

RESOLUTION NO. R2014-35

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WILDWOOD, FLORIDA
ADDIING A NEW POLICY 8.23 PUBLIC RECORDS POLICY TO THE CITY OF WILDWOOD
PERSONNEL RULES AND REGULATIONS, AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, staff at the City of Wildwood has determined there is a need to add a Public Records Policy ; and

WHEREAS, staff at the City of Wildwood has put together a Public Records Policy.

NOW THEREFORE, BE IT RESOLVED, by the City Commission of the City of Wildwood Florida:

SECTION 1: Policy 8.23 Public Records Policy is hereby added to the City of Wildwood Personnel Rules and Regulations as attached.

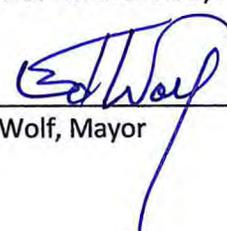
SECTION 2: This Resolution shall take effect immediately upon its final adoption by the City Commission of the City of Wildwood, Florida.

PASSED AND RESOLVED this 3rd day of October, 2014, by the City Commission of the City of Wildwood, Florida.

CITY COMMISSION
CITY OF WILDWOOD, FLORIDA

ATTEST:





Ed Wolf, Mayor

Policy 8.23: PUBLIC RECORDS REQUEST POLICY

A. SUBJECT: Procedure for accepting and fulfilling public records requests.

1. PURPOSE

The purpose of this Public Records Request Policy is to provide guidance to City of Wildwood Departments on how to coordinate a public records request from any entity making that request and ensure all requests comply with Florida Statute Chapter 119, also known as the "Public Records Act."

2. POLICY

a. This policy is to provide guidelines and overall general procedures Citywide. Directors will inform all affected employees within their work areas of this policy and its requirements. This policy **DOES NOT include Law Enforcement** records other than employee records.

b. It is the policy of the City of Wildwood that all municipal records, with the exception of exempted records shall be open for personal inspection by any person.

c. For the purpose of this policy, "reasonable" time to provide access to public records is during normal working hours – Monday – Friday, 8:00 a.m. – 5:00 p.m., excluding holidays or other times of closure. The City will within a reasonable time period make every effort to respond fully to all public records requests. 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).

d. The City Manager shall designate the City Clerk to act as the City's centralized public records contact person for tracking public records requests submitted to all City departments. In the absence of any specific designation, the City Clerk shall be the default centralized public records contact person.

e. The Department Heads shall act as Record Management Liaison Officers of their respective departments and will assist the City Clerk where necessary. Department Heads should know and train their employees on what public records are available in their departments and what sensitive information those records may contain.

f. The City Clerk will receive public records training and shall be responsible for arranging training and compliance of the Public Records Act in accordance with Florida Statute Chapter 119.

3. DEFINITIONS

What is a Public Record?

Section 119.011(11). F.S., defines “public records” to include:

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 any agency.

The Florida Supreme Court has interpreted a true determining factor for a public record as those records that “perpetuate, communicate, or formalize knowledge.” *Rogers v. Hood*, 906, So. 2d, 420 (Fla. 1979).

4. PROCEDURES

When a City employee receives a public records request, the following procedures will apply:

I. Requests for Readily Available Documents

a. “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.) Any City employee who receives a request for this type of information should comply as soon as practicable by either referring it to a department supervisor or providing review and/or a copy of the information requested, as appropriate. After assisting the requestor, staff should transmit information regarding any unusual requests to the City Clerk’s office, with a copy to the City Attorney, to inform them about what was requested and provided. Since the documents are readily available, there should not be any charge for the labor in retrieving the requested documents, but any copies purchased by the requestor should be charged as outlined under Section 6. FEES below..

II. Requests for Other Documents

a. Although it cannot be required of them, all requestors should be encouraged to put their public records requests in writing. This will assist staff in clarifying the exact scope of the request. Caution should be taken so as not to appear to be requiring the request in writing.

b. An attempt should be made to determine exactly what the person is requesting. Requestors should specify whether they wish to simply inspect records or obtain copies.

c. Notify the City Clerk of the public records request and provide a copy of any written request and completed Public Records Request Form (Exhibit A).

d. Notification to the City Clerk should be done as soon as possible but no later than 2 days from receipt.

e. If the request is verbal, write down as much information as possible regarding the request on the Public Records Request Form i.e., person making the request including contact information, what documents are being requested and any specific information such as dollar amount threshold, delivery expectations, time expectations, etc.

