



TOWN OF JUPITER

TOWN CLERK'S DEPT. MEMORANDUM

TO: All Directors

FROM: Sally M. Boylan, Town Clerk

DATE: September 13, 2007 (**Revised November 16, 2009**)

SUBJECT: Public Records Guidelines

I. PURPOSE:

The Town of Jupiter fully embraces the tenets set forth in the Public Records Law, Chapter 119, Florida Statutes, governing the public's right to access records held by the agency. In support of the broad public right to access public records, the Town of Jupiter incorporates the following guidelines to inform agency staff about implementation of the Public Records Law within the Town of Jupiter and to provide uniformity within the Town of Jupiter in charging for access to public records.

II. DEFINITIONS:

For the purpose of this directive the following terms are defined:

- a. Confidential or Exempt Records – Records which are presently provided by law to be confidential or which are prohibited from being inspected by the public by either general or special law.
- b. Extensive Use of Resources – When the nature or volume of the public records requested to be inspected, examined, or copied requires the use of the Town of Jupiter information technology resources and/or labor time required of clerical or supervisory employees exceeds **thirty minutes** the particular use of such resources is considered extensive.
- c. Provider – The individual within the Town of Jupiter, usually the public records custodian or designee, who makes public records available to a requestor for inspection, examination, or copying.
- d. Public Record – All documents, papers, letters, e-mails, maps, books, tapes, photographs, films, sound recordings, or other material, regardless of 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.

III. SCOPE:

This document outlines policies, responsibilities, and describes procedures for providing access to public records. It should be applied to all activities which involve public records requests. These guidelines complement, but do not replace, the requirements under the Public Records Law.

IV. GUIDELINES:

The following guidelines are to be followed:

- a. Agency held records, except those specifically precluded from disclosure by statutory exemption, shall be available, in any form and format used by the agency, to all citizens for inspection or copying under the supervision of the records custodian or designee during normal business hours.
- b. The widest possible access to existing public records is encouraged by making copies of those records available for a fee not to exceed the actual cost of duplication, and, if the nature or volume of public records requested to be inspected, examined, or copied requires extensive use of agency resources, the minimal additional cost to cover such extensive use of agency resources.
- c. Innovative practices to enhance the public's right of access to public records shall be encouraged.
- d. The Town of Jupiter shall assure that future information technology resources used to manage, store, or maintain public records adequately; provide for the rights of the requestor to access public records under Chapter 119, Florida Statutes.

V. PROCEDURE:

1) Responsibilities

a. Departments, Divisions, and Offices:

- 1) When the public records are shared such that a single custodian cannot clearly be identified, the custodian most responsible for maintaining access to these public records shall have custodial responsibility, and
- 2) Identify the types of public records and public record information under their custody which are exempt from inspection, examination, and copying under the Public Records Law.

b. Directors and supervisors shall:

- 1) be knowledgeable of the public access activities occurring within their responsible areas;
- 2) develop methods of calculating the extensive costs incurred when their information technology resources, clerical or supervisory staff, or both are extensively used to respond to public records requests, unless such methods are already established by this directive;
- 3) ensure actual cost of duplication and/or extensive use charges are applied to public records requests only when it is cost-effective to do so; and
- 4) provide adequate staff training in the requirements of the Public Records Law and the policies set forth in these guidelines, with particular attention to staff's responsibility for maintaining the confidentiality of exempt information or records.

Responsibilities

- c. A cost/benefit analysis shall be conducted to determine whether the benefit of collecting fees for providing access to public records outweighs the cost to the Town of Jupiter of processing such fees. Records custodians and other providers of public records are responsible for collecting actual cost of duplication fees and/or extensive use charges from the requestor only when such fees/charges have been supported by the requisite cost/benefit analysis.

