

## RESOLUTION 11-2013

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AN AMENDMENT TO EXHIBIT "A – PUBLIC RECORDS POLICY" OF RESOLUTION 84-2011; PROVIDING FOR AN INCREASED COST FOR CASSETTES TO REFLECT THE ACTUAL COST; PROVIDING FOR A REQUIREMENT TO PAY BY CHECK OR MONEY ORDER FOR REQUESTS COSTING MORE THAN ONE DOLLAR; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town Council recognized the need for established procedures to deal with public records in a timely and efficient manner while providing for protection of exempt material; and

**WHEREAS**, the Town Council recognizes that this Resolution shall act as a guide and provide a framework for Town Employees; and

**WHEREAS**, the Town Council recognizes that the procedures may be amended from time to time by resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:**

**SECTION 1. Procedure.**

The attached Exhibit "A – Public Records Policy"

**SECTION 2. Conflict.**

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 3. Effective Date.**

This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member Abare. This motion was seconded by Council Member McKnight and, upon being put to vote, the vote was as follows:

Council Member Jim Milucky	<u>Aye</u>
Council Member Wayne Abare	<u>Aye</u>
Council Member Steve Rivet	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Marisa Acquaviva	<u>Excused</u>

This Resolution was then declared to be duly passed and adopted this 1st day of April, 2013.

By: TOWN OF MALABAR

Carl A. Beatty  
Mayor Carl A. Beatty

ATTEST:

Debby K. Franklin  
Debby K. Franklin  
Town Clerk/Treasurer

(seal)

Approved for Legal Sufficiency:

Karl W. Bohn, Jr.  
Karl Bohn, Jr., Town Attorney

## **EXHIBIT "A - PUBLIC RECORDS POLICY"**

### **REFERENCE**

#### **Chapter 119, Florida Statutes**

### **ALL DEPARTMENTS**

The State of Florida has determined that providing access to public records is a statutory duty imposed by the Legislature upon all custodians of records and should not be considered a profit-making or revenue-generating operation.

All town records, with the exception of exempted or confidential records, identified by Florida Statutes 119, or other applicable sections of the Florida Statutes, or other lawful citations, shall be open for inspection and copying by any person desiring to do so.

### **PURPOSE**

The purpose of this policy is to affirm the public's right to access town records, to set forth the procedures that will facilitate accessibility of information to members of the public, and to establish fees to be levied by the Town to cover the cost of responding to public records requests.

### **DEFINITIONS**

#### **Employee Custodian -**

Employee who has custody of a public record that is housed and maintained in his/her office area.

#### **Extensive Use -**

If, due to the nature and volume of the request, it will take longer than 15 minutes to pull the record, research, review for and redact confidential/exempt information from requested records. The fact that records are stored off site does not make them extensive use. The cost to retrieve and re-file archived records is not a cost that shall be passed on to the requestor. The time expended to find a misfiled record is not to be considered as part of time to pull the record.

#### **Public Records -**

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with transaction of official business by the Town intended to perpetuate, communicate, or formalize knowledge.

#### **Records Coordinator -**

Employee with substantial knowledge of the operation and records and information within a department/division, designated as responsible for processing the respective records pursuant to the Records and Information Management Program.

#### **Records Custodian -**

Employee designated as responsible for the processing of public records requests within a specific department or division of the Town for the records maintained therein.

#### **RMLO -**

Records Management Liaison Officer designated in writing to the Florida Department of State; administers the Town's Records and Information Management Program.

## PROCEDURE

### A. Requests for Records by the Public

All requests received by Town personnel from the public for the inspection or copies of Town records, shall be directed to the Office of the Town Clerk, regardless of the medium used for submission of the request, i.e., verbal, phone, e-mail, written, etc. If received by:

a) e-mail, forward the e-mail; b) in writing, send written document interoffice mail or scan and e-mail; c) verbal, direct the requestor to the Town Clerk's Office.

### B. Processing Public Records Requests

1. The Town Clerk, as RMLO to the State of Florida, is the chief Records Custodian of the Town's records. The Town shall make every effort to respond fully to all public records requests within a reasonable time to allow the custodian of the record to retrieve the record and to delete those portions that the custodian of the record asserts is exempt from disclosure. The Town Clerk or respective Records Custodian shall be responsible for monitoring timely performance.
2. Upon receipt of a public records request for inspection or copies of records, the Office of the Town Clerk shall contact the employee custodians in the departments in which the requested records may be maintained.
3. Each employee custodian of the requested records is responsible for searching his/her paper, electronic, and e-mail files, and producing same.
4. Public Records Request Form will be completed by the Town Clerk or the employee custodian and shall include:

#### a) Estimate Requested

The respective employee custodian is to respond as soon as possible as to whether he/she has any of the requested records and provide an **ESTIMATE ONLY** of the number of records to be copied and the estimated time involved in fulfilling the records request. The form is to be returned to the Office of the Town Clerk.

#### b) Copies Requested

The Office of the Town Clerk shall advise the employee custodian when to proceed with copying or scanning records. Two (2) forms will be distributed to the custodian.

1) After copying the requested records, the Public Records Request Form (which will be marked - 'copies') is to be completed indicating the actual number of records copied and the time involved in fulfilling the records request. The form is to be returned to the Clerk's Office along with the copied records.

