

City Commission Policy 140

PUBLIC RECORDS, RECORD RETENTION, & DISPOSITION POLICY

DEPARTMENT: City Treasurer-Clerk

DATE ADOPTED: October 19, 1990

DATE OF LAST REVISION: March 21, 2018

SECTION A – EXECUTIVE SUMMARY

140.A.01 - Authority

Florida Constitution, [Article I, Section 24](#)
Florida Statutes, [Chapter 119](#) (Public Records);
Florida Statutes, [§257.36](#) (Records Disposition);
Florida Statutes, [Chapter 668](#) (Electronic Commerce);
Florida Statutes (various chapters / exemptions to public access to certain records);
Florida Administrative Code (F.A.C.), [Ch. 1B-24](#) (Disposal of Records);
Florida Administrative Code (F.A.C.), [Ch. 1B-26](#) (Electronic Record-keeping);
City Charter, [§10](#), [§46](#), and [§48](#);
City Ordinances; and
Florida Records [Retention Schedules](#).

140.A.02 - Scope and Applicability

This policy shall apply to all departments of the City.

140.A.03 - Purpose

It is the purpose of this policy to ensure that the public records of the City of Tallahassee are efficiently retained and disposed in a manner consistent with Florida Statutes, Florida Administrative Code, the Florida Public Records Act, and the City Charter.

140.A.04 - Policy Statement

It is the policy of the City of Tallahassee to comply with the Public Records Act by making the City's public records available for inspection at reasonable times and under reasonable circumstances and, upon request, provide copies of such records at costs authorized by Florida Statutes. Furthermore, it is recognized that employees have a duty to preserve and retain all public records, including electronic communications, in compliance with Florida law.

140.A.05 - Supplemental Administrative Policies & Procedures

The City Treasurer-Clerk ("Treasurer-Clerk") is authorized to adopt additional administrative policies necessary to carry out the recordkeeping and public records functions of the City. The Police and Fire Departments are authorized to adopt administrative policies & procedures relative to the handling and disclosure of law enforcement and arson investigation records, respectively. All such additional policies and procedures are incorporated herein.

140.A.06 - Prompt Handling

It is the goal of the City of Tallahassee to fulfill public records requests within 3 business days, provided that the requested records are readily accessible and absent of exempt or confidential

information. Voluminous requests, requests spanning multiple city departments, or requests for records requiring redaction of statutorily exempt or confidential information may result in longer response times.

SECTION B – CUSTODIAN OF RECORDS

140.B.01 - Custodian of Records

While public records requests may be submitted to city departments, for the most expeditious processing, public records requests should be directed to the following:

General / Non-Law Enforcement Records:

City Treasurer-Clerk (*via the Records Division*)

City Hall, 2nd Floor

300 S Adams Street

Tallahassee, FL 32301

Phone - (850) 891-8130

E-mail: records@talgov.com

www.talgov.com/treasurer

For law enforcement / traffic crash reports & records:

Chief of Police (*via the Police Dept. Records Division*)

Police Headquarters

234 E 7th Avenue

Tallahassee, FL 32303

Phone - (850) 891-4221

TPDPublicRecords@talgov.com

Departments who receive a public records request directly shall promptly notify the City Treasurer-Clerk, Records Division.

140.B.02 - Complaint Hotline

Persons having submitted a request who wish to submit a grievance related thereto shall contact the Treasurer-Clerk's hotline at **(850) 891-RECS**, or via e-mail to records@talgov.com.

SECTION C - DEFINITIONS

Appointed Officials: Shall mean the City Manager, City Treasurer-Clerk, City Attorney, and City Auditor.

Confidential Public Record: Shall be those records, or portions thereof, specifically designated as "*confidential*" by applicable statute. Unlike "*exempt*" records, the City has no discretion and may not release records designated by the Florida Legislature as confidential.

Electronic Communications: All communications, regardless of the technology or means of transmission, sent electronically from one device to another. This includes electronic mail (e-mail), SMS messages (text messages), MMS (multimedia / picture messages), social media records (Facebook, Instagram, YouTube, Twitter, etc.).

Employee: As used in this policy, *employee* shall include all persons who are full-time or part-time employees of the City, including the city commissioners, and shall also include any non-paid volunteers, interns, and appointees to the various advisory boards or committees.

Exempt Public Record: Shall be those records, or portions thereof, specifically designated as “*exempt*” by applicable statute. As exempt records, the city has discretion to release such records, in whole or part, when there is a specific public purpose.