2) Public Records Requests

- a. Providers should accept requests for public records in writing, by electronic mail, by telephone, by facsimile or in person. If the request is insufficient to identify the records sought, the provider should help the requestor clarify the request. The provider may ask the requestor to complete the "Public Records Request" form to assist in defining or documenting the facts necessary for completing records requests; however, the requestor is not obligated to complete a form as a condition for obtaining the public records requested (see Attachment 1).
- b. Requests for records should be accepted and records made accessible for inspection or duplication during the Town of Jupiter's normal business hours.
- c. Routine requests for current records from one Department should be promptly handled by that Department. Non-routine requests and requests for multi-departmental records should be promptly sent to the Town Clerk for coordination.
- d. Records requests which involve litigation matters shall be forwarded to the Town Attorney by the Town Clerk.
- e. Records requests which are determined to be inappropriate shall be coordinated with the Town Attorney. Examples of inappropriate requests include, but are not limited to, the following:
 - 1) A request that is in the form of an interrogatory or question requiring the Town to provide written or oral answers or information which may or may not be derived from the Town's public records, instead of a request for the actual production of public records; or is
 - 2) A request that asks the Town to confirm or deny a fact or other matter concerning Town business or information contained in a public records of the Town; or is
 - 3) A request that the Town produce a Town employee to answer questions relating to public records, or information contained in the Town's public records, or information concerning Town business; or is
 - 4) A request that requires the Town to create a document in order to respond to a request; or is
 - 5) A request that asks the Town to format or reformat Town records into a format that the records are not regularly maintained in by the Town, and to provide the records in a different format as requested by the requestor; or is
 - 6) A request for personal or private e-mail stored in the Town's computer system or in a Town owned computer; or is
 - 7) A request that is illegible, unclear, vague, or is insufficient to identify the records requested, or cannot otherwise be understood by the Clerk; or is
 - 8) A request for records that is statutorily exempt from disclosure under the Florida Public Records Act, Chapter 119, Florida Statute, as amended, or under any other state or federal law, as amended from time to time.

3) Public Records Fees and Charges

The Public Records Law allows government agencies to collect the actual cost of material and supplies used to duplicate public records for requestors. Agencies may also collect a reasonable service charge, in addition to actual cost fees, when a request for public records requires the extensive use of information technology resources and/or clerical or supervisory assistance. The Town of Jupiter considers records requests taking more than **thirty minutes** to locate, copy or otherwise make available the requested material as a diversion of resources which is susceptible to extensive use service charges. The following fee/charge standards and guidelines are designed to ensure that the Town of Jupiter is consistent in its application of rules which allow the recovery of actual and extensive use costs.

- a. Actual Cost of Duplication – The custodian is responsible for determining the actual cost of duplication when public records requests are produced using a material other than those listed below:

RECORDS FEE SCHEDULE

8 ½ X 11 one-sided copy	0.15
8 ½ x 14 one-sided copy	0.15
11 x 17 one-sided copy	0.25
Two-sided copies	0.20
Certified copy	1.00
Color copies	0.40
Color photographs	2.00
CD's and DVD's	1.00

- b. Shipping – U.S. postage, commercial shipping carriers, or other costs incurred in the delivery of public records shall be included in the actual costs charged to the requestor.

- c. Extensive Use Charges – Extensive use charges shall not be randomly or automatically applied. Rather, each public records request must be evaluated to determine if extensive use charges are warranted.

- 1) Labor Time – When extensive clerical and/or supervisory labor time is spent in the inspection or production of a public records request, a service charge for labor may be applied by computing the actual cost of providing such labor. Estimates should be provided to the Department of the Town Clerk prior to production of the records. Labor Costs shall be used to determine applicable labor charges. A special service charge shall be imposed when the nature or volume of the records to be inspected requires the extensive use of information technology resources or extensive clerical and/or supervisory personnel, or both. For purposes of this section, “extensive use” means at least **thirty minutes** or more is required to locate, review for exempt and confidential information, copy and re-file the requested records. Such charges shall be based upon the actual labor (the hourly salary plus benefits of the lowest paid employee capable of performing the task) and the computer costs incurred by the Town. The Town may also charge for a Town employee to sit with the requestor during the course of the inspection to safeguard and protect the Town’s records from being stolen or destroyed. Please see attached sample (Attachment 2).

