



City of Freeport

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OFFICE OF THE CITY CLERK

PUBLIC RECORDS POLICY

MISSION STATEMENT

The Mission of the Freeport City Clerk's Office is to provide openness for a better-informed community and government transparency. It is the intent of the City of Freeport to fully comply with the Florida's Public Records Act, as set forth in Florida Statute Chapter 119, of the Florida Code. Should changes to the law occur that conflict with the provisions of this policy, the law will supersede this policy.

DEFINING PUBLIC RECORDS

The Florida Public Records Act provides a right of access, to inspect, and copy City records with a few exceptions such as confidential material. There are penalties provided by law if City employees do not comply, including civil actions, fines, and attorney fees.

The City Clerk is charged with the responsibility of insuring that the City's public records program meets the mandates of the Public Records Act. **All employees** are responsible that records in their custody are accessible per Chapter 119.07 of the Florida State Statutes, which states that "every person who has custody of a public record shall allow inspection and copying of those records."

All records kept by the City of Freeport are public, unless they are exempt from disclosure under Florida Law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

A record is defined to include the following: A document in any format – paper, electronic (including, but not limited to, business e-mail and text messages, sent and received) – that is created, received by, or comes under the jurisdiction of the City of Freeport that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. Included are: documents, papers, letters, e-mails and text messages, sent, and received, maps, books, tapes/audio recordings, photographs, films, or other material.

REQUESTS THAT THE CITY IS NOT REQUIRED TO PRODUCE

Request for Information vs. 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.

Continuing Record Requests: The City is not obligated to provide records on a continuing basis to a requestor. Example: A requestor wants all records regarding the Freeport Regional Sports Complex Ball Fields for the next two (2) years.

RESPONSE TIME

Public records are to be available for inspection during regular business hours with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. “Prompt” and “reasonable” take into account the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review and redaction of the records requested. The City must take into account its obligation to the citizens for the daily operation of City government when presented with a voluminous request. To request that Staff immediately cease normal business in order to fulfill such requests quickly would disrupt the normal workflow and cause disruption in services to the rest of the citizens. The accumulation of materials, research, and time involved must be weighed against the daily obligations to the taxpayers. Thus, “reasonable” must be defined by staff resources and workload, and not be an arbitrary timeframe.

It is the goal of the City of Freeport that all requests for public records should be acknowledged in writing or, if possible, satisfied within 10 business days following the office’s receipt of the request.

REQUESTS – HANDLING AND RESPONDING

All public records requests shall be submitted through the City Clerk’s office. The City Clerk’s office maintains a public records tracking system for processing the request. The City Clerk or his/her designee will acknowledge the request and forward it to the appropriate City Department.

HANDLING REQUESTS

The requestor does not have to put a records request in writing and does not have to provide his or her identity or the intended use of the requested public record. It is this office’s general policy that this information is not to be required to be given to the City in order to make public records request. However, the law does permit the office to ask for

a written request, the requestor's identity, and / or the intended use of the information requested, but only (1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and (2) after telling the requestor that a written request is not required and that the requestor may decline to reveal the requestor's identity and intended use.

No specific language is required to make a request for public records. However, the requestor must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records. If it is not clear what records are being sought, the office must contact the requestor for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its public records.

Broad and/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. *(Excerpt from Florida Public Records Handbook).*

In processing the request, the office does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is readily programmed to produce the record through simple sorting, filtering, or querying. Although not required by law, the office may accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

When a public records request is received for e-mails or other records relating to a City Council Member or City employee, the City Council Member or City employee may be notified that such a request was received. This notice and opportunity to review said records cannot unreasonably delay responding to the public records request.

In processing a request for inspection of a public record and to make certain original records are not taken or altered, public records may be inspected and examined by any person desiring to do so at any reasonable time, under reasonable conditions, and under the supervision of the City Clerk or his/her designee, i.e., a Department employee. For the purpose of this policy, "prompt" and "reasonable" time to provide access to public records is during the hours of Monday through Thursday, 8:00 a.m. to 5:00 p.m., and Friday, 8:00 a.m. to 4:00 p.m. excluding identified City holidays.

