

**CITY OF ARCHER**  
**PUBLIC RECORDS POLICY**

**I. Policy**

This policy established the City of Archer's guidelines and procedures for public records requests. It is the policy to retain public records in accordance with Florida law, Chapter 119, also known as the Public Records Act. The City of Archer is committed to providing a high level of service in an open, transparent setting to assist the public in the right to inspect and obtain copies of City records.

**II. Scope**

This Policy shall apply to all City of Archer employees. All City employees should understand that responding to a public records request is a governmental service and there is a responsibility to act accordingly. The public's right to access public records is "virtually unfettered." Without an exemption, records shall be produced no matter how inconvenient or burdensome.

Supervisors should inform all affected employees within their supervision of this policy and its requirements. Department Heads should know and train their employees on which public records are available in their department and what sensitive information those records may contain.

The City Manager shall designate an individual to act as the City's Public Records Custodian. This Public Records Custodian shall be responsible for arranging training and compliance with the Public Records Act. Department Heads shall act as Public Records Custodian for their respective departments and will assist the City's Public Records Custodian where necessary.

**III. Definitions**

**A. Actual cost of duplication:** Defined by Florida Statutes Section 119.011(1), and as may amended from time to time by the Florida Legislature. The "actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

**B. Public records:** Defined by Florida Statutes Section 119.011(12), as may be amended from time to time by the Florida Legislature. "Public record" 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 any agency. The Florida Supreme Court has interpreted this definition to include “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” Examples include computer records, e-mails, Facebook entries, tape recordings, text messages, voicemails, and instant messages are public records when they are made or received by a City employee in connection with official City business and are used to perpetuate, communicate, or formalize knowledge.

- C. Public records request:** This shall be defined as a request submitted to any City employee by any person, either orally or in writing, to inspect or copy the City’s public records.
  
- D. Redact:** Defined by Florida Statute Section 119.011(13), as may be amended from time to time by the Florida Legislature. “Redact” means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record exempt or confidential information.

#### **IV. Retention**

**A.** Each City of Archer employee is the custodian of any public record under his or her supervision and control, such as the public records located in an employee's office desk drawer or any employee's City e-mails. As such, each City employee who has public records in his or her custody is required to retain such records in accordance with the records retention schedules established by the Florida Department of State. For example, the current record retention schedule provides the administrative correspondence and memoranda, the record category which many e-mails will fall into, must be maintained until obsolete, superseded, or until their administrative value is lost. The records retention schedules, which may be amend from time to time are currently available online at

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**B.** Significant advances in information technology have allowed City employees to perform their job functions through the use of numerous electronic devices and systems. For instance, many City employees are equipped with mobile handheld devices on which they can access their City e-mail, send and receive text messages, access the internet, and receive voicemails. In addition, some City employees may use instant messaging, chat rooms, social networking pages, or other internet-based tools to accomplish their job may create or receive public

records. If public records are in fact created or received on such devices or systems, City employees are required to retain such records in accordance with Florida's public records law. All devices and systems used to conduct City business shall have the capability to retain public records created or received by such. For example, if a City employee's mobile handheld device is unable to retain copies of text messages in accordance with the state retention schedule so that they are available for inspection and copying, the City employee is prohibited from using the text messaging function to conduct City business.

- C. City employees' email and other electronic records are periodically backed up by the City's information technology personnel. Generally, this is done in the event of disaster recovery. The City's information technology personnel are not the custodian of electronic public records for individual City employees or departments, and City employees shall not rely on information technology personnel to retain public records for which they are custodian.

**V. Public Records on Personal Electric Devices**

A. City employees are prohibited from conducting City business on their personal computers other than through the use of a VPN (virtual private network or similar) connection to the City's network or webmail, and they are prohibited from downloading City information or data onto their personal computers or other personal electronic devices or systems. City employees are also prohibited from using personal e-mail accounts to conduct City business.

B. The City recognizes that a person or entity may communicate with a City employee regarding official City business on personal systems through no fault of the City employee. Such communications are not a violation of this policy; however, City employees shall request the person or entity to communicate with the City employee onto the City IT Systems and, if possible copy the electronic communication onto the City IT Systems. In addition, due to work requirements, it may be occasionally necessary to use personal IT systems to conduct official City business. Such occasional use is not a violation of this policy; however, City employees shall, if possible, copy all electronic information related to official City business onto the City IT Systems. In addition, if public records are in fact created or received, City employees are required to retain such records and make them available for inspection and copying in accordance with Florida's public records law.