Long-Term Record: For purposes of this policy, records having a minimum retention period of 5 years, or greater, shall be considered long-term records. In addition, any records a department intends to or has retained for 5 or more years, regardless of the minimum retention period, shall also be considered long-term records.

Public Record: Shall have the definition as specified by §119.011(12), F.S., as may be amended from time to time, which currently reads:

“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.”

This definition shall be interpreted liberally to include all records prepared in connection with official agency business, including electronic communications, which are intended to perpetuate, communicate, or formalize knowledge. This definition includes e-mails and text messages created or transmitted in connection with the transaction of official business, regardless if the communications were sent from a City-owned device or a privately owned device.

Redact / Redaction: The act of censoring all or part of a record to obscure or excise exempt or confidential information contained therein, thereby preventing public disclosure of the protected content.

Research: Shall mean those instances where the City elects to compile information that is not routinely developed or maintained by the agency or that requires an extensive amount of manipulation or computer programming.

Records Management System (RMS): The centralized record management system implemented by the City and administered by the Treasurer-Clerk. Currently, this is the OnBase system.

Readily Accessible Record: A record that is routine in nature, easily located by staff with a minimum of effort, is in a medium that affords easy duplication, and which requires no redaction of exempt or confidential information. Examples of readily-available records may include City budgets, minutes of official meetings, copies of public notices, etc.

SECTION D - RECORDS RETENTION

140.D.01 - Retention

Records meeting the statutory definition of “public records” must be retained in accordance with Florida law. Records may not be disposed until the longest applicable retention period has been satisfied, per the published retention schedules.

140.D.02 - Retention Schedules

The State of Florida, Department of State, Division of Library & Information Services (DLIS), per rulemaking authority granted by §257.36(6), F.S., has developed a set of *records schedules* containing individual *record series* defining various public records, and establishing minimum retention requirements. Employees must adhere to these schedules and shall keep records in compliance with the longest retention period imposed therein.

140.D.03 - Long-Term Records

It is the policy of the city commission that all departments utilize the established records management system (RMS) as the primary public records repository for all long-term records of the City. Short-term records may also be stored in the RMS, at the discretion of the appropriate department director.

140.D.04 - Mandatory Disposal of Source Record

In the interests of efficiency and to eliminate the retention of duplicate copies of records, departments shall expeditiously dispose of all copies of records which have been placed into the RMS archive. Administrative policies will provide specific guidance to staff concerning the disposal of source records.

140.D.05 - Electronic Mail

All electronic mail (e-mail) communications meeting the statutory definition of a “public record” must be retained in accordance with Florida law. To satisfy this requirement, the City shall acquire, implement, and maintain IT systems which maintain a searchable archive of messages sent or received from the agency’s centralized e-mail platform (e.g. Microsoft Outlook/Exchange).

To ensure that all e-mail messages meeting the definition of a “public record” are retained, employees are specifically prohibited from using private, non-City e-mail servers to conduct City business (e.g. @gmail.com, @yahoo.com, etc.). Furthermore, should any employee receive unsolicited e-mail communications to their private/personal e-mail account, it is the duty of the employee to preserve and retain all communications meeting the definition of a “public record” and to promptly transfer those records to the custody of the City. The Treasurer-Clerk shall promulgate written procedures for such circumstances. (*See also: 140.D.06 Text Messaging & Other Electronic Communications*)

140.D.06 - Text Messaging & Other Electronic Communications

Employees shall transmit and/or receive text messages only on devices owned or leased by the City of Tallahassee. All City-issued cellular/mobile phones shall be enrolled into the retention system to ensure that all communications sent or received on the City-owned device are automatically retained for public record purposes.

Note: Under this policy, it shall be permissible to transmit messages from a personally owned phone to a City-issued phone, or vice versa, as the City-issued phone will preserve a record of the communications. It is the intent of this section to prohibit business-related communications originating from a private device from being transmitted to another privately owned device, thereby circumventing the City’s automatic-retention software.

Personally Owned Devices: Employees are specifically prohibited from transmitting or receiving any written electronic communications concerning City business on privately owned devices. Furthermore, should an employee (1) receive unsolicited communications on a non-City-owned

device or (2) inadvertently transmit such communications, it is the duty of the employee to preserve and retain all communications meeting the definition of a “public record” and to promptly transfer those records to the custody of the City. The Treasurer-Clerk shall promulgate written procedures for such circumstances. (See also: 140.D.05 Electronic Mail)

Technologies other than text messaging: This prohibition shall be broadly interpreted to prohibit the use of any technology for which the City lacks a mechanism to automatically retain every written communication, including instant messaging, personal messaging, social media (Facebook, Twitter, Instagram, Skype), etc.

