

ORDINANCE NO. 2842-11

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA RELATING TO THE ADOPTION OF A POLICY FOR COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS ACT; PROVIDING FOR CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park, Florida finds that the City and its staff have a paramount duty to comply fully and effectively with the requirements of Florida's Public Records Act, Chapter 119, Florida Statutes; and

WHEREAS, the City has determined that it would be in the interest of the citizens of Winter Park and will promote greater efficiency in responding to requests for public records if a policy is adopted by the City and implemented by staff with respect to compliance with the law; and

WHEREAS, the City Clerk has developed a policy that is consistent with and supplements state law, said policy being attached as Exhibit "A" hereto and incorporated herein by reference; and

WHEREAS, the City Commission has determined that the Public Records Act fails to expressly address certain issues that arise when members of the public request public records, and this policy will greatly assist staff in responding efficiently and in a consistent manner to requests for public records; and

WHEREAS, the City Commission has determined that the policy developed by the City Clerk and attached as Exhibit "A" hereto is in compliance with Florida's Public Records Act, supplements the Act in a manner that is lawful and will promote efficiency, and is in the best interest of the citizens of Winter Park.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS

Section 1. Recitals. The foregoing recitals are incorporated herein by this reference.

Section 2. Adoption of the Public Records Act Policy. The policy concerning public records attached as Exhibit "A" hereto, is hereby enacted by Ordinance as the City's governing policy and local law when members of the public request the City's public records. This policy shall be supplemental to, and not in conflict with, state law, including Chapter 119, Florida Statutes.

Section 3. Codification. The policy attached as Exhibit "A" shall be codified in a new subsection 2-132(c) of the City Code. The policy shall be incorporated into the Winter Park City Code at subsection 2-132(c), and any section, paragraph number, letter or any heading within the policy may be changed or modified as necessary to effectuate

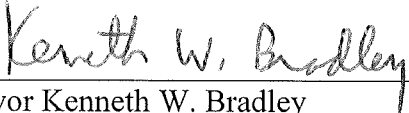
the foregoing. Grammatical, typographical and similar or like errors may be corrected when the policy is incorporated into the City Code, and additions, alterations and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto.

Section 5. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date of Ordinance. This ordinance shall become immediately upon adoption by the City Commission of the City of Winter Park, Florida, and pursuant to City Charter.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the 23rd day of May, 2011.



Mayor Kenneth W. Bradley

ATTEST:



FOR Cynthia S. Bonham, City Clerk

EXHIBIT "A"
CITY OF WINTER PARK, FLORIDA
PUBLIC RECORDS REQUEST POLICY

1. INTRODUCTION

It is the policy of the City of Winter Park ("City") that all municipal records, with the exception of exempted records identified by Florida Statutes, §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., §119.011(1)).

2. OBJECTIVE

The purpose of this policy is to affirm the public's right to access City 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. EFFECTIVE DATE

This Policy will become effective immediately upon adoption of the ordinance.

4. PROCEDURE

A. Processing Public Records Requests

The City Clerk/City Manager have the authority to determine that the request is routine and can appropriately be handled by a department head or other staff person at a department level. In that case, the person requesting public records will be directed to schedule a time to examine the records and to make copies at his or her cost (see costs below).

The City Clerk is the official custodian of all City records, and any person requesting records is on notice that there may be a delay in receiving access to public records if he or she requests records from someone other than the City Clerk.

Although requests are not required to be in writing, a written request will facilitate clear communication and a concise statement of what is being requested and is encouraged. Requestors should specify whether they wish to simply inspect records or obtain copies.

Any City employee who receives a request for this type of information should comply as soon as practicable. After assisting the requestor, staff should transmit information regarding any **unusual** requests to the City Clerk's office. The City Clerk will determine if the nature of the request requires a copy be sent to the City Attorney. The City Clerk does not need to be informed of routine requests; only ones requiring extensive time and research.

