

ADMINISTRATIVE REGULATION		CITY OF CAPE CORAL
SUBJECT: Public Records Requests	Effective Date: 12/7/11	A. R. Number 20
Applies To: All Departments	Supersedes: 10/1/11	Page 1 of 4

- I. PURPOSE:** To establish consistent procedures for the efficient processing of Public Records Requests and to establish fees to be charged to cover the costs of responding to Public Records Requests.
- II. POLICY:** It is the policy of the State of Florida that all municipal records, except those exempted by law, shall at all times be open for personal inspection, examination or copying by any person. The City of Cape Coral shall comply with Chapter 119, Florida Statutes, Public Records.

III. DEFINITIONS

- A. "Public Record" is defined as 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. NOTE: A public officer or agency is not required to prepare reports, summaries, or compilations not in existence on the date of a request.
- B. "Public Information" is defined as general questions or inquiries that are not related to a request for a specific public record. This would include any follow-up questions, either written or verbal, seeking clarification, interpretation or explanation about the data contained within a public record. Public Information also includes agency policy questions or requests for general information not contained within a public record.
- C. "Readily Available Documents" are defined as official records or documents that are easily retrievable, regularly disseminated to the public, do not require additional review to determine whether they contain exempt information or action on the part of more than one employee. Examples include meeting minutes, program information sheets, engineering maps, or a personnel file (which already has exempt information redacted). These documents typically will take less than 15 minutes to provide to the requestor.
- D. "Extensive Research" is defined as research required for any request that involves extensive use of information technology resources, or extensive clerical or supervisory assistance. If the nature or volume of the request requires more than 1 hour of staff time, the City will charge for the actual labor costs incurred (as approved by City Council on November 28, 2011). "Labor costs" are defined as the wages and benefits of the employees involved in the research.

IV. PROCEDURES FOR PUBLIC RECORDS REQUESTS

- A. All public records requests will be handled by the City Clerk's Office. Records requests received by other City departments should be forwarded to the City Clerk's Office for processing and tracking. The City Clerk will route the public records request to the appropriate department for response.
- B. The City Clerk's Office will determine from the requesting party whether they wish to simply inspect the records or obtain copies. A requesting party is not required to provide their name or a reason for the request.

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- C. Departments receiving a request for "readily available documents" will return the requested document and related records form to the City Clerk's Office within two (2) business days.
- D. Departments receiving a request for public records that require "extensive research" will respond to the City Clerk's Office indicating an estimated time to retrieve the documents, the associated costs and target response time. The City department that is the custodian of the requested record(s) will make every effort to respond fully within five (5) business days of their receipt of the records request.
- E. Requests for documents that may contain information exempt from disclosure under Florida law may take additional time so that the records can be reviewed and redacted as necessary.
- F. Records requests from the media for Public Records shall be handled consistently and with the same procedures as outlined above. All staff members receiving a records request directly from the media shall immediately direct the request to the City Clerk's Office.
- G. A Public Record is all material made or received by an agency in connection with official business and used to perpetuate, communicate or formalize knowledge. In no case is the City required to provide information that is not in this form, even if it can be extrapolated from these materials, simply to respond to a specific request.

V. PROCESSING PUBLIC RECORDS REQUESTS

A. Requests for "Readily Available" Documents

- 1. For the documents that are readily available and do not require more than 1 hour of staff time, there should be no charge for the labor in retrieving the requested documents. However, any copies required by the requesting party should be charged in accordance to the City of Cape Coral Code of Ordinances (§ 2-19), where applicable.
- 2. Employees who have the requested public records in their possession will provide the public record to the City Clerk's Office.

B. Requests Requiring "Extensive Research"

- 1. If the nature and volume of the public records request requires extensive research of more than 1 hour, the department receiving the records request will provide the City Clerk's Office with an estimated time and target date for the retrieval of the record prior to commencing the actual retrieval process.
- 2. Employees will use the labor charge of the lowest paid employee capable of efficiently retrieving the records.
- 3. The City Clerk's Office will notify the requesting party of the estimated costs for all staff time required to retrieve the records and confirm whether the requesting party agrees to pay the labor charges and copying charges associated with the request.

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4. Following confirmation from the requester and/or requests requiring a deposit, the City Clerk's Office will notify the custodian of record to complete the records request.
5. Any department that receives authorization to complete an extensive research request from the City Clerk's Office should attempt to complete the request within five (5) business days when at all possible.

VI. EXEMPT AND CONFIDENTIAL RECORDS

- A. The City Clerk's Office will determine if a public record is exempt or confidential, or contains exempt or confidential information
- B. If a record, or any portion thereof, is considered exempt from public records disclosure, the City Clerk's Office will advise the requesting party of the following:
 1. The basis of the exemption that is applicable to the records; and,
 2. The statutory citation to an exemption created or afforded by the statute.
- C. If requested by the person seeking the record, the City Clerk's Office shall state in writing and with particularity the reasons for asserting the exemption and denying the public record request. If the City Clerk's Office asserts that only a portion of the record is exempt or confidential, it will be the responsibility of the Clerk's Office to redact exempt or confidential information from a public record before releasing it to the public.

The City Attorney's Office shall be consulted to render an opinion on any public records request that presents a legal question as to whether a public record and/or any information contained therein is confidential or exempt. Any record being reviewed by the City Attorney's Office shall not be released until a final determination on the legal question is made.

VII. FEES/CHARGES FOR PUBLIC RECORDS

- A. Charges for general requests, multi-media requests, computerized materials (existing programs or files) and other requests as described within this administration regulation shall be pursuant to the City of Cape Coral Code of Ordinances (§ 2-19).
- B. A receipt for payment of costs associated with Public Records Request shall be given to the requesting party upon payment of the levied fee.

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C. Charges for "Extensive Research" by Clerical or Supervisory Staff

If the nature and volume of the public records request requires an investment of staff time and resources falling under the definition of "extensive research," a special charge shall be imposed. The charge will be based upon the actual labor costs incurred to the City for the clerical and supervisory assistance required of the personnel providing the service. (Section 119.07(1)(b) F.S.)

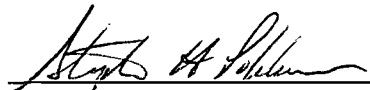
The amount charged shall reflect the employee's base rate of pay plus benefit costs multiplied by the actual time worked to accommodate the request. In keeping with the City of Cape Coral's policy to maintain easy access to public documents, there will be no charge for requests requiring 1 hour or less in actual labor. However, when requests from members of the public require more than 1 hour of actual labor, the requesting party will be charged for all time expended by all staff involved in retrieving and providing the public record.

For large requests (those requiring more than \$50), the City shall require an advance deposit of at least 50 percent of the estimated cost prior to beginning retrieval. Monies collected that exceed the actual cost of assistance and duplication shall be returned to the requesting party.

VIII. APPLICABILITY

This administrative regulation applies to all City employees and to "public records" requests only. The City Clerk's Office is responsible only for providing the public record requested, and is not responsible for providing explanations or answers to any questions related to the record and/or information contained therein. These types of questions or explanations would be considered general "public information" questions.

General inquiries from the media should be forwarded to the Public Information Director as outlined in Administrative Regulation #27 "Media Communications Policy."

APPROVED:  _____ Stephen H. Pohlman, Interim City Manager	_____ 12/7/11 Date
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