140.D.07 - Social Media Records

The Technology & Innovations Department shall implement a retention system to collect and store all content posted to City-owned or maintained social media accounts. All City departments who manage a City-sponsored social media account shall enroll such accounts into the retention system. See *Administrative Policy No. 408 (Social Media and Collaboration Policy)*.

140.D.08 – Non-City Storage Prohibited

In general, records stored off-site are not protected by the City’s insurance policies. Therefore, City records shall be kept and maintained in a City owned or operated facility. In addition, employees shall not store City records on equipment or devices not owned, leased, or controlled by the City. Any records stored on non-City equipment or on non-City premises shall be promptly returned to the custody of the City.

SECTION E - RECORDS DISPOSITION AND DESTRUCTION

140.E.01 - Disposal of Records; Active Requests or Litigation

No record which is the subject of an active public records request or which pertain to active, pending, threatened, or anticipated litigation shall be disposed without the written consent of the City Attorney. The City Attorney shall provide written notification to the Treasurer-Clerk, each affected department director, and the Technology & Innovation director of litigation and each shall take the appropriate measures to enact a “legal hold” to prevent the disposal or destruction of any records pertaining thereto. Upon the conclusion of litigation, the City Attorney shall inform the parties to lift the “legal hold” placed upon the records.

Records pertaining to an inactive or abandoned records request shall be maintained for at least 30 days after the completion of the request.

All other records may be disposed upon the expiration of the longest applicable retention period. When disposal is conducted, all records containing exempt or confidential information shall be disposed using a means of destruction authorized by the Florida Administrative Code.

140.E.02 - E-mail Disposal

As e-mail is the most abundant record created or received by the City government, it is impractical to retain such quantities of records *en masse* for lengthy periods of time. Therefore, it shall be policy of the City of Tallahassee to dispose of e-mail messages after a period of five years except that messages sent or received by specified senior staff, specifically the city commissioners and their aides; appointed officials and deputy appointed officials, and their aides; and department heads, shall be retained for a period of at least 15 years.

Up to the point of disposition, staff shall have the ability to transfer selected e-mail messages from the main e-mail repository and refile same into the subject matter file to which they pertain (*e.g. e-mails relating to a building permit can be transferred from the e-mail repository and filed with the permit file*).

140.E.03 - Disposal Notification

Departments shall notify the Treasurer-Clerk upon the destruction of any public records in the custody of the City, except that the police chief and fire chief shall be notified of the destruction of law enforcement records or arson investigation records, respectively.

140.E.04 - Annual Report to Florida Dept. of State

In accordance with Ch. 257, F.S. the Treasurer-Clerk shall complete and return the annual statement to the Florida Department of State summarizing the records disposed during the year.

SECTION F - PUBLIC RECORDS REQUESTS

140.F.01 - Written Request Not Required

A member of the public shall not be required to submit their request in writing, or upon any pre-printed form. A request may be submitted in any format including written, orally, or via electronic communication including telephone, e-mail or fax. Employees must honor a public records request in any format and/or means of submittal. However, the City *encourages* requestors to submit written requests, thereby providing documentation of their request should any dispute arise.

140.F.02 – Acknowledgement and Timely Response Required

Florida courts have ruled that the only permissible delay to providing access to public records is the reasonable amount of time necessary for custodians to locate the responsive records and enforce any applicable exemptions thereto. Therefore, staff shall promptly acknowledge all public records requests and respond in good faith.

140.F.03 - Treasurer-Clerk to Coordinate Requests

The Treasurer-Clerk shall serve as a centralized coordinator of all requests for City records, except that the Chief of Police shall serve as coordinator of requests pertaining to law enforcement records and the Fire Chief shall serve as coordinator of requests pertaining to arson investigations.

140.F.04 - Log of Requests

The Treasurer-Clerk shall be notified of all requests for City records and the Treasurer-Clerk shall keep a log of all requests, except that the police and fire departments may keep and maintain a separate log of requests for access to law enforcement and arson investigation records, respectively.

140.F.05 - City Attorney to Participate

The City Attorney's Office shall participate in collection of documents in response to all public records requests.

140.F.06 - Requests When Litigation Pending

In the event the individual or entity requesting access to public records is involved in active or threatened litigation, or is representing such persons, such request shall be referred to the City Attorney's Office for fulfillment. The City Attorney shall notify the Treasurer-Clerk upon the completion of the request.