RESPONDING TO REQUESTS

Departments receiving the public records request will provide the City Clerk's office with a timeframe for retrieval. The City Clerk's office will notify the requestor of the estimated time to fulfill the request and any copying charges. For large requests, (those

requiring more than \$50 in copy and retrieval charges), the City Clerk's office will require an advance deposit prior to beginning retrieval.

1. Upon receipt of a public records request by e-mail, the Department shall acknowledge receipt by e-mail within two (2) business days. The Department shall also copy the City Clerk on the e-mail. For other requests, the Department shall forward the request to the City Clerk who will, in turn, contact the requestor or acknowledge it by other means such as a letter.
2. The Department shall respond to all public records requests in a reasonable time, taking into account the extent and nature of the request.
3. If the requested public records are not within the Department, the City Clerk should be notified immediately by the Department. The City Clerk shall forward the request to the appropriate City Department, if known.

A copy of the most recent edition of the Florida Sunshine Laws manual is available via the <http://www.myfloridalegal.com/sun.nsf/sunmanual> for the purpose of keeping employees of the office and the public educated as to the office's obligations under the Florida Public Records Act, Open Meeting Act, records retention laws and Personal Information Systems Act. The Public Records Act is fully outlined in Florida Statute Chapter 119 at the following link: <http://www.leg.state.fl.us/Statutes>.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held device (such as a smartphone or tablet) are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to and from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

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.

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 e-mail 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.

REQUESTS MADE ON BEHALF OF LITIGATION

For those public records requests that become and/or are made on behalf of litigation, the City Clerk must be notified in order to ensure backups are made to comply with requirements of law.

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

DENIAL OR REDACTION OF RECORDS

If the requestor makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the denial must provide the requestor an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed by the office. Examples of records that are exempt from the Public Records Law (Sec. 119.071, F.S.), as may be amended, are as follows:

- Social Security numbers of all current and former agency employees;
- Medical records unless requested by a legal representative or court order;
- Home address, phone numbers, and photos of current or former Human Resources directors and any information regarding their spouse or children;
- The 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 spouse and children;
- Information contained in e-mail or other documents pertaining to active criminal investigations;
- 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, and 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 the mental impression, conclusion, litigation strategy, or legal theory of the attorney of the 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;
- Data processing software obtained by the City of Freeport under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive; although the designation of agency-produced software as sensitive shall not prohibit the City of Freeport from sharing or exchanging with another public agency; and
- Audit work papers and notes, until such time as the audit is final.

All public records requests involving personnel records will be directed to the City Clerk to ensure compliance.

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. Because the Legislature amends the Public Records Law from time to time whether certain materials are exempt, if in doubt, check with the City Clerk's office.

Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the office shall notify the requestor of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Personal computers or personal e-mail accounts 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 e-mails in connection with City business received in a personal e-mail account shall be promptly forwarded to your City e-mail account.

COPYING AND MAILING COSTS

A requestor may be required to pay in advance for costs involved in providing the copy. The requestor may choose whether to have the record duplicated upon paper, upon the same medium in which the public records is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

Copies must be paid for prior to receipt. Cash, personal check on a local bank, money order, or certified check should be made payable to the City of Freeport and shall be paid prior to the delivery of the records.

The following fees as prescribed in Sec. 119.07(4), F.S. will be charged for City of Freeport public records:

Paper Copies:	Fee
Each one-sided page (black & white) up to 8 ½ inches x 14 inches	\$.15
Each two-sided page (black & white) up to 8 ½ inches x 14 inches	.20
Each one-sided page (color) up to 8 ½ inches x 14 inches	.25
Each two-sided page (color) up to 8 ½ inches x 14 inches	.30
Each one-sided page (black & white) of 11 inches x 17 inches	.35
Each two-sided page (black & white) of 11 inches x 17 inches	.40
Each one-sided page (color) of 11 inches x 17 inches	.45
Each two-sided page (color) of 11 inches x 17 inches	.50
Certification of a public record (in addition to per page copy fee)	1.00
For all other copies, the actual cost of duplication of the public records shall be charged; such as special printing costs for documents that have to be sent out	ACTUAL COST
Other Media:	
Audio Tapes, Recordings or CD/DVD (or the actual cost to the City, plus applicable administrative charges)	2.00 minimum
Reproduction of DVDs	10.00

Additional Fees:

Florida Statutes, § 119.07(4)(d) provides “If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be

reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical or supervisory assistance required, or both.”