If Departments that have records in their possession indicate that the retrieval of the records will take more than 20 minutes in order to retrieve, produce, maintain custody of and to return the records, staff will provide the requestor with an estimate of the cost for doing such work. The estimate should include sufficient information so that the person requesting the records will understand the scope of work involved that justifies the estimate amount of time and deposit amount.

The person requesting can either schedule on a reasonable basis a review of the records (which will require supervision because of the need to maintain security of the records; and that time spent in supervising may trigger the right to receive a deposit for extraordinary work) or may pay for a copy of all the records with the cost of shipping added to the bill if it is mailed. Payment should be received before copies are made and mailed.

Departments should provide the City Clerk's office with the name and hourly pay rate of the employee who will be doing the retrieval for requests requiring a significant amount of time to complete. They should select the lowest paid employee capable of efficiently retrieving the records. No benefits multiplier shall be added to the labor charge. The City Clerk's office shall notify the requestor of the estimate and confirm whether the requestor is willing to pay the labor charges and copying charges, if any. A request will be made by the City Clerk for a deposit for extraordinary requests. 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.

Exemptions must be identified promptly. Exceptions are generally found in Section 119.071, but there are other exemptions provided in the law. 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 by the custodian of the records. The City Attorney's office should be contacted for clarification of exemptions under F.S. 119 that you are unsure of.

The Public Records Law does not require staff to create or reassemble records in a new format. The law only requires staff to provide access to records that already exist. Also, the Public Records Law does not require staff to answer questions or to conduct analysis.

Media Requests

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 Communications Department of the request.

B. Charges for Public Records

(1) *General*

- a. The charge for a duplication of a one-sided letter size (8- 1/2" x 11), legal size (8- 1/2' x 14") or oversize (11" x 17") document, capable of being reproduced on existing City equipment, shall be fifteen cents (\$.15) per copy. Duplication of two-sided pages shall be twenty (\$.20) per copy.
- b. 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.

- c. 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.
- d. The charge for a certified copy of a public record shall be one dollar (\$ 1.00) per certification, plus the applicable copying charges.
- e. If documents are easily retrieved and readily available, there should be no charge unless there is a substantial amount of copies made, then only charge for the copies.

(2) *Multi-Media Public Requests*

- a. If a photographic reproduction is requested, the charge shall be the actual cost for outside reproduction.
- b. The charge for CD's is \$5.00 each. Copies of video tapes or other such media shall be the cost to the City, plus applicable labor charges.

(3) *Labor Charges*

For extraordinary requests requiring more than 20 minutes of staff time, a labor charge will be imposed. Such charge shall be the result of the employee's hourly rate of pay, and benefits, multiplied by the actual time worked to accommodate the request and measure in tenths of an hour. The benefits to be charged shall include all regular employee benefits that have an hourly dollar value, associated with the personnel performing the work, including health insurance and any pension or retirement contribution.

(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 levied fee. All fees collected shall be forwarded to the Finance Department for deposit in the City's General Fund.

(5) *Access to Records*

- a. 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. 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. 1 19.07(4)(d).
- 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) *Uniform Application of Public Records Law*

The City will comply in a uniform manner to all requests for public records, and the charges authorized by law will be assessed and charged for all requests, including the requirement for a deposit for requests that require extensive clerical or

administrative time. However, notwithstanding the requirement the charges will be uniformly applied as allowed by law, the City Manager shall have the discretion to waive charges for public records that would be equal to one dollar (\$1.00) or less.

5. LAW ENFORCEMENT RECORDS

Copies of Law Enforcement records shall be subject to fees as outlined in F.S. 321.23. Media inquiries and public records requests received directly by the Police Department will be processed as outlined in Winter Park Police Department Standard Operating Procedures.

6. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PATIENT RECORD PACKAGE

All requests for patient records related City ambulance transport services are established in the City's fee schedule. The City is not a licensed medical provider as described in F.S. 458.309, 64B8-10.003 and therefore has established a separate fee for generating these records.

7. REFERENCE

Florida Public Records Law, Chapter 119, Florida Statutes.