

PUBLIC RECORDS REQUESTS

POLICY NO. 01-03

PURPOSE: The purpose of this Policy is to establish guidelines for receiving and responding to public records requests, including assessing applicable charges as permitted by Florida's Public Records Law, Chapter 119, *Florida Statutes*.

SCOPE: This Policy applies to all Board of County Commissioners personnel.

POLICY: The Board of County Commissioners and all associated personnel shall comply with Florida's Public Records Law, Chapter 119, *Florida Statutes*, in receiving and responding to public records requests. The most current edition of Chapter 119, *Florida Statutes*, is hereby incorporated annually by reference and is available at www.leg.state.fl.us. The most current edition of Florida's *Government-in-the-Sunshine Manual*, prepared by the Florida Attorney General's Office, is hereby incorporated annually by reference and is available at www.myfloridalegal.com. Additionally, the Board of County Commissioners adopts the below findings, statements, and procedures for receiving and responding to public records requests.

THE PUBLIC RECORDS LAW

A. SCOPE

Florida's Public Records Law (Chapter 119, *Florida Statutes*) provides a right of access to the records of state and local governments as well as to private entities acting on their behalf. In the absence of a statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate, or formalize knowledge.

B. PUBLIC RECORDS

Chapter 119, *Florida Statutes*, defines "public records" to 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.

C. EXEMPTIONS FROM PUBLIC DISCLOSURE REQUIREMENTS

The Florida Statutes exempt certain public records from public disclosure requirements. Examples include certain financial records, social security numbers, security information and confidential records. For a summary of public records exempt from public disclosure requirements, please see Appendix D in the most current edition of Florida's *Government-in-the-Sunshine Manual*, prepared by the Florida Attorney General's Office and available at www.myfloridalegal.com. Pursuant to Section 119.07(1)(e), *Florida Statutes*, if all or part of a public record is exempt from inspection or copying, the custodian of such public record shall state the basis of such exemption, including the statutory citation to an exemption created or afforded by statute.

D. CUSTODIAN OF PUBLIC RECORDS

Section 119.011(5), *Florida Statutes*, defines the term “custodian of public records” to mean “the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.” Pursuant to Section 119.07(1)(b), *Florida Statutes*, the custodian of public records, or a person having custody of public records, may designate another officer or employee of the agency to permit the inspection and copying of public records, but must disclose the identity of the designee to the person requesting to inspect or copy public records. The Hernando County Office of Public Information is designated as the custodian of public records for all Board of County Commissioners personnel.

REQUESTING PUBLIC RECORDS

A. AUTHORIZATION TO INSPECT AND RECEIVE COPIES OF PUBLIC RECORDS

Section 119.01(1), *Florida Statutes*, provides that “[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person.”

County personnel may direct any person making a public records request to the Hernando County Office of Public Information for inspection or copying of public records; however, nothing herein prevents such personnel from permitting inspection or copying of public records in their custody.

B. REQUESTING PUBLIC RECORDS

Requests to inspect and copy public records may be made through the methods listed below.

1. In person to any County personnel.
2. In writing (paper format) to any County personnel (drop off or mail).
3. By facsimile (fax) machine to any County personnel, subject to available technology.
4. By telephone to the Office of Public Information at (352) 540-6426, or to any County personnel.
5. By email to PublicInformation@HernandoCounty.us, or to any County personnel.
6. By an online management tool, if one is available, and subject to Paragraph C below; however, the other methods listed herein or provided by law shall remain available. More information regarding availability of an online management tool shall be provided by the Hernando County Office of Public Information through the contact methods listed above.

C. AUTHORIZATION FOR AN ONLINE MANAGEMENT TOOL FOR REQUESTING PUBLIC RECORDS

Pursuant to Section 119.01(2)(e), *Florida Statutes*, providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. Therefore, an online management tool is authorized for requesting public records, subject to the following requirements:

1. As stated above, public records may be requested by the methods listed herein or provided by law, even if an online management tool is available. Nothing prevents the custodian of public records or other County personnel from using an online management tool for management and tracking of public records requests received by any method listed herein or provided by law.
2. Instructions for using an online management tool shall be prominently displayed on the website for the Hernando County Office of Public Information.
3. A link to information regarding public access computers available at Hernando County Public Libraries shall be prominently displayed on the website for the Hernando County Office of Public Information.
4. Pursuant to Section 119.07(2)(c), *Florida Statutes*, unless otherwise required by law, the custodian of public records may charge a fee for remote electronic access, granted under a contractual arrangement with a user, which fee may include the direct and indirect costs of providing such access. For more information regarding fees, please see the FEES FOR PUBLIC RECORDS REQUESTS Section below.