For the purpose of this policy, “extensive clerical or supervisory assistance” is determined to be requests that require more than 15 minutes of time required, using information technology, resources, or clerical labor to locate records, review confidential material, remove confidential material, or copy and re-file the requested material. For public records requests requiring more than 15 minutes, the requestor will be required to pay the hourly salary of the employee doing the research, copying the records and/or supervising the requestor’s research. This hourly fee will begin after the first 15 minutes of clerical or supervisory assistance is completed. For requests estimated to require more than one (1) hour of a City employee’s time, a minimum deposit of half the estimated fee will be required. The deposit will be applied to the final cost of the public records request.

If materials are to be mailed, the actual cost of postage may be added to other charges indicated above.

A deposit will be required for any public records request estimated to be over \$50.

The Code of Ordinances may be reviewed on the City Website at:
www.freeportflorida.gov

FEE COLLECTION

When all allowable fees/charges applicable to a particular public records request can be calculated in advance, they will be calculated and provided to the requestor before investing significant resources in completing the request. If the requestor accepts the cost estimate and pays the fee, the public records request will be filled.

When actual costs and extensive use fees cannot be immediately determined due to the nature of the request, an estimated cost for producing the records will be provided to the requestor along with an explanation that the actual cost may vary, but will not exceed the original estimate by more than an additional 25%. If the requestor accepts the cost estimate, and pays the estimated fee, the public records request will be filled. If the actual cost to produce the records is more than the estimate, the requestor will be required to pay the additional cost (not to exceed 25% of the estimate). If the actual cost is less than the estimate, the requestor will receive a refund of the difference.

No sales tax is charged for a public records request.

COLLECTION OF RECORDS

Once the records request is completed and the fees have been paid, the requestor will be notified that the records are ready. The City Clerk's office will hold these records for up to 10 calendar days to give the requestor adequate time to pick up the records or make arrangements for the delivery of the records. ***If the copies of the requested records are not picked up within 10 days following notification to the requestor, they will be destroyed and the original documents will be returned to the files.***

MANAGING RECORDS

The City of Freeports' records are subject to records retention schedules. The office's current schedules are available at City Hall, 112 Highway 20 West, Freeport, FL 32439, a location readily available to the public as required by Chapter 119, Florida Statutes.



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PUBLIC RECORDS REQUEST

Florida Constitution, Article I, Section 24(a)

“Every person has the right to inspect a copy of any public records made or received in connection with the official business of any public body...”

Florida Statute 119.011

“Public Records means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical forms, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of any agency.”

Florida Statute 119.07

“Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian’s designee.”

Most City records are promptly available to the public upon request. However, to ensure file content is not compromised, files will not be loaned out and may not be removed from the City Clerk’s Office. Copies of non-confidential public records are available at the rates as listed in the City’s Public Records Policy.

The information listed below is requested **(but not required)** to expedite your request and document file activity.

SUBJECT OR NAME OF FILE(S) OR RECORD(S):

1. _____

2. _____

TIME PERIOD: FROM: _____ (MONTH, DAY, YEAR) TO: _____ (MONTH, DAY, YEAR)

COPIES REQUESTED: YES NO REVIEW OF FILE: YES NO

LIST OF RECORD(S) TO BE COPIED BELOW:

1. _____

2. _____

3. _____

THE CONTACT INFORMATION BELOW IS NOT REQUIRED.

If you wish to be contacted when the records are available, please include the appropriate information:

NAME: _____

SIGNATURE: _____

ADDRESS: _____

CITY: _____

STATE: _____

ZIP CODE: _____

PHONE: _____

E-MAIL: _____