140.F.07 - Screening of Records for Exempt or Confidential Information

By Florida law, records custodians are mandated to review records which are known or suspected to contain exempt or confidential content. If a review of the responsive record(s) is warranted, it shall be completed expeditiously by a properly trained employee.

Public records declared as *Exempt* or *Confidential* by law shall not be made available for inspection or copying to a member of the public, unless the exempted portions are sufficiently redacted to prevent disclosure.

140.F.08 - Choice of Formats

If City records are available in more than one format, the requestor may choose which format/medium to receive; however, staff are not required to convert records into a new medium or format. Furthermore, staff shall not convert records from one format to another with the intent of frustrating or inconveniencing the requestor, or hindering the requestor's ability to easily and conveniently utilize the records or data.

140.F.09 - Search Parameters

Requestors are highly encouraged to provide as much detail and specificity in each request so as to positively identify the records sought. Specifically, it is helpful for the requestor to:

1. Provide a date range
2. Provide the name(s) of the specific employees, individuals, City departments, and/or business entities pertaining to your inquiry
3. Provide a list of relevant keywords or search parameters
4. If the request pertains to e-mail, provide the relevant e-mail address(es) and/or domain name(s), if known
5. If the request pertains to property, provide the address, parcel number, or owner's name, if known

Providing such detail greatly assists City staff in narrowing the scope of the request to encompass only those records sought – which reduces the time necessary to provide access to the requested records and can reduce the cost of fulfilling the request, if any.

140.F.10 - Fees

The City shall assess fees associated with public records requests as authorized by Chapter 119, F.S. Fees are for those items set out in §119.07(4), F.S. For other consumable materials not specifically addressed by said statute, the actual cost of duplication, materials, and postage shall be charged.

The Treasurer-Clerk will not assess fees for reproduction costs where the number of printouts is less than 100 pages. The Treasurer-Clerk will not levy a special service charge (*as authorized by §119.07(4)d, F.S.*) for the extensive use of administrative or supervisory time wherein the staff time to respond does not exceed two hours, in aggregate, on a single request.

The Tallahassee Police Department may utilize a separate schedule for fees and charges.

140.F.13 - Deposit Required When Fees Assessed

For requests where a fee or special service charge is assessed, staff shall transmit a cost estimate to the requestor and obtain a deposit in the amount of 50% of the total estimate prior to initiating any work relative to the request. In such cases, the responsive records shall not be provided to the requestor until all outstanding assessments have been paid in full. (*see 140.F.14 Abandoned Requests*)

If the requestor asserts that the deposit requirement is a hardship, the Treasurer-Clerk is authorized to discuss and approve alternative terms.

140.F.14 - Abandoned Requests

Should the City attempt to contact the requestor and/or transmit a cost estimate and the requestor fails to respond in good faith, the City shall deem the request as “abandoned” after a period of 7 calendar days and the log shall reflect the abandonment. In cases where holidays or other closures of the City’s administrative offices occur, staff shall afford reasonable additional time to the requestor to respond.

140.F.15 - Requests for Employee Personnel Files

As the City possesses many records relative to individual employees, it is necessary to define the specific items that shall comprise the official “personnel file” in order to provide consistency in the release of records pursuant to a public records request. For purposes of responding to a public records request, the “personnel file” shall constitute those items which document an employee’s work history and career events (hiring, transfer, promotion, dismissal, resignation, retirement, etc.), compensation, training, commendations, performance evaluations, disciplinary actions, and/or workplace injuries. This definition thereby excludes records pertaining to fringe benefit selections (i.e. annual open enrollment), garnishments, timesheet/payroll data, background or driving history checks, drug and alcohol tests, federal tax-related forms, pension records, etc.

140.F.16 – Electronic Data

Florida Law mandates that information technology (IT) systems implemented by public agencies shall not erode the public’s access to records (see §119.01(2)(a), F.S.). Therefore, staff shall provide access to public records stored within agency IT systems, including providing access to raw data. In the event no preexisting report or query exists to extract the records sought, a special service charge for *Extensive Use of Resources or Staff Time* may be assessed, in compliance with this policy.

140.F.17 - Requests for Research

Requests for research of City records may be accommodated at the convenience of the City (pursuant to §§119.01(2)(f), F.S.). In the event the City elects to conduct research, a research fee shall be levied in the amount of the actual costs of conducting the research.

140.F.18 - Standing Requests

The City shall not accept any ‘standing request’ for records that do not yet exist, or for records which may be created or received by the City at some future date. The City is only obligated to respond to requests by providing records which exist at the time a public records request is submitted.