D. ANONYMOUS PUBLIC RECORDS REQUESTS

A person requesting access to or copies of public records is not required to disclose their name, address, telephone number or the like to the custodian of public records, unless the custodian of public records is required by law to obtain this information prior to releasing the records. If a person requests to remain anonymous when requesting public records by any method other than in person, the custodian of public records shall explain that written submissions, fax submissions, phone logs, emails and email addresses, and online management tool information are subject to public disclosure requirements.

E. OVERBROAD OR VAGUE PUBLIC RECORDS REQUESTS

If a public records request is insufficient to identify the records sought due to overbreadth or vagueness, the custodian of public records or other County personnel shall notify the requestor that more information is needed in order to produce the public records. The agency reserves the right to close the request if the requestor fails to respond to inquiries for clarification within thirty (30) days following the initial clarification inquiry.

F. LIMITATIONS ON PUBLIC RECORDS REQUESTS

1. *Requests to Create New Public Records Not Permitted.* Chapter 119, *Florida Statutes*, provides a right of access to inspect and copy an agency's existing public records but it does not mandate that an agency create new records in order to accommodate a request for information from the agency.
2. *Requests for Information From, or to Answer Questions Regarding Public Records Not Permitted.* Chapter 119, *Florida Statutes*, provides a right of access to inspect and copy an agency's existing public records but it does not mandate that the custodian of public records give out information from public records, and it does not mandate that agencies produce employees to answer questions regarding public records.
3. *Requests to Reformat Existing Public Records Not Permitted.* Chapter 119, *Florida Statutes*, provides a right of access to inspect and copy an agency's existing public records but it does not mandate that agencies provide public records in any other format than the standard format routinely maintained by the agency.
4. *“Standing” Public Records Requests Not Permitted.* Chapter 119, *Florida Statutes*, provides a right of access to inspect and copy an agency's existing public records but it does not mandate that an agency respond to a “standing” request for production of public records that the agency may receive or create in the future.

RESPONDING TO PUBLIC RECORDS REQUESTS

A. DUTY TO ACKNOWLEDGE RECEIPT OF PUBLIC RECORDS REQUESTS

Pursuant to Section 119.07(1)(c), *Florida Statutes*, a custodian of public records and his or her designee must acknowledge receipt of requests to inspect or copy public records promptly. Such acknowledgement may be in the same form as the form of the public records request, or in any other reasonable form.

B. AUTHORIZATION TO CLARIFY PUBLIC RECORDS REQUESTS

As stated above, if a public records request is insufficient to identify the records sought due to overbreadth or vagueness, the custodian of public records or other personnel shall notify the requestor that more information is needed in order to produce the records.

C. TIME TO RESPOND TO PUBLIC RECORDS REQUESTS

Section 119.07(c), *Florida Statutes*, requires a custodian of public records to respond to public records requests “in good faith” but Chapter 119, *Florida Statutes*, does not contain a specific time limit for compliance with public records requests. Custodians of public records are permitted a reasonable amount of time to respond to a public records request. The time to respond to a public records request may be impacted by reasons including, but not limited to, the following:

1. Time to determine whether the requested public records exist.
2. Time to locate and retrieve the requested public records.

3. Time to determine if some or all of the requested public records are exempt from disclosure.
4. Time to redact those portions of a public record asserted as exempt.
5. Time to calculate and forward an invoice for any applicable fees.
6. Time to assign the request to the appropriate staff, and contingent upon staff availability at the time of the request, as well as, normal operating business hours and office closures.
7. Time for copying the requested public records.
8. Time to coordinate inspection of the requested public records at a County facility during normal operating business hours.

D. IN PERSON INSPECTION OF PUBLIC RECORDS

Section 119.07(1)(a), *Florida Statutes*, states that public records may be inspected at any reasonable time, under reasonable conditions, and under supervision by the custodian of public records. In person inspection of public records may be limited by the normal operating business hours of a County facility, the space needed, or the technology necessary to make in person inspection possible, or the normal working hours of the custodian of the public records identified to supervise such in person inspection.