NOTE: A public records request does not have to be in writing as a prerequisite for completing a public records request. Also a requestor does not need to provide a name nor do they need to provide a reason for the request.

f. Upon receipt of a public records request, whether written or verbal, the City staff person receiving the public records request must complete the City of Wildwood Public Records Request Form (Exhibit A) to the extent possible based on information known or offered by the requestor. Forward the completed City of Wildwood Public Records Request Form along with any written or documented request to the City Clerk for data input.

g. The Public Records Act does not require agencies to change formats of an existing public record to comply with a public records request. Public Records will be provided in the format of an existing record and will not be altered by scanning and downloading to provide electronically or downloading to a computer disk or thumb drive.

h. The Public Records Act does not require the City to produce an employee to answer questions regarding the records produced.

i. Once the City Clerk has received your information a tracking number will be assigned, detailed data regarding the public records request will be input into a data base tracking program. You will be requested to coordinate with the City Clerk the coordination and compilation of the requested records to completion.

j. The City Clerk will document and maintain communication with the City department possessing the public records through to completion and will document and notify the department when all aspects of the public records request have been satisfied.

k. Department Heads receiving an e-mailed Public Records request from the City Clerk's office will respond as soon as possible 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.

l. If Departments that have responsive records in their possession indicate that the retrieval of the records will take more than 15 minutes, the City Clerk's office will contact the requestor with an estimated special service charge for the retrieval. Departments should provide

the City Clerk's office with the name and hourly pay rate, including benefits, of the employee who will be doing the retrieval. They should select the lowest paid employee capable of efficiently retrieving the records. A special service charge is in addition to the actual cost of copying.

m. The City Clerk will direct and provide all correspondence to the requestor of the records unless arrangements are made between the City Clerk and the department possessing the public records.

n. The City Clerk's office shall notify the requestor of the estimate and confirm whether the requestor is willing to pay the special service charge and copying charges, if any. The City Clerk's office will confirm with the requestor that the City must be paid in advance of the requestor's receipt of the records. For large requests, (those requiring more than \$100 in labor charges or more than \$100 in copy charges), the City shall require an advance deposit of 100% of the estimated sums prior to beginning retrieval.

o. The City shall make every effort to respond fully to all Public Records Act requests as quickly as possible and the City Clerk's office shall be responsible for monitoring timely performance.

p. For those public records requests that become and/or are made on behalf of litigation, backups must be made to comply with requirements of law.

q. If litigation is pending or reasonably anticipated, records relating to that litigation should not be disposed of in any manner and the City Manager and City Attorney should be provided notice. The City Manager and/or City Attorney will provide notice when it is permissible to dispose of records relating to litigation.

r. E-mail which is a public record but contains exempt information should be produced but the exempt information must first be redacted. If in doubt as to whether an e-mail message is a public record or contains exempt information, the Department Head should contact the City Clerk, who will consult with the City Attorney as necessary.

s. Broad or general requests. Agencies cannot deny a public records request based on the fact that the request is too broad or that it does not specifically identify the records requested. Therefore, in the absence of statutory exemption, an agency must produce the records requested regardless of the number of documents involved.

t. "Standing" or "continuing" public records requests. The City cannot honor public records requests that demand future copying or production (i.e., "please forward all future meeting minutes..."). The Public Records Act requires production of present documents that are available and does not contain provisions to require a custodian to foresee the future as future documents may or may not be generated.

u. Requests for information v. requests for records. The City is required to provide access to public records; it is not required to provide information from the records. Example: A reporter wants to know how many employees earn over \$50,000 a year. The City has a file of annual salaries. The requestor should request to inspect the payroll file as the City is not required to give out *information* from that record.

v. The record series entitled "Transitory Messages," found in the Florida Department of State General Schedule for Local Governments GS1-L, is designed to cover certain Email communications, as well as other information with short-term administrative value. The transitory message series is defined as follows:

Transitory messages consist of those records that are created primarily for the informal communication of information, as opposed to communications designed for the perpetuation or formalization of knowledge. Transitory messages do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. The informal nature of transitory messages might be compared to the communication that might take place during a telephone conversation or verbal communications in an office hallway. Transitory messages would include, but would not be limited to: E-mail messages with short-lived or no administrative value, voice mail, self-sticking notes, and telephone messages. Retention is defined as retaining until obsolete, superseded, or administrative value is lost.

III. Media Requests

a. Requests from the media for Public Records shall be handled consistently with the procedures outlined above. All staff members receiving a request directly from the media shall immediately inform the City Clerk's office and the City Manager's office of the request.

5. EXCEPTIONS TO PUBLIC RECORDS INFORMATION

Although documents that perpetuate, communicate, or formalize knowledge are public records, not all information found in that public record is necessarily subject to dissemination or release. For example, employee personnel files are public records. However, information such as social security numbers is protected and is not to be released.

The following public documents/instruments are examples of sensitive material that is either exempt from the Public Records Act or some other statutory exemption:

- Employee records (Florida retirement records, drug screens, medical records)
- Attorney client communications/bills
- Settlement documents
- Medical records unless requested by legal representative or court order

- Home address, phone numbers, social security numbers, and photographs of current or former Human Resources directors and any information regarding their spouse or children
- Home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement, fire and code enforcement personnel and places of employment of the spouses and children
- Bank account numbers and debit, charge, and credit card numbers held by an agency
- 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, an social security numbers of such child
- A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency) or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings
- Information or plans that can jeopardize the security of public buildings including construction plans, floor plans, and types of security systems (Example: Water Treatment Plant blueprints)

This list is not all encompassing. City departments should seek guidance from the City Clerk or the City Attorney if they are unsure of what constitutes sensitive information prior to release of the public record(s). In other words, if in doubt, check with the City Clerk's office or the City Attorney.