Public Records Fees and Charges

- 2) Information Technology Resources – Providers shall use the documented fee/charge methods (provided by the Information Systems Department) when charging for the extensive use of information technology resources and a copy of such documented method shall be provided upon request. Service charges shall be based on the actual cost incurred for such extensive use.

d. Fee Collection

- 1) When all allowable fees/charges applicable to a particular public records request can be calculated in advance, they should be collected prior to the provider investing significant information technology resources and/or clerical or supervisory assistance.
- 2) Where actual costs and extensive use fees cannot be immediately determined due to the nature of the request, the provider shall give an estimated cost for producing the records and inform the requestor that the actual cost may vary, but will not exceed the original estimate by more than an additional 25%. Providers should ensure estimates are accurate within 25% of the actual cost. If the requestor accepts the cost estimate, then the provider may fill the public records request. Once the records are ready, the provider shall notify the requestor of the cost and furnish the public records upon receipt of payment.
- 3) No sales tax is to be charged for a public records request.
- 4) All checks should be made payable to the Town of Jupiter; all payments to be made at the Cashier by the requestor in exchange for the records.

- e. Fee/Charges Waivers – Fees or charges may be waived between the Town of Jupiter and other government agencies, by agreement between management, when the recurring exchanges or data sharing between agencies negates the need to apply these fees.

4) Public Records Exemptions

The Town of Jupiter is responsible for protecting information defined as confidential or as otherwise prohibited from public inspection or copying under the Public Records law. All exemptions to the Public Records law can be found in the Florida Statutes Chapter [119.071](#).

The following standards and controls should be followed to prevent the inadvertent or unauthorized release of confidential and exempt information:

- a. Confidential information shall be redacted (extracted) from records prior to public release or examination of the nonexempt portions.
- b. Future data processing systems which are expected to maintain or provide access to confidential or sensitive records should be designed with redaction capabilities so that only nonexempt portions of records can be extracted and made available to a public records requestor. Redaction capability shall be a component in the redesign of existing systems.

- c. Providers are responsible for informing the requestor when requests cannot be filled due to an exemption which prevents disclosure. Upon request, the provider must provide the basis for this exemption and its statutory citation.

VI. AUTHORITY:

Article I, Section 24, Florida Constitution, and "Access to Public Records and Meetings, Chapter 119, Florida Statutes, "Public Records"

Attachment 1: PublicRecords Request Form
Attachment 2: Sample Labor Cost Table
Attachment 3: Cost Estimate Form

Revised 11/16/09

Cc: Andrew D. Lukasik, Town Manager
Anne Lyons, Assistant Town Manager
Thomas J. Baird, Town Attorney

PUBLIC RECORDS REQUEST FORM

Information is optional, but is helpful to us in communicating with you regarding the status of your request.

Name: _____ Email: _____

Address: _____ Phone Number: _____

Requested Record: Do you wish to review the records before we copy them?
 Do you wish for us to copy the records and charge accordingly?

RECORDS FEE SCHEDULE

8 ½ X 11 one-sided copy	0.15
8 ½ x 14 one-sided copy	0.15
11 x 17 one-sided copy	0.25
Two-sided copies	0.20
Certified copy	1.00
Color copies	0.40
Color photographs	2.00
CD's and DVD's	1.00

Agencies may also collect a reasonable service charge, in addition to actual cost fees, when a request for public records requires the extensive use of information technology resources and/or clerical or supervisory assistance. The Town of Jupiter considers records requests taking more than **thirty minutes** to locate, copy or otherwise make available the requested material as a diversion of resources which is susceptible to extensive use service charges.

Special Service Charge (hourly rate _____ x #_____ of hours = \$_____ (See Public Records Guidelines)

Total Cost Incurred = \$ _____

SAMPLE ONLY

Administrative Specialist I	\$22.05 per hour
Building Support Specialist I	\$25.68 per hour
Administrative Specialist II	\$27.49 per hour
Administrative Specialist III	\$29.30 per hour
Programmer/Analyst	\$31.30 per hour
Others as required	TBD