E. COPYING OF PUBLIC RECORDS

Section 119.07(4), *Florida Statutes*, states that the custodian of a public record shall furnish a copy (or a certified copy) of a public record upon payment of the fee prescribed by law (see the FEES FOR PUBLIC RECORDS REQUESTS Section below). Copies shall be provided in the same format as the public record; however, the Hernando County Office of Public Information shall strive to make copies available in a digital format so they can be accessed by remote electronic means, as encouraged by Section 119.01(2)(e), *Florida Statutes*. To that end, the Hernando County Office of Public Information may provide copies of public records through email or an online management tool. Copies may be provided by facsimile (fax) machine, subject to available technology.

FEES FOR PUBLIC RECORDS REQUESTS

A. FEES AUTHORIZED

Section 119.07(4), *Florida Statutes*, authorizes fees for copies or certified copies of public records. Additionally, pursuant to Section 119.07(4)(d), *Florida Statutes*, 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 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 and supervisory assistance required, or both. Fees shall not exceed any maximum fee set in the most current edition of Chapter 119, *Florida Statutes*.

B. FEES FOR PAPER COPIES

The following fees for paper copies shall be charged (cost of materials, excluding production time or labor):

1. Paper copies 8 1/2 inches by 14 inches or less:

Pages 1 through 10: NO CHARGE.

Pages 11 and up: \$0.15 for single side copies (for all pages in record).
\$0.20 for double side copies (for all pages in record).

Copy (Per Sheet): A copy is defined as printed sheet(s) of paper and is a reproduction, duplicate, or replica of an original document. Copy charges are assessed per sheet. When a document consists of multiple pages, the total copy charge is based on the total number of printed sheets produced.

2. Paper copies larger than 8 1/2 inches by 14 inches:

Actual cost of production.

3. Any other paper format (bound, covered, etc.):

Actual cost of production.

4. Certified Copies:

\$1.00 per certification.

C. FEES FOR DIGITAL COPIES

The following fees for digital copies shall be charged (cost of materials, excluding production time or labor):

1. Digital copies provided by email or an online management tool:

NO CHARGE.

2. Digital copies by other portable media (flash drive, etc.)

Actual cost of portable media.

3. Digital Certified Copies:

\$1.00 per certification.

D. FEES FOR EXTENSIVE USE OF RESOURCES

A reasonable fee, based on the cost incurred for extensive use of information technology resources or the labor cost of the actual personnel providing the service for the clerical and supervisory assistance required to fulfill a public records request, shall be charged. If extensive use of resources as described above is required, the fee shall be charged in quarter hour increments. The first 15 minutes shall be at no charge.

E. ESTIMATES AND PAYMENTS

The custodian of public records shall provide the public records requestor with an estimate of fees prior to fulfilling the public records request to confirm whether the public records requestor would like to proceed. If the public records requestor would like to proceed, the custodian of public records shall provide an invoice to the public records requestor. Such invoice shall be paid prior to inspection of the public records or prior to providing copies of the public records. Payments may be made in person or by mail via cash (exact change only), check, or money order (no credit/debit cards accepted in person or by mail), or online through an online management tool, if available (credit/debit cards only). Any online management tool may charge a reasonable fee for using such online management tool to pay an invoice.

The agency reserves the right to require advance payment for the extensive use of resources.

The agency reserves the right to close the request if the requesting party fails to respond to the cost estimate or fails to remit payment of the good-faith invoice within thirty (30) days of its issuance.

If the actual cost of fulfilling a request is less than the amount paid in advance, the agency will refund the overpayment. If the actual cost of fulfilling a request exceeds the estimated amount paid in advance, the public records requestor will be required to pay the additional amount due before the requested records are released.

If a requestor has an outstanding balance from a prior invoice, the agency will not process any new public records requests from that requestor until the outstanding balance has been paid in full. If the outstanding balance is paid in full, the agency reserves the right to require advance payment for any future public records requests if the requestor has a history of failing to pay properly assessed fees.

If the agency reasonably believes a requestor is attempting to divide a public records request into multiple smaller requests to avoid fees, the agency may aggregate those requests and assess fees accordingly.

F. EXEMPTION FROM FEES

Exemptions from fees shall be as provided by law. Non-profit or media status does not exempt a public records requestor from fees permitted by Chapter 119, *Florida Statutes*. County Departments, Constitutional Officers and other governmental entities shall be exempt from the fees provided herein.

POLICY HISTORY

Replaces:	N/A
Reference:	September 18, 1990
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