C. To the extent that City employees conduct City business on personal electronic devices or systems, without the use of a VPN (or similar) connection or webmail, such electronic information is fully owned by the City and such conduct will cause employees to lose any expectation of privacy in their personal electronic devices or systems. For example, in such a case, an employee's personal computer may be seized by the City to respond to a public records request or for discovery purposes during a lawsuit involving City business.

**VI. Disposal of Public Records**

Each Charter Officer shall ensure that public records are disposed of in compliance with Florida Statutes Sections 119.021(2) and 257.36 (2009), as may be amended from time to time, and Florida Administrative Code Rule 1B-24 (2008), as may be amended from time to time.

**VII. Public Records of Terminated City Employees**

When an employee's employment with the City is terminated, such employee shall deliver all public records, for which he or she is the custodian, to his or her successor, or, if there is none, to his or her supervisor.

**VIII. Access to Public Records**

A. When City employees receive a public records request, they shall permit the requested records to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian (or designee) of the public records. Inspection of records may be limited to the hours during which the office of the City employee is open to the public.

B. Any person who submits a public records request is not required to submit such a request in writing. Requests can be made verbally, in person, over the telephone, or by email or regular mail. The City may require the custodian to complete an appropriate form acknowledging and/or describing the request, but not the individual making the request.

C. nor is such a person required to provide his or her name or other personal information, sign for the receipt of the records, or provide a reason for requesting the records. In addition, City employees are not required to give out information from public records or answer questions about public records. City employees are

also not required to create new public records in response to a public records request or reformat the City's public records.

- D.** City employees may designate another employee of the City to permit the inspection and copying of public records, but they must disclose the identity of the designee to the person requesting records. For example, a manager may request for his or her executive assistant to supervise a citizen's inspection of the manager's public records, but he or she should disclose the name of the executive assistant to the person requesting records.
- E.** City employees must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other City departments or employees whether such a record exists and, if so, the location at which the record can be accessed. City employees should include in the acknowledgment any circumstances that may delay a response, i.e. required redaction. After verifying whether or not other City departments or employees have records pertaining to the public records request, the City employee shall notify the person requesting records if other City departments or employees have public records related to his/her request. In addition, the contact information of the other City department or employees who possess public records responsive to the public records request shall be provided.
- F.** Prior to allowing a person to inspect or copy a public record, City employees (or designees) must review the records to determine if any contents of the record are exempt from inspection or copying. If a City employee asserts that an exemption applies to a part of such record, he or she shall redact that portion of the record to which an exemption has been asserted and validly applies, and such employee shall produce the remainder of such record for inspection and copying. If requested by the person seeking to inspect or copy the record, the City employee shall state in writing and with particularity the reasons for the conclusion that the record is exempt.
- G.** Florida law contains numerous exemptions from inspection or copying of public records. For instance, social security numbers of all City employees are exempt from disclosure, as are home addresses, telephone numbers, and photographs of law enforcement personnel, firefighters, former state attorneys, human resources managers, and code enforcement officers. City employees should refer to Florida

law and the Government-In-The-Sunshine Manual to determine if records are exempt from disclosure.

- H.** Florida law also provides that certain public records are confidential. For example, medical records of City employees are confidential pursuant to Florida Statute Section 112.08(7). If a record is confidential, City employees shall not disclose the entire record (i.e. redaction is not necessary) unless the disclosure of such a record to certain entities or persons is permissible by law.
- I.** If an employee is citing an exemption, the employee shall cite the statutory citation for the basis of the exemption. Upon request, the employee shall state in writing, and with particularity the reasons for concluding the records are exempt or confidential.
- J.** If the records contain both exempt and non-exempt information, redact that portion for which an exemption is asserted, whether or not it is impractical or burdensome. The City may not ordinarily charge for the cost to review the records for exempt information, but it may impose a special service charge if the volume of records or number of potential exemptions makes it a “time-consuming task.”
- K.** When a public records request is made of an employee, the employee shall remain polite and gracious.
- L.** For this policy, reasonable time to provide access to public records is during normal working hours.
- M.** An employee shall not refuse to allow a person to inspect or copy public records because the request lacks specificity, nor may the employee insist on precision from the requestor. If a request is too vague to respond to, the employee should respond as follows:
  - “This acknowledges receipt of your request for insert description of documents requested for the City of Archer. The state public records law requires a person requesting to copy or inspect a public record to identify the record with sufficient specificity to enable the custodian to locate it and provide you with a cost estimate to product it. Please identify the requested documents with more specificity to so that the City may fulfill your request if such a