2) The second form, Exempt or Confidential Information, is to be completed and returned only if any of the records requested contain exempt or confidential information. See Section D below for further information on exempt information or records.

#### c) Inspection Requested

The Office of the Town Clerk shall advise the respective employee custodian if an individual's request consists of inspecting/examining records only.

- 1) If Records to be Inspected are Paper:

If the records to be inspected/examined are in paper medium, the employee custodian is to promptly advise the Clerk's Office of the estimated length of time it will take to retrieve the documents and redact any exempt or confidential information, and if supervisory personnel will be present during the inspections. Arrangements for inspecting the records (time, place, etc.) will be made by the Clerk's Office with the respective custodian and the requestor advised of same.

Should the individual upon inspection of the records request copies, the employee custodian for those records, depending upon the volume of the request, may fulfill the request immediately and accept payment for the cost at that time.

If satisfying the request immediately would unduly interfere with the operation of the department or division, the custodian will arrange with the requestor a mutually satisfactory time for fulfilling the request. This will vary according to the number of records requested, the number of years of records being reviewed, the amount of information to be redacted that is subject to statutory exemption, the department's filing system, storage of the records, etc.

The appropriate sections of the Public Records Request Form is to be completed for either of the circumstances above and returned to the Town Clerk's Office.

2) If Records to be inspected are Electronic/Digital:

If the records are in electronic format, upon direction from the Town Clerk's Office the employee custodian will either copy them to paper or disc.

7. Individuals making public records requests may be permitted to utilize a Town computer to inspect public records. Copies can be printed of the records requested.
8. The Town Clerk's Office shall be advised immediately of citizen or news media complaints regarding access to public records.

#### C. Exempt and Confidential Records

1. Employee custodians must be knowledgeable of the records or information maintained by them that is exempt or confidential. If a question arises as to whether or not a record or information therein is exempt or confidential, it should be addressed to the Office of the Town Clerk.
2. If any of the records requested or portions thereof contain exempt or confidential information, the employee custodian maintaining the records shall indicate on the form provided by the Town Clerk or Records Custodian the record or portion thereof that is exempt or confidential, and provide the statutory citation that exempts the information or record.
3. If only a portion of the record requested is confidential, the employee custodian will redact (conceal) the exempt or confidential information and the remainder of the record will be provided to the Town Clerk or Records Custodian. Contact the Clerk's Office for information on how to properly redact information.
4. Exempt or confidential information may only be released to those persons and entities designated by law. Exempt or confidential information allowed to be released by an

individual about himself/herself shall require the filing of a statement of release with the Town Clerk or Records Custodian.

- a) Copies of release forms received from a federal, state, county, or municipal government are acceptable pursuant to Florida Statutes, Section 92.29.
- b) Release forms other than from any of the above mentioned agencies shall be originals, signed by the individual and notarized.

D. Fee schedule.

1. The following fee schedule shall be standard throughout the Town.

2. Fees shall be charged as follows:

- a) The uniform fee for paper copies, per page, is as follows:

14" x 8 ½" or less - one sided	\$ .10
14" x 8 ½" or less - two sided	\$ .20
Above sizes above in color	\$ .50
11" x 17" b&w only	\$ .20

- b) Certified copies – (per copy) \$1.00 + duplication fee in subparagraph (a) above;
  - c) Records reproduced by utilization of an outside source shall be the same cost as the actual cost to the Town.
  - d) Tapes, discs:
    - 1) cassette \$2.00
    - 3) CD/DVD \$1.00
- The above will also include, if applicable, the charge defined in Paragraph 4 below.
- e) There will be no charge for faxed, scanned, and digitized records will be sent to requestor with no material cost to Town.

3. Special service charge for extensive use of services.

- a) Costs shall be calculated in 15-minute increments after the first 15-minutes increment. There shall be no charge for the first 15 minutes.
- c) If the requestor wants the records mailed, then after payment for the copies and the postage the Town shall mail the records.

4. Payment.

- a) If the estimated cost to fulfill the public records exceeds \$20.00, deposit of \$20.00 shall be collected by the Town Clerk's Office or Records Custodian prior to the cost actually being incurred for large requests only. If actual is less, a refund will be provided to the requestor. If actual costs exceed the advance payment, the additional payment shall be collected prior to the records being provided to the requestor.

If an individual refuses to pay fees exceeding the advance payment, records totaling the additional amount shall be retained by the town. If a subsequent public records request is received from the same individual, it shall not be processed until the past due amount is paid.

- b) All fees collected shall be forwarded to the Finance Department for deposit in the Town's general fund, except for those fees that can be identified for the Utilities

Department and Building Division. Fees collected for the Utilities Department and Building Division shall be recorded in accounts identified by each.

c) Payment of fees for public records requests shall be made by check or money order for all requests over \$1.00.

E. Access to Records.

1. For the purpose of this policy, "reasonable" time to provide access to public records is during the business hours of Monday-Friday, 8:30 a.m. to 4:30 p.m.
2. At all times, records requested to be inspected, reviewed, and examined shall be supervised by the employee custodian of the respective public records or the custodian's designee.