

# **PUBLIC RECORDS REQUEST POLICY**

## **1. POLICY**

**a.** It is the policy of the Jackson County Board of County Commissioners that all public records will be open for public inspection, as set forth in Chapter 119, Florida Statutes, hereinafter referred to as the “Public Records Act,” as presently enacted, and hereafter amended. Public records 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. Public records are not limited to traditional written documents, but includes any records that perpetuate, communicate, or formalize knowledge.

**b.** Each County official and employee is responsible for maintaining any public records in his or her custody and complying with the Public Records Act and this Policy. This Policy shall be provided to all new employees during orientation.

## **2. DESIGNATION OF CUSTODIAN OF PUBLIC RECORDS/PUBLIC RECORDS COORDINATOR**

**a. PUBLIC RECORDS COORDINATOR:** The Human Resources Office is designated as the County’s Custodian of Public Records, pursuant to section 119.12, Florida Statutes, and will be referred to herein as the “Public Records Coordinator.” The Public Records Coordinator is responsible for processing and gathering the requested records in coordination with the appropriate departments and serves as the primary contact for the coordination of public records requests between the requesting party and the various county departments. The specific responsibilities of the Public Records Coordinator in processing public records requests will be as set forth in Section 3 of this Policy. In addition, the Public Records Coordinator is designated as the Records Management Liaison Officer (“RMLO”) pursuant to section 257.36(5)(a), Florida Statutes, to serve as the primary point of contact between the County and the Division of Library and Information Services within the Florida Department of State (“the Division”).

**b. DESIGNATED RECORDS CUSTODIANS.** In addition to the County’s Public Records Coordinator, each Department Director shall designate an employee within their department to serve as a department level public records custodian and assist the Public Records Coordinator where necessary, and such employee will be referred to herein as “Designated Records Custodians.” County Attorney’s office staff shall periodically provide County-wide training opportunities for each Designated Records Custodian. However, it will be the responsibility of each Department Director to ensure that the Designated Records Custodian is trained on what public records are available in his or her respective Department, what confidential and/or exempt information those records may contain, and what the retention period is for the records.

c. **POSTING OF CONTACT INFORMATION.** The contact information for the County's Public Records Coordinator will be maintained by the Human Resources Office and posted at the County's Administration Building located at: 2864 Madison Street, Marianna, FL 32448; and on the County's website. In addition, the Public Records Coordinator will also maintain a current listing of the Designated Records Custodian for each County Department.

### 3. **PROCEDURES**

a. **RECEIVING REQUEST.** When a County employee receives a public records request, whether verbal or in writing, the following procedures shall apply.

1. Inform the Public Records Coordinator/Designated Records Custodian. If it is a routine request for department-specific records, an employee may process the request, gather the records, and respond to the requestor. In doing so, the employee shall keep the Designated Records Custodian informed throughout the process. If the request involves records from more than one department, such request shall be forwarded to the Public Records Coordinator for handling.

2. Request May be Verbal or Written. There is no requirement that the request for public records be made in writing; the request may be verbal or written. If the request is verbal, the employee receiving the request shall write down as much information regarding the request as possible, such as the date the request was made, the contact information of the requestor (if voluntarily given), and what documents are being requested in as much detail as possible. If possible, the information should be reviewed with the requestor, to ensure that it accurately reflects the request. **THE COUNTY EMPLOYEE SHALL NOT REQUIRE THE REQUESTOR TO PLACE THEIR REQUEST IN WRITING.**

3. Identification of Requestor Not Required. The requesting party is not required to identify themselves or the reason for the request. If the requestor declines to provide contact information, the employee should provide him or her with contact information for the Public Records Coordinator, who can provide a date the records will be available for inspection or copying, or other information related to the request. **AT NO TIME MAY A COUNTY EMPLOYEE REJECT A PUBLIC RECORDS REQUEST WHERE AN INDIVIDUAL REFUSES TO IDENTIFY THEMSELVES.**

4. Notification to Public Records Coordinator. The employee receiving the request shall notify the Public Records Coordinator of the public records request and provide a copy of any written request, and if there is no written request, shall provide the information regarding a verbal request. This notification shall be made immediately.

b. **PROCESSING OF RECORDS REQUEST.** Once the Public Records Coordinator receives a public records request or notification of the request, the following procedures and time frames should be followed.

1. Acknowledgement of Receipt and Communication to Requestor. Upon receipt of the public records request, the Public Records Coordinator shall soon thereafter, but no later than three (3) business days thereafter, acknowledge receipt of the request to the requestor if the requestor's contact information was provided. The Public Records Coordinator shall direct and provide all correspondence to the requestor of the records unless other arrangements are made between the Public Records Coordinator and the Department possessing the public records, or the County Attorney's Office.

