



CITY OF VERO BEACH PUBLIC RECORDS POLICY

PURPOSE

The City of Vero Beach (“City”) fully embraces the letter and spirit of the Florida Public Records Law, Chapter 119, Florida Statutes, governing the public’s right to access records held by the City, and the constitutional right of access guaranteed by Article I, s. 24(a), Florida Constitution. It is the policy of the City of Vero Beach to comply with the Public Records Act by making the City’s public records available for inspection at reasonable times and under reasonable circumstances and, upon request, provide copies of such records at costs authorized by Florida Statutes. In support of the public’s right to access such records, the City hereby establishes the following public records policy. The guidelines developed below are set forth to inform and guide City staff in the implementation of the Public Records Law and provide uniformity in providing access and charging fees for inspection and copies of public records. Furthermore, it is recognized that employees have a duty to preserve and retain all public records, including electronic communications, in compliance with Florida law.

SCOPE

This document outlines legal requirements, responsibilities, and describes procedures for providing access to public records and for records management. This policy applies to all activities which involve public records requests and the retention of records. This process complements the requirements of the Public Records law and other City policies.

The City Clerk is authorized to periodically update this policy in the event of legislative changes to the Public Records Law or other exemptions created or abolished by the Legislature, or to incorporate new case law from Florida courts.

GENERAL LEGAL REQUIREMENTS

Public records (“records”) held by the City, and its officers and employees, shall be available, in any form and format used by the City, to all persons for inspection or copying under the supervision of the Records Management Liaison Officer (RMLO), or his or her designee, during the City’s normal business hours. The City Clerk is the City’s designated RMLO.

Public records 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. This includes e-mails and text messages, as well as posts on all social media. All communications, regardless of the technology or means of transmission, sent electronically from one device to another can be public records.

This includes e-mail, SMS messages (text messages), MMS (multimedia / picture messages), social media records (Facebook, Instagram, YouTube, Twitter, etc...).

All such materials, even if not in final form, are open for public inspection, unless exempted from disclosure. Generally, if a draft is circulated for review and comment, or prepared to perpetuate, communicate, or formalize knowledge, then it is considered a public record. Notes which are designed for an employee's own personal use in remembering certain things do not fall within the definition of a public record. If the notes have not been transcribed or shown to others and were not intended to perpetuate, communicate or formalize knowledge, they are not public records. If a note is shared with or reviewed by others, it probably rises to the level of being a public record.

The Information Technology Department, in conjunction with the City Clerk's office, shall implement a retention system to collect and store all content posted to City-owned or maintained social media accounts. All City departments who manage a City-sponsored social media account shall enroll such accounts into the retention system. Resolution 2019-06 contains the City's Social Media Policy. Anyone wishing to obtain a copy can contact the City Clerk's office.

RESPONSIBILITIES

The City Clerk's office must be notified immediately when any City official or employee receives a request to inspect or copy public records. The City Clerk's office will respond to the request and relay it to the correct department for response. The City Clerk's office will act as the conduit for the release of all public records and facilitate payment for any fees or charges. When the request is only to inspect records, the City Clerk's office will facilitate the public inspection of said records.

Department Directors may develop internal instructions for the inspection or copying of records within their department provided they do not conflict with the public records law or this policy. The Department Director will determine when requests for inspection or duplication of records are not routine in nature, and shall advise the City Clerk of said request. Department Directors and supervisors shall supervise record inspections and copying activities occurring within their area of responsibility.

GENERAL PROCEDURES FOR PUBLIC RECORDS REQUESTS

The City will provide public records in accordance with Florida laws in a timely manner to the best of their ability. Access to public records is a statutory right, and because of this, the City cannot limit access by a claim of interference with the day-to-day conduct of public business.

Requests for records may be made in writing, by e-mail, text message, telephone, fax, letter, or in person. The requestors do not have to identify themselves or state the reason they desire the records. If a requestor asks to be anonymous, the request shall remain so. The Public Records law does not require that a request for public records be in writing, although individuals may wish to make their request in writing to ensure they have an accurate record of what they requested.

All public records requests whether written or verbal (except those that are simple requests for copies of documents which a department has in their possession and knows without question contain no confidential or exempt information) shall be initiated through the City Clerk's office.

The City Clerk's office will be the centralized coordinator and submit a request to the appropriate department(s) for the records.

City officials and employees, who receive a request to inspect or copy public records, must submit such requests promptly to Tammy K. Bursick, MMC, the Public Records Custodian, or Heather McCarty, Records Retention Specialist, at (772) 978-4700, or by e-mail to tbursick@covb.org or hmccarty@covb.org.

Requests for records must be accepted and records made accessible for inspection or duplication during normal business hours.

The requester shall provide sufficient information in order for the Records Custodian to be able to locate and produce the public records requested. If a request is too vague or too broad, the requestor may be asked to clarify the request, or to be more specific.