record exists. This may include the date, author, subject, title or recipient of the document, or other details that may aid the City in locating the document.”

- N.** In addition, if a City employee is providing documents for copying or inspecting in response to a vague public records request, the employee may attach the following:

“The attached records are provided as a good faith response to your public records request. The request is open-ended, vague, and/or lacks specificity, therefore if you believe there may be other records in the possession of the City within the parameters of your request, please identify the records with sufficient specificity to enable us to locate it. This may include the date, author, subject, title or recipient of the documents, or any other details.”

- O.** City employees shall not require public records requestors to provide or disclose their name, address, telephone number, email address or the like, unless the employee is required by law obtain this information prior to releasing the record. Records must be provided to an anonymous requestor.
- P.** The City shall not impose an automatic or arbitrary delay, no matter how short, in responding to a public records request. The only delay permitted pursuant to Florida law “is the reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.”
- Q.** The City's goal is to respond to every requester within 24 hours acknowledging receipt of his or her request, and when possible fill requests within 24 hours.
- R.** If needed, an employee shall seek assistance from other employees or his/her supervisor to timely respond to a request.
- S.** If a request is made for records in the possession or custody of a private contractor and not the City, an employee should offer to obtain the records from the contractor and provide them to the individual making the request.
- T.** An employee may not fail to respond to a request because of the perceived or stated motives/intentions of the requestor. An employee shall not inquire into the

motives or purpose. A requestor is not required to show any legitimate interest in the records.

- U. If a request extends over a long period of time and requires extensive use of information technology and/or personnel, the City may impose a special service charge and should provide the requestor with the following:

“The nature or volume of your public records request requires extensive use of information technology resources and/or clerical or supervisory assistance by the City insert name of department personnel, for which you will be required to pay a special service charge in a reasonable amount. Name of Employee is assigned to supervise the production and copying of these records. His/her labor costs are insert amount per hour, and the labor costs of the clerical assistants are insert amount per hour. These costs reflect the actual cost required for the extensive use of City personnel to respond to your request.”

- V. In the event of an extensive request, the City should strive to provide copies as they become available rather than waiting until all the documents are produced.

## **IX. Procedures**

Upon receiving a public records request, the following procedures shall apply:

- A. Notify the Public Records Custodian of the request and provide a copy of any written request and/or completed Public Records Request Form.
- B. Upon receipt of the public records request, whether written or oral, the employee shall complete the Public Records Request Form to the extent possible based on information known. The employee shall then forward the completed Form to the Public Records Custodian for data input.
- C. The Public Records Custodian will direct and provide all correspondence to the requester unless the first employee who took the request can provide the records immediately or arrangements .
- D. The Public Records Custodian shall document and maintain communication with the employee possessing the public record through to completion and will document and notify the department when all aspects of the public records request have been satisfied.

E. If litigation is pending or reasonably anticipated, records relating to that particular litigation should not be disposed of any manner, the City Manager and City Attorney should be provided notice.

**X. Public Records Custodians**

**A.** The City shall designate a public records custodian(s), however all City employees are responsible for public records and should respond as outlined in this policy. Custodian refers to all agency personnel who have it within their power to release or communicate public records.

**B.** The following public announcement (or substantially similar) shall be posted in every location where the public is permitted access (including the City's web site):

Public Records Requests

Requests for public records in this office should be

Directed to the following custodian located in this building:

Name

Physical Location

Mailing Address

Phone Number

Email Address

**C.** All employees shall know who the records custodian is for public records located within their office and, if not the records custodian, shall know who to contact if they received a public records request.