2. Coordination with Applicable County Departments. The Public Records Coordinator shall coordinate compilation of the requested records with the appropriate County Departments through the Designated Records Custodians. The Public Records Coordinator will maintain communication with the applicable Designated Records Custodian(s) possessing the public records and will be responsible for ensuring that all applicable Departments have provided records, and for coordination of a complete and full response to the request. However, the Designated Records Custodian(s) will ultimately be responsible for identifying and providing responsive records. The Public Records Coordinator will notify each applicable Designated Records Custodian when all aspects of the public records request have been satisfied.

3. Coordination with Information Technology Department. The Information Technology Department shall be the repository of all electronic mail ("email") that is transmitted or received on the County system. In the event there is a public records request which includes a request for emails, the search for the responsive emails shall be conducted by the Information Technology Department. Once the search has been completed, it will be the responsibility of the Public Records Coordinator, with the assistance of the County Attorney's Office and/or Designated Records Custodian where needed, to review the responsive emails to determine whether any exception or confidentiality provision would apply.

4. Coordination with Clerk of the Circuit Court. If the public records request involves Board action or approval, the Public Records Coordinator shall notify the Deputy Clerk to the Board of County Commissioners in the Clerk of the Circuit Court's Office to coordinate the records request.

5. Coordination with Outside Consultants. If the public records request relates to records kept by outside consultants, who are subject to the Public Records Act and/or have agreed to maintain and provide public records pursuant to an agreement with the County, the Public Records Coordinator shall immediately notify the outside consultant and coordinate the production or inspection of any applicable records.

6. Requests for Records by the Media. Requests for records by the media shall be handled consistently with the same procedures as outlined herein. All employees receiving a request directly from the media shall immediately contact the County's Public Information Officer (PIO).

7. Questions About the Requested Records. The Public Records law does not require the County or its employees to answer questions regarding the records produced.

8. No Standing Requests. The County cannot honor public records requests that demand future copying or production. The Public Records Act requires production of present documents that are available and does not require a custodian to produce records that may or may not be generated in the future.

**c. RESPONSE TIME FRAME**

1. Response Time. The County, through its Public Records Coordinator, shall honor all requests to inspect and examine public records (other than those records which are made confidential or exempt by Florida Statutes) at any reasonable time, under reasonable conditions, and under the supervision of the applicable records custodian or his/her designee. "Reasonable" time is during normal working hours, Monday- Friday 7:30 a.m. to 4:30p.m. There is no minimum or maximum time to respond to a public records request; each request requires a reasonable response time. Response times will be dependent upon the circumstances surrounding the requests, including the nature of the request, whether review for confidential and exempt information and redaction may be required, the likely quantity of records to be produced, whether extensive use of information technology resources or clerical services are required, and the timing of the request.

2. Time Estimate. The Public Records Coordinator shall provide an estimated date of completion to the requestor as soon as reasonably possible unless unusual circumstances require a longer period. Delays or other impacts which will result in the request not being provided by the identified target date shall be relayed to the requestor by the Public Records Coordinator.

**d. CONFIDENTIAL, PRIVILEGED, AND EXEMPT INFORMATION;  
INFORMATION RELATED TO LITIGATION.**

1. Exceptions to Public Records Information. Not all information found in public records is necessarily subject to dissemination and release. For example, employee personnel files are public records, but information contained in these files, such as social security numbers, is protected and is not to be released. The Public Records Coordinator and/or the Designated Records Custodian for each County Department are responsible for reviewing records for confidential, privileged, and exempt information, and should seek guidance from the County Attorney if they are unsure of what constitutes such information prior to release of the public records.

2. Redaction and/or Withholding of Confidential, Privileged, and Exempt Information. Documents that contain confidential, privileged, and exempt information shall be redacted prior to release. All redactions should be plainly visible. The applicable provision of law related to the redaction for purposes of the record being confidential, privileges and/or exempt, must be cited in any response provided to the requestor. Questions related to citing the applicable provisions of law should be relayed to the County Attorney.

3. Records Relating to Litigation. If litigation is pending or reasonably anticipated, Risk Management, the County Attorney's Office, and any affected County Department shall be provided notice of the pending or anticipated litigation. Where litigation is pending or reasonably anticipated, including potential or actual litigation, administrative proceedings, or any other form of dispute, the County Attorney's Office shall be notified of any public records request, and will act as a liaison to coordinate the public records production, examination, or inspection with the opposing counsel or the adverse party and County staff, unless other arrangements are made.