The City is not required to generate or create documents if a requester asks for documents that do not exist, or to provide them in a different format. Also, although required to provide the document for inspection, neither the City, nor any of its employees are required to answer questions regarding the documents.

Copies of public records will be made available to the public in the format requested providing the City stores or maintains the records in the requested format. Fees to be charged for providing access to public records must be in accordance with 119.07(4), F.S., as explained below. If the nature or volume of records requested to be inspected or copied is such as to require extensive use of City technology resources or extensive clerical or supervisory assistance by City employees, or both, a special service charge will be imposed. This charge must be reasonable and be based on the actual costs incurred for such extensive use of technology resources or the actual labor costs of the employees providing such assistance, or both.

Responding to a public records request applies only to the records that are in the City's possession at the time of the initial request. The City will not accommodate a standing records request for the production of records that may be received in the future.

All requests for e-mail should be forwarded to the City Clerk's office. E-mail that does not fall within the definition of a public record does not need to be produced. E-mail that is a public record but contains exempt information should be produced, but the exempt information must first be deleted or redacted. If in doubt as to whether an E-mail message is a public record or contains exempt information, the Department Director, or division manager, should contact the City Clerk's office. The same fee schedule listed in this guide is applied to e-mail requests.

The Public Records Law does not contain a specific time limit for compliance with public records requests, however, the only delay in producing records permitted under Chapter 119, Florida Statutes, "is the reasonable time allowed to retrieve the record, to review the record for exempt information, and redact those portions of the record which are exempt." Many factors determine the "reasonable" period of time in which the requested information can be provided: the nature of the request, the time involved in collecting and generating the requested information, the scope and volume of the material involved, the general accessibility of the records, the personnel required

to process the request and the information resources necessary to collect or generate the requested information.

If the requestor would like to simply inspect the records, let the requestor know when and where the records will be available for review. When at all possible, the records should be provided to the City Clerk's office, who will oversee the inspection of the records and provide copies if needed. The requestor should be advised that if the records are not inspected within ten (10) business days, the public records request will be administratively closed.

Requests for Employee Personnel Files - All requests to inspect an employee's personnel file shall be made through the City Clerk's offices.

PUBLIC RECORDS FEES AND CHARGES

The Public Records Law allows the City to collect a "per copy" fee or the actual cost for materials and supplies used to duplicate records. In addition, the City may collect a reasonable service charge when a request to inspect or copy public records requires the extensive use of technology resources and/or the extensive use of clerical or supervisory assistance.

The following fees and charges are designed to ensure that the City is consistent in its application of the law and City rules, which allows the recovery of duplication costs and a special service charge for the extensive use of City resources in complying with requests to inspect or copy the City's public records.

All past due fees for records compiled for a previous request for the City's public records must be paid before complying with the requestor's subsequent request(s).

The service charge for the extensive use of City resources will be imposed if a request to inspect or copy public records takes more than thirty (30) minutes to locate, review and/or redact exempt information, and copy the requested public records.

If the City is processing multiple requests by one requestor at the same time, they may be combined as one request and labor charges may be applied after the first thirty (30) minutes of staff or resource time for the combined requests.

Description	Cost
8 ½" x 11" or 14", one-sided	\$0.15/page
8 ½ x 11" or 14", two-sided	\$0.20/page
11" x 17"	\$0.20/page

Outside reproduction (large documents, specialty records, construction plans, photographs, etc.)	Actual cost
Custom GIS map	Actual Cost, including staff time
Custom Report – Customer Service	Actual Cost, including staff time
Certification fee, in addition to the copy fee	\$1.00/record
DVD and CD	\$1.15 each
All other records	Actual cost
Postage	Actual cost, based on weight and delivery method

Extensive Use Charges – A special service charge for the extensive use of City resources will be applied uniformly throughout the City in compliance with the Florida Statutes. If the Department providing the records estimates their time will be over 30 minutes, they should advise the City Clerk’s office in advance so that an estimate can be provided to the requestor. Costs are billed in quarter hour increments.

Labor Costs – When more than thirty (30) minutes of clerical and/or supervisory time is spent in response to a request to inspect or copy the City’s public records, a special service charge will be applied, which is based on the hourly rate of the lowest paid employee(s) capable of performing tasks associated with the request.

Shipping – U.S. postage or other shipping costs incurred in the delivery of records shall be included in the costs charged to the requestor. Such charges will be waived if the requestor provides a postage-paid envelope or other means of shipping.

Fee Collection and Processing – If there is going to be an extensive amount of time spent or copies made, the City Clerk’s office will provide an estimate and may require a deposit in advance.

The City accepts checks, cash, or money orders, made payable to the City of Vero Beach. Payments may be made in person at the City of Vero Beach City Hall, 1053 20th Place, Vero Beach, Florida 32960, or mailed to: City of Vero Beach, Attn: City Clerk’s office, P.O. Box 1389, Vero Beach, Florida 32961-1389.

Public Records Exemptions – The City is responsible for protecting information defined as confidential or exempt from public inspection or copying under the Public Records Law.