**D.** If a requester approaches an employee in person who is not the custodian of a public record, and asks about a record, the employee should respond as follows:

“I am happy to respond to your request; however, I am not the records custodian and do not know if the record contains exempt information.

Please have a seat and I will contact the records custodian to make sure it does not contain exempt information, and if it does, to redact those portions that are exempt. After that, you may then inspect or copy the record.”

**E.** An employee should not direct a requester to another location to request a public record that is located in the building in which the initial request is made. All public records should be kept in the building in which they are ordinarily used.

- F. The Public Records Custodian and City Manager shall be responsible for ensuring that all employees adhere to this policy.

**XI. Copy Fees**

- A. Any person may inspect public records in the presence of a City employee (or designee), and he or she may tab, clip, or in some other form, identify which documents he or she would like copied. The City employee shall compute the cost of the requested copies and collect all copy costs from the person requesting copies of public records prior to making any copies.
- B. City employees shall charge for all copies of public records the rates allowable by Florida law, as may be amended from time to time. Currently, the rates allowable by Florida law and this Policy are as follows:

Copy Types	Cost
Copies of not more than 14 inches by 8 1/2 inches	15 cents per one-sided copy, but no more than an additional 5 cents for each two-sided copy
Certified copies of a public record	\$1 per copy
For all other copies	Actual cost of duplication

- C. If the nature or volume of public records requested to be inspected or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by the City employees involved, City employees shall charge, in addition to copy costs, 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 City employees providing the service that is actually incurred by the City or attributable to the City for the clerical and supervisory assistance required, or both.
- D. Extensive is defined as taking more than 15 minutes to locate, research, review, redact, copy or remain present while the requestor copies, and/or answers questions and re-file the material.
- E. For the purpose of this section, "extensive" shall be defined as taking more than 15 minutes to locate, review for exempt or confidential information, copy and re-file the requested material. The special service charge shall be computed to the nearest quarter of an hour exceeding 15 minutes based on the current rate of pay

and benefits for the pay grade of the person who performed the service and will be assessed when appropriate regardless of the number of individual copies made.

- F.** To assess the fee for employee hours spent, the City will ascertain the hourly rate of the lowest paid City employee position able to provide the duplication.
- G.** The requestor must be notified of any and all potential fees and charges associated with their public records request prior to inspection and copying. An estimate of the fees and charges may be provided to the requestor approval obtained prior to producing the request. Payment of all fees and charges assessed must be received prior to copies being made and provided to the requestor and prior to the use of extensive information technology resources or staff time to respond to a public records request.
- H.** If the actual costs are less than the estimated payment, the overpayment shall be refunded to the requestor. If the actual costs are more than the estimated payment, the request must remit the additional money upon release of the records.

## **XI. Exceptions**

- A.** Not all information found in a public record is subject to release.
- B.** The following public documents are examples of records that may include sensitive material that is either exempt from the Public Records Act or some other statutory exemption:
  - 1. 911 records;
  - 2. EMS run logs (patient information);
  - 3. Fire run logs (patient information);
  - 4. Employee records (Florida retirement records, drug screens, medical records);
  - 5. Attorney client communication.
- C.** As this list is not extensive, employees should seek guidance from the Public Records Custodian or City Attorney if they are unsure of what records may be exempt.

## **XII. Training**

- A.** All City of Archer employees are required to attend training on public records. Current City of Archer employees shall attend at least one public records training sessions within one year of the effective date of this policy.
- B.** New employees shall receive public records training upon hiring.
- C.** The City Manager and City Attorney shall be responsible for implementation of these training requirements.
- D.** As Florida's public records laws are updated or amended, training will be provided for all City of Archer employees.

**XIII. Non-Compliance**

- A.** Failure to comply with this policy may result in disciplinary action and possibly termination of employment.
- B.** Additionally, pursuant to Section 119.10, Florida Statutes, violations are punishable by fine not exceeding \$500.00, and willful and knowing violations are subject to additional criminal penalties.

**XII. City Attorney**

If a City employee has any questions regarding this policy or any request for public records, the employee should confer with the designated Public Records Custodian, who is necessary shall contact the Office of the City Attorney. The Office of the City Attorney can assist with: (1) determination of what is a public record, (2) provide guidance on public records laws, (3) producing public records, and (4) providing assistance in determination of exceptions.