER GOVERNMENTAL AGENCIES: The Clerk's Office generally does not charge other governmental agencies for copies of records, unless extensive time to produce is necessary.

CURRENT EMPLOYEES: The Clerk's Office generally does not charge a current employee who wishes to access copies of their personnel file, unless extensive time (30 minutes) to produce is necessary. However, current employees will be charged for other public record requests made to the City.

FORMER EMPLOYEES: The Clerk's office will charge former employees for any public record requests.

Penalties

A person who has been denied the right to inspect and/or copy records may bring a civil action against the agency. In addition to judicial remedies, F.S. 119.10(1)(b) provides that a public officer who knowingly violates the provisions of 119.07(1) is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or \$1,000 fine, or both.

Section 119.10(1)(a), F.S., provides that a violation of any provision of Ch. 119, F.S., by a public officer is a noncriminal infraction, punishable by fine not exceeding \$500.

REFERENCES

Tools:

- F.S. 119
- Florida Government in the Sunshine Manual
- Public Records – A Guide for Law Enforcement Agencies
- Office of the Attorney General website: <http://www.myfloridalegal.com>
- First Amendment Foundation website <http://www.myfloridalegal.com>

AUTHORITY

City Clerk

**CREATION/
REVISION DATES**

06/07/2021 (creation)
06/16/2021 (revised)
02/09/2023 (revised)

**PROCEDURE
OWNER**

City Clerk