Confidential Public Records shall be those records, or portions thereof, specifically designated as “confidential” by applicable statute. Unlike “exempt” records, the City has no discretion and may not release records designated by the Florida Legislature as confidential.

Exempt Public Records shall be those records, or portions thereof, specifically designated as

“exempt” by applicable statute. As exempt records, the City has discretion to release such records, in whole or part, where there is a specific public purpose.

Each Department Director and supervisor should be aware of what information in their department is exempt and/or confidential. Those individuals who provide copies to the public must be knowledgeable of the records that contain exempt or confidential information. For this reason, all requests should be referred to the City Clerk’s office.

A complete listing of exemptions to public records disclosure requirements is contained within the Florida Statutes. Questions regarding public record exemptions may be directed to the City Clerk.

Confidential and/or exempt information must be deleted or redacted from records prior to inspection, examination, or distribution of copies of the nonexempt portions. If a public record contains both exempt and non-exempt information, that which is exempt must be redacted and the remainder of the record provided to the requester. If it is determined that a record or part of a record is exempt, and the request is then denied, the basis for the denial, including the statutory citation to the exemption, must be communicated to the requester. Additionally, if requested to do so, the denial of a request to inspect or copy the City’s public records must be made in writing, and must include both the reasons for conclusion that the record is exempt from inspection and copying and the statutory citation authorizing the denial. Charges for the use of City resources to redact the confidential and/or exempt information may be levied according to the above guidelines.

Request for Redaction of Personal Information

Certain current and/or former public employees, victims of certain crimes or domestic abuse, and other persons enumerated in the Florida Statutes are entitled to protection of certain personal information (see F.S. 119.071). Persons qualifying for such exemption shall file a written request with the City Clerk requesting such protection on a form provided by the City Clerk for such purpose. When required by statute, the form shall require a statement from the requesting party that they have made reasonable efforts to protect their personal information from being accessible by the public through other sources.

Use of Personal Devices for City Business

City officials and employees who elect to use personal computers, cell phones, or e-mail accounts to conduct City business, must ensure that all public records on such computers, devices, and accounts, including text messages and emails, are retained according to law, and that access to such records is provided pursuant to a request for inspection or copying. City business conducted on personal computers, cell phones, and e-mail accounts still constitute a public record, regardless of the location of the record. Additionally, City officials and employees who elect to use personal computers, communication devices or email accounts to conduct City business are advised to copy (cc) their respective City accounts in connection with all transactions of official business, or to provide copies alternatively to their department.

RECORDS MANAGEMENT RESPONSIBILITIES AND GENERAL PROCEDURES

It is the duty of the City to cooperate with the Bureau of Archives and Records Management in complying with the provisions of Chapter 257, Florida Statutes, to designate an RMLO, and to establish and maintain an active and continuing program for the economical and efficient management of records. The City has designated the City Clerk as the Records Management Liaison Officer (RMLO).

The City Clerk's office will assist City Departments with the proper management of the City's records in compliance with Florida State Statutes and to set out administrative procedures for the proper handling of all City records received, created, or compiled by City employees.

The City will utilize the prepared State of Florida Records Retention Schedules for the proper disposition of its records and annually submit a proper compliance form to the Department of State, Bureau of Archives and Records Management.

The City Clerk's office will coordinate with and educate City personnel on the importance of public records laws and an efficient records management program. It is vital that records not be destroyed before they have met their retention. If records are mistakenly disposed of prematurely, the department must notify the City Clerk's office of their destruction so that it can be properly documented.

Each department will be responsible for assuring that their public records are maintained and preserved according to Florida Statutes. They shall coordinate with the Records Retention Specialist to properly administer their department's records in accordance with the appropriate Records Retention Schedule. Public officials must maintain their public records according to the State established retention requirements, regardless of the format in which they are kept.

The City Clerk's office will provide, as much as possible, an area for the storage of boxes. Each department will be designated shelf space in the record storage rooms for records with scheduled retentions. Due to limited space availability, records that are not going to be destroyed should be maintained within their own department. When a department has records that are no longer needed to be kept in their office, they shall forward them to the City Clerk's office for storage until destruction. When records are ready for transmittal to the Records Retention Specialist, they should clearly state what department they are from and any special requests for retention. The Records Retention Specialist shall determine if the records meet the requirements of the General Retention Schedule for either storage or destruction. The City Clerk's office maintains documentation on what records they destroy each year.

Per City Charter, the City Clerk is the custodian of all the minutes of all the meetings of the City Council, and all the Boards, Commissions, Committees, and agencies of the City. Additionally, the City Clerk has been designated as the appointed position to maintain vital records of the City, including official contracts and agreements, which are kept in a safeguarded fireproof vault, as well as off-site. The City Clerk's office maintains a vital records program so that in the event of a disaster, the City will be able to start up again with little trouble. The City Clerk's office maintains a contract with a records storage facility for the safe off-site storage of permanent (historic/archival) and long-term original paper records.