4. **FEES**

a. **SPECIAL SERVICE CHARGE FOR EXTENSIVE RECORDS SEARCH.** If the nature or volume of public records requested is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the County, or both, the County 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 County or attributable to the County for the clerical and supervisory assistance required, or both. "Extensive" means taking more than fifteen (15) minutes to locate, review, and copy the requested information.

b. **CALCULATION OF LABOR COSTS FOR EXTENSIVE RECORDS SEARCH.** To assess the fee for employee hours spent, the County Departments shall ascertain the hourly rate of the lowest paid County position able to provide the labor related to the request, including identifying, retrieving the records, inspection for confidential, exempt, or privileged information and redaction of the same, and supervision of the document inspection and/or duplication services. For example, the County may not charge the hourly rate of a department head, supervisor, or director unless the person in that position was the lowest paid employee capable of locating, reviewing, redacting, and supervising inspection or copying the requested materials.

c. **FEES FOR COPYING OF PUBLIC RECORDS.** If the request takes less than fifteen (15) minutes of total County time and is ten (10) pages or less of copies, the request will be fulfilled free of charge. Unless specifically stated otherwise through state statutes, and excluding the aforementioned criteria for fulling requests free of charge, the following fees will apply to copying of public records:

single sided page (letter & legal):	\$ .15 per page
double sided page (letter & legal):	\$ .20 per page
certified copy:	\$ 1.00 per page
optical disk charge if required	\$ 1.00 per disk
email search:	See Appendix A

(depending on the extensive nature of the email search, additional costs may be charged).

Exception: County maps, aerial photographs, large format photos may be reproduced and a fee charged to cover the materials used for those duplications. A reasonable labor and overhead charge associated with the duplication may also be included.

Jackson County will fulfill up to three (3) records requests per person or business entity per calendar month free of charge provided the requests meet the conditions outlined in 4c to be fulfilled for free. If a single person or business entity submits more than three (3) records requests in a given month, those additional requests beyond three (3) shall be considered extensive use of clerical and/or supervisory labor, all additional requests will be charged for and will not include the free fifteen (15) minutes of total County time or the ten (10) pages of copies.

**d. DEPOSITS.** If the request is voluminous by nature, the County may require a deposit before starting public records services, including research and review of records, and reproduction. The employee coordinating the request shall review the materials needed, develop an estimate for the costs (including reproduction and/or special service charge, where applicable), and notify the Public Records Coordinator. The requesting person or entity shall be notified by the Public Records Coordinator of the estimated cost and any deposit requirement, if applicable. In the event there are cost overages, the additional amount will be billed to the requesting person or entity. Any extra monies collected by the County will be returned. Once the County receives the required deposit, the County shall provide inspection and/or copies of the records requested, as applicable.

**e. PAYMENT OF FEES FOR PUBLIC RECORDS.** All payment shall be coordinated through the Public Records Coordinator. A receipt for payment of costs associated with the public records request shall be given to the requesting party upon payment of the fee.

## **5. RECORDS RETENTION.**

**a. RESPONSIBILITIES OF THE RMLO/PUBLIC RECORDS COORDINATOR.** The Public Records Coordinator, as the designated RMLO, will serve as the liaison to the State with regard to issues relating to compliance with state laws and rules governing the maintenance, storage, and disposition of the County's public records. The RMLO will also be responsible for executing annually a Records Disposition Compliance Statement attesting to the County's compliance with records disposition laws, rules and procedures.

**b. RESPONSIBILITIES OF DESIGNATED RECORDS CUSTODIAN.** Each Designated Records Custodian is responsible for the maintenance, retention, and disposition of public records within their respective department. All public records should generally be kept in the buildings in which they are normally used. Disposition of public records should comply with the policies set forth in this part regarding retention schedules and disposition of public records.

**c. RECORDS RETENTION SCHEDULES.** Each Designated Records Custodian must comply with the records retention schedules adopted by the Division of Library and Information

Services within the Florida Department of State (“the Division”) found at <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>. Public records of the County may only be destroyed or otherwise disposed of in accordance with the retention schedules established by the Division.

**d. DISPOSITION OF PUBLIC RECORDS.** The Designated Records Custodian for each County Department should periodically review records of the respective department for disposition. Prior to disposition of records, the Designated Records Custodian shall ensure that records disposition is properly documented on the Records Disposition Document maintained by the Division and found at <http://dos.myflorida.com/library-archives/records-management/forms-and-publications/>. No disposal of records may occur until approval by the Public Records Coordinator and the County Attorney’s Office, which must be noted on the Records Disposition Document.