All public records requests involving personnel files will be directed to Human Resources with notice to the City Clerk. The City Clerk will work with HR to ensure compliance.

Documents that contain protected sensitive material will be redacted and the document will then be released to satisfy the public records request.

Requests for documents which may contain information which is exempt from disclosure under Florida law may be delayed until the records can be reviewed and redacted as necessary.

Personal computers, smartphones, personal email accounts, and the like, should ***not*** be used for City business as those records are considered public records and must be retained and accessible in accordance with state law. Any emails in connection with city business received in a personal email account ***shall*** be promptly forwarded to your city email account.

6. FEES

All fees imposed for duplication of public records will comply with the Public Records Act, Chapter 119, F.S. Fees may only be imposed for duplication of public records.

Unless specifically stated otherwise through state statute, the following statutory fees will apply to copying of public records:

Paper size 8 1/2" x 11" or 8 1/2" x 14"

Single sided page	\$.15 per page
Double sided page	\$.20 per page

Paper size 11" x 17"

Single and double sided page	\$.20 per page
------------------------------	-----------------

All Other Copies

Actual cost of duplication

Certified Copy

1+ pages:	\$1.00 per page
-----------	-----------------

Audio Tape and CD Fees*

Audio Tapes	Actual cost to City
Data CD	Actual cost to City
Audio CD	Actual cost to City

* Audio Tapes and/or CDs (if applicable) will take several days to reproduce.

A charge per copy shall also be made when necessary to make multiple copies of a document in order to properly redact exempt information contained in the document.

Exception:

City maps, aerial photographs, large format photos may be reproduced and charged a fee to cover the materials used for those duplications. Also, departments may include a reasonable labor and overhead charge associated with the duplication.

No sales tax shall be charged.

Extensive Information Technology/Clerical or Supervisory Assistance:

Where the nature or volume of a request requires extensive use of information technology resources or extensive clerical or supervisory assistance, the City may charge a special reasonable service charge based on the cost actually incurred for the extensive use of information technology resources or the labor cost of the personnel that is actually incurred for the clerical or supervisory assistance required.

Florida Courts have stated that "extensive" means taking more than 15 minutes to locate, research, review, redact, copy or remain present while the requestor copies, and/or answers questions and re-files the material.

To assess the fee for employee hours spent in excess of 15 minutes, City departments will ascertain the hourly rate paid to the City position(s) compiling and providing the duplication.

Occasionally, requestor may need to review records directly. The City shall permit records to be inspected, copied and photographed, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records. Because of exemptions to Chapter 119 of the Florida Statutes, there may be sensitive information the public is not authorized to see. These reviews need to be scheduled after consultation with the City Manager and/or City Attorney.

Deposits:

If a request requiring extensive resources by nature, City Departments may require a "deposit" before starting the reproduction. The member conducting the request should review the materials needed, develop an estimate for the cost for reproduction, and notify the requesting person or entity of the amount to reproduce the records and the need for a deposit. Any requestor having an account delinquent more than thirty (30) days will be required to pay in advance the estimated cost for providing the public records documents requested.

Cost overages will be billed the balance; extra monies will be refunded.

Once the City has received the fees associated with reproduction, the City must provide the copied information.

Cash, personal check on a local bank, money order, or certified check shall be paid prior to the delivery of the materials. Any check, money order, or certified check shall be made payable to "City of Wildwood".

7. COORDINATION WITH CITY ATTORNEY'S OFFICE

Routine public records requests do not require clearance or advice from the City Attorney's office. All public records requests pertaining to any matter for which litigation is pending must be referred to the City Attorney's office. Administrators and department heads must determine whether the agency involved is in litigation before releasing records.

City staff should also contact the City Attorney's office if they cannot determine if a record is exempt from disclosure. The City Attorney's office may be consulted prior to a final denial of a request if it meets the requirements of exempt records. Denial must be made in writing with the statutory exemption cited.

8. RECORDS RETENTION

Public records must be kept/destroyed in accordance with retention schedules set forth by the Division of Library and Information Services (division) of the Department of State of Florida.

<http://dlis.dos.state.fl.us/recordsmgmt/publications.cfm>

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.

9. METHODS FOR REQUESTING PUBLIC RECORDS

Request public records:

E-mail:

Requests may be made via an e-mail message. E-mail requests should be as detailed and specific as possible.

Mail:

To request public records by mail, a request may be sent to: City Clerk, 100 N. Main Street, Wildwood, FL. 34785.

In person:

The City Clerk's office is located at 100 N. Main Street, Wildwood, FL. 34785. Calling ahead will make visits more efficient. Requestors will be asked to fill out a form.

10. REVOCATION

This policy supersedes and revokes all other prior Public Records Request Policies adopted by the City.

EFFECTIVE DATE: October 3, 2014

LAST REVISED: _____