

MEMORANDUM

TO: Mayor & Council Members

FROM: Debbie Renner, City Clerk 

DATE: April 28, 2009

SUBJECT: **Public Records Policy**

PURPOSE

To present Resolution No. 541-09, adopting a policy for responding to public records requests.

BACKGROUND

Consistent with your direction at the April 14th Council Meeting, the City Attorney and I have prepared a policy for responding to public records requests which is modeled after New Smyrna Beach's policy. If the policy meets with your approval, it will be formally adopted via Resolution No. 541-09.

RESOLUTION NO. 541-09

A RESOLUTION OF THE CITY OF ORANGE CITY, FLORIDA, ADOPTING A POLICY FOR RESPONDING TO PUBLIC RECORDS REQUESTS IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 119 OF THE FLORIDA STATUTES, REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Orange City is a municipal corporation within the State of Florida and as such is required to comply with the Florida Public Records laws set forth in the Florida Statutes in Chapter 119 and elsewhere; and

WHEREAS, responding to public records requests is an integral part of City business; and

WHEREAS, the City Council desires to adopt a formal written policy for responding to public records requests.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY:

SECTION 1. That the City Council of the City of Orange City hereby approves and adopts the "City of Orange City Public Records Request Policy" attached hereto as Exhibit "A" and incorporated herein as if fully set forth.

SECTION 2. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 3. That this resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS:

Jim Mahoney	_____	Donald C. Sherrill	_____
R. Paul Rasch	_____	Tom Abraham	_____
Tom Laputka	_____	Jeff Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ADOPTED THIS _____ DAY OF _____, 2009.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, CMC, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

W. E. Reischmann, City Attorney

CITY OF ORANGE CITY PUBLIC RECORDS REQUEST POLICY

1. INTRODUCTION

It is the policy of the City of Orange City (“City”) that all municipal public 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))

2. OBJECTIVE

The purpose of this policy is to affirm the public’s right to access City public 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.

3. AUTHORITY

This procedure was approved by the City Council on _____.

4. PROCEDURE

A. Processing Public Records Requests

(1) Requests for Records

Any employee receiving a public records request shall notify the requestor that public records requests are to be made to the City Clerk’s office and refer them accordingly. The Police 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 public records are easily retrievable, regularly disseminated to the public, and do not require additional

review in order to determine whether they contain exempt information. Examples of such documents are 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 4(B) below.

(3) Requests for Other Public Records 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 email the completed form to the appropriate department head and the City Manager.
- (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 public records responsive to the request.
- (c) Department heads receiving an emailed 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 public 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 of the employee who will be doing the retrieval. They should select the lowest paid employee capable of efficiently retrieving the public 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 public 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 documents 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 Chapter 119 F.S.
- (h) Florida law provides retention schedules for 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 state-mandated procedures. In no event shall staff proceed with destruction of public records that are the subject of a current Public Records Act request or records that are currently at issue in pending litigation.

(4) Unavailable Public 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 public records to respond to a request for inspection or copying. However, the custodian may reformat public 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 duplication of a one-sided letter-size, (8 ½ " by 11"), legal-size (8 ½" x 14") or oversize (11" x 17") document, capable of being reproduced on existing City equipment shall be 15¢ per single-sided copy or 20¢ per double-sided copy.
- (b) The charge for copies of documents on microfiche shall be 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 \$1.00 per certified copy.

(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, or audio recordings on CD shall be \$3 per tape or CD.
- (c) The charge for duplication of any other type of multi-media shall be the actual cost to the City for duplication.

(3) Labor Charges

A labor charge will be imposed for extensive requests requiring more than 15 minutes of staff time to respond. Such charge shall be the product of the employee's hourly compensation cost, multiplied by the actual hours worked to accommodate the request, measured in quarter-hour increments.

(4) 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.

(5) Access to Public Records

- (a) For the purpose of this policy, "reasonable" time to provide access to public records is during working hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. At all times public records will be inspected, reviewed and copied under supervision by the custodian of the public records requested or the custodian's designee, pursuant to 119.07(4)(d) F.S.
- (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.

(6) 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.

5. LAW ENFORCEMENT RECORDS

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

6. REFERENCE

Florida Public Records Law, Chapter 119, Florida Statutes.

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

8. EFFECTIVE DATE

This policy will become effective upon the adoption of Resolution No. 541-09.



**City of Orange City
Public Records Request
229 E. Graves Avenue
Orange City, FL 32763
Phone 386/775-5403 Fax: 386/775-5407**

Date: _____ Time: _____

Requested By: _____ Signature: _____

Address: _____

Telephone #: _____ Cell Phone #: _____

Records Requested (Please be as specific as possible):

Department Assigned: _____ Date: _____ Time: _____

Description of Work:

Date and Time worked in Supervision, Production and Copying:

Date(s) _____

Time Worked: _____

Total Hours: _____ x Rate per Hour: \$ _____

Sub Total (Labor/Research): \$ _____

Number of copies: _____ @ 15¢ per copy (single-sided) \$ _____

Number of copies _____ @ 20¢ per copy (double-sided) \$ _____

Number of copies _____ @ \$1.00 per certified copy \$ _____

Number of copies _____ @ \$3.00 per CD/Tape \$ _____

TOTAL: \$ _____