140.F.19 - Requests by Employees

City Commissioners: The members of the Tallahassee City Commission shall have access to all general records of the municipality, except those which may relate to active/ongoing investigations or audits. Requests submitted by any member of the city commission shall be fulfilled pursuant to §10 of the City Charter.

City Auditor: In compliance with §119.07(6), the City Auditor shall be afforded access to the records necessary for fulfilling his duties.

City Ethics Officer: In compliance with §2-5 of the General Code of Ordinances, the Ethics Officer shall be afforded access to the records necessary for fulfilling his duties.

All Other Employees: Requests by an employee in the normal course of his duties, shall not fall under the purview of this policy.

140.F.20 - E-mail Address Confidentiality

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. (see §668.6076, F.S.)

140.F.21 - Certified Records

For certification, eligible records in City custody shall be certified by affixing the City Seal and being countersigned by the Treasurer-Clerk, Deputy Treasurer-Clerk, or Records Administrator. The Treasurer-Clerk may assess the statutory fee for certification of records.

SECTION G - REQUESTS TO REDACT PERSONAL INFORMATION

140.G.01 - Request for Redaction of Personal Information

Certain current and/or former public employees, victims of certain crimes or domestic abuse, and other persons enumerated in statute are entitled to protection of certain personal information per Florida law (see §119.071). Persons qualifying for such exemption shall file a written request with the Treasurer-Clerk requesting such protection, on a form prescribed by the Treasurer-Clerk for such purpose. When required by statute, the form shall require a statement from the requesting party that they have made reasonable efforts to protect their personal information from being accessible by the public through other sources. The requesting party shall provide to the City the address of all residences and home telephone numbers to be exempted from disclosure.

140.G.02 - Expiration; Renewal

Any request for redaction filed with the Treasurer-Clerk shall expire after 5 years, or upon any event which triggers a loss of entitlement to such protection.

The Treasurer-Clerk is authorized to utilize the data and records of any Leon County constitutional officer or other public agency for purposes of administering requests for redaction.

140.G.03 - Courtesy Notification

As a courtesy to those whose redaction request expires, if an e-mail address has been provided to the Treasurer-Clerk, the Treasurer-Clerk shall attempt to notify the registrant within 90 days of expiration. The Treasurer-Clerk shall not be required to contact registrants via telephone or postal mail.

SECTION H – TRAINING, COMPLIANCE & VIOLATIONS

140.H.01 - Violations

Employees are hereby notified that violation of public records law or City policies concerning public records shall be grounds for disciplinary action. Repeated violations or flagrant abuses shall be grounds for termination.

140.H.02 - Senior Leadership Annual Compliance Statement

The city commissioners, appointed officials, and department heads shall annually file a sworn statement, under penalty of perjury, confirming compliance with the Florida Public Records Law and City public records policies. Additionally, said personnel shall complete annual training, conducted by the City Ethics Officer, concerning the Florida Public Records Law and City public records policies.

140.H.03 - Sunshine Manual

On an annual basis, city commissioners, appointed officials, and department heads shall be provided a copy of the latest version of the Florida Attorney General's Sunshine Manual.

140.H.04 - Critical Policy Reminders Circulated by Human Resources

The annual critical policies memorandum distributed by the Human Resources Department shall advise employees of the existence of this policy and inform employees of their responsibility to adhere thereto.

SECTION I - MISCELLANEOUS PROVISIONS

140.I.01 Administration

The Treasurer-Clerk shall be responsible for the preparation of any forms necessary for the implementation of this policy. It shall be his responsibility to administer this policy and to recommend any amendments that may, from time to time, be appropriate.

140.I.02 Ministerial Amendments

The Treasurer-Clerk is authorized to periodically update this policy in the event of legislative changes to the Public Records Act or other exemptions created or abolished by the Legislature, or to incorporate new case law from Florida courts. A record of such amendments shall be kept by the Treasurer-Clerk and shall be reflected in the revision history of this policy.

The Treasurer-Clerk shall notify the city commission via memorandum of any planned ministerial revisions to this policy and the revisions shall become effective 10 days thereafter, notwithstanding the objection of any commissioner. Upon any objection, the Treasurer-Clerk shall place the revisions on a regular meeting agenda for ratification by the full city commission.

All substantive amendments to this policy shall require ratification by the city commission.

140.I.03 Effective Date

This policy shall become effective upon adoption by the city commission.

140.I.04 Sunset Review

Notwithstanding any administrative updates, it shall be the Treasurer-Clerk's responsibility to schedule this policy for sunset review by the city commission at least once every five years.

Revision History:

Oct-10-1990

Dec-12-2007

Mar-21-2018