**e. RECORDS RELATED TO LITIGATION.** If litigation is pending or reasonably anticipated, records relating to the subject of the litigation shall not be disposed of in any manner. A litigation hold should be issued by the Public Records Coordinator to all Designated Records Custodians whose records may be affected by pending or reasonably anticipated litigation, including any electronic documents and emails, and all documents shall be retained in their native format. Such records may not be disposed of until notified by the Public Records Coordinator, after receiving approval of the County Attorneys’ Office.

**f. RECORDS SUBJECT TO PUBLIC RECORDS REQUEST.** No custodian of the County’s records shall dispose of a record for a period of thirty (30) days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian even if the records retention schedule would permit the destruction of the records. If a civil action is instituted within thirty (30) days to enforce the Public Records Law with respect to the requested record(s), the records shall not be disposed of except by order of a court of competent jurisdiction after notice to all affected parties.

**g. TEXT MESSAGING.** County employees may only communicate by text message, as it relates to County business, when the message being sent and/or received is considered transitory in nature and has no archival value as defined by the Department of State, Division of Archives, Bureau of Records Management.

“Transitory” refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages (whether in paper, voice mail, or other electronic form); announcements of office events such as holiday parties or group lunches; and recipient copies of announcements of agency-sponsored events such as exhibits, lectures, workshops, etc. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt.

Employees receiving text messages other than transitory in nature shall be responsible for preserving such messages as public records under this policy, either by forwarding such messages to their County email accounts, or by other means, in consultation with the County's Information Technology Department.

**h. EMAILS.**

1. Use of County Email Accounts. All employees and elected officials with current or existing County email accounts are required to use County email accounts for all County business. No other email accounts may be used to conduct County business. Employees or officials who receive business-related emails at another account must forward that email to their County email account.

2. Retention and Disposition Responsibilities of the Information Technology Department. The above retention and disposition requirements also apply to emails transmitted and received on the County system managed by the County's Information Technology Department. Retention schedules are based on a public record's informational content, not its format, and therefore, there is no single retention period that applies to all emails. Retention periods are determined by the content, nature, and purpose of records, and are set based on their legal, fiscal, administrative and historical values, regardless of the format in which they reside or manner of transmission. It is anticipated that periodically emails past their minimum retention time will need to be deleted from the County's System as a practical matter, and that the most practical and effective way to manage the County's System is to periodically dispose of and delete emails before a chosen date. As a guideline for managing the County's system, and because email communications may be subject to different retention periods, the Information Technology Department should not dispose or delete emails from the County's system which are less than seven years. As with any other public records, the Information Technology Department is required to properly document and to ensure approval before any disposal or deletion of emails on the County's system. For emails whose retention periods may be longer based on the retention schedule adopted by the Division, County employees with custody will be responsible for retaining the email, as further set forth in this part.

3. Retention and Disposition Responsibilities by Employees with Custody of County Emails. Employees should be aware that the County's Information Technology Department may be limited in its ability to retain emails on the County's system for a period in excess of seven years as set forth in this part, and that any emails which may be subject to retention for longer than a period of seven years under the retention schedules should be separately preserved by employees with custody in order to ensure compliance with the County's Public Records Law. Individual County Departments may also set forth procedures to ensure that emails with historical and archival value are properly preserved.

**APPENDIX A**

**FEES FOR EMAIL SEARCHES**

Any public record request involving a search for emails will require a deposit of \$20.00 in advance. This amount constitutes an estimate of the cost to perform a standard public records search that is seeking electronic data. That amount is calculated based upon the estimate of one hour of time to conduct the search at an hourly rate of \$20.00 per hour (which represents the hourly rate for the actual labor costs incurred for the search). When the search is performed, the time incurred in processing the request shall be documented. The time to be included shall consist of the time to cease performing their current job function, preserve the search results and reengage back to the employee's job function.

Once the requested search is completed, the requestor will be notified and informed as to whether any additional charges are due. The time charged for the search will be based on a rate of \$20.00 per hour in 15-minute increments. If the amount of time incurred in the search is between 61 minutes and 75 minutes, then no further charge is required. If the rate is greater than 75 minutes, then the requestor shall be charged for the additional time above the deposit. If it is less than 1 hour, then the requestor shall be refunded for the amount in excess of the time accrued. As an example, the following is how this would work:

Below is a chart that shows how the fee schedule would operate with the amount of time for the search as indicated:

<b><u>Minutes</u></b>	<b><u>Charge</u></b>
0-15	No Charge
16-30	25% of the \$20.00 charge
31-45	50% of the \$20.00 charge
46-60	75% of the \$20.00 charge
61-75	100% of the \$20.00 charge
76-90	125% of the \$20.00 charge
91-105	150% of the \$20.00 charge
106-120	175% of the \$20.00 charge
121-135	200% of the \$20.00 charge