



## PUBLIC RECORDS POLICY and PROCEDURES

### I. PURPOSE:

The Town of Sewall's Point 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 Town. In support of the broad public right to access public records, the Town of Sewall's Point incorporates the following guidelines to inform town staff about implementation of the Public Records Law by the Town of Sewall's Point and to provide uniformity within the Town of Sewall's Point in charging for access to public records.

### II. POLICY:

It is the policy of the Town of Sewall's Point and the policy of the State of Florida that all State, County, and Municipal records, except those exempted by law, shall be open for personal inspection, examination, and copying.

### III. DEFINITIONS:

- A. "Actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor costs or overhead cost associated with such duplication.
- B. "Confidential or Exempt Records" means 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 is not subject to the access requirements of Statute 119.07(1), 286.011 or Statute 24, Article I of the State Constitution.
- C. "Custodian" means the elected or appointed City officer, or his or her designee, charged with the responsibility of maintaining the office having public records, or his or her designee.
- D. "Extensive Use of Resources" means that the nature or volume of the public records requested to be inspected, examined, or copied requires the use of the Town of Sewall's Point's information technology resources, and/or that the labor time required of clerical or supervisory employees exceeds **thirty minutes**.
- E. "Public Records" means all documents, papers, letters emails, 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.
- F. "Redact" means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.

#### IV. PROCEDURES – GENERAL:

- A. It is the Town of Sewall's Point's standard practice that public records requests be processed through the Town Clerk's Office. Anyone receiving public records requests shall forward them to the Town Clerk's Office. The Town Clerk shall promptly acknowledge the request and forward it to the record custodian(s) who may have records responsive to the request.
- B. Every custodian who possesses a public record shall permit the record to be inspected and examined by any person desiring to do so (1) within a reasonable time, (2) under reasonable conditions, and (3) under supervision by the custodians of the public record or their designee, except for those exemptions provided by law.
- (1) A "Reasonable time" is that time allowed for the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt. A waiting period may not be imposed before allowing access to public records.
- (2) If satisfying the request immediately would unduly interfere with the operation of the department, the custodian, through the Clerk's Office will notify the requestor of the time needed to fulfill the request.
- (3) "Reasonable conditions" do not refer with the conditions that must be fulfilled before review is permitted, but to reasonable regulations that would permit the custodian of the records to protect them from alteration, damage, or destruction, and also to ensure that the person reviewing the records is not subjected to physical constraint designed to preclude review.
- C. Town's records cannot be checked out and need to remain in the Town's possession at all times.
- D. Custodians within the departments responsible for records should be knowledgeable of the following when a request is made to inspect or duplicate a record:
1. Individuals are not required to identify themselves or make the request in person, in writing or in any other particular format, nor give a reason for such request.
  2. Individuals may not be denied access to records due to the lack of specifics of the record they wish to inspect or copy.
  3. Computerized public records are governed by the same rules as written documents and other public records. Information stored on a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet.
  4. Custodians are not required to verbally give out information from the records of their office, or offer interpretation of the records. The statutory obligation of the custodian is to provide access to or copies of the public records being requested.
  5. The Town is not required to create a record in response to a records request. Custodians are not required to produce records in a particular form or format as requested, nor tailored to the requestor's specific needs, if the records are not ordinarily created, filed, produced, maintained, or used in that form by the department.
  6. In order to avoid the printing costs, records should first be offered in an electronic format, if available.

7. If an attorney requests the examination, duplication of records or information on a lawsuit pending with the Town, the Town Attorney shall be contacted and advised of the same.
  8. A fee may not be imposed for the mere inspection and examination of public records, unless the nature or volume of the public records to be inspected is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance.
- E. Where reasonable, requests will be fulfilled free of charge. If researching and responding to a request takes thirty (30) minutes or less, the request will be fulfilled without charge, in accordance with the following:
1. Having acknowledged receipt of the request, the Town Clerk will notify the Department Head(s) who may have possession of the requested documents.
  2. Staff will collect the requested documents and either respond to the requestor with a copy to the Town Clerk, or by providing the requested documents to the Town Clerk for response.
- F. If the request requires extensive use of TSP resources, the process is as follows:
1. Having acknowledged receipt of the request, the Town Clerk will notify the Department Head(s) who may have possession of the requested documents.
  2. The Town Clerk and the Department Head(s) will prepare a statement of estimated costs in accordance with the rules stated below.
  3. The Town Clerk will provide the statement to the requestor prior to staff beginning to produce the requested records.
  4. Payment will be collected before documents are copied, reviewed, redacted, or otherwise processed for release.
  5. If the actual costs incurred are less than such payment as estimated, the overpayment will be refunded to the requestor. The requestor will be required to remit additional monies upon release of the documents to pay for any costs in excess of the estimate.
  6. In the event the requestor fails to remit additional monies to cover costs in excess of the deposit, the requested public records will not be released.
- G. Reasonable Costs for Processing Public Records Requests:
1. If the cost for providing paper or electronic copies of records is less than \$5.00, including postage and special service charges, the records will be provided at no charge as it is not cost-effective to collect such fees.

The Town of Sewall's Points charges are as follows:

- One-sided Copy: \$ 0.15 per page of not more than 8½ x 14 inches
- Two-sided Copy: \$ 0.20 per page of not more than 8½ x 14 inches
- Certified Copy: \$1.00 per page
- All other copies: Actual cost of duplication (material and supplies, not labor or overhead, unless statutorily authorized)

2. A special service charge will be imposed 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.
  - Clerical or supervisory assistance includes searching for and or locating the requested record, reviewing for statutorily exempt information, deletion of statutorily exempt information, and preparing, copying, and re-filing of the requested record.
  - Such charge is in addition to the actual cost of duplication.
  - The charge for clerical or supervisory resources will be no greater than the hourly rate, including benefits, of the lowest paid personnel capable of providing such services. \*(NOTE: These labor charges are calculated by taking the yearly average salary for either clerical or technical staff and dividing by 2080 hours per year.)
3. In those cases where legal review is necessary, the charge will be at the lowest attorney rate (salary and benefits) in the Town Attorney's Office.
4. When documents can be sent by email, TSP will do so in the interest of efficiency and to minimize costs. In these cases TSP will only charge a service charge for extensive time. However, when a large volume of documents is requested and must therefore be placed on a CD or DVD, the costs of those materials will be recovered.

#### **V. EXEMPT AND CONFIDENTIAL RECORDS:**

**The Town of Sewall's Point is responsible for protecting information defined as confidential or as otherwise prohibited from public inspection or copying under the Public Records law. All exemption of 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 the public records requestor.
- 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.

**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: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

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**

<b>14" x 8 ½ or less one-sided copy.....</b>	<b>0.15</b>
<b>14" x 8 ½ or less two-sided copy.....</b>	<b>0.20</b>
<b>17" x 11 one-sided copy.....</b>	<b>0.25</b>
<b>Certified copy.....</b>	<b>1.00</b>
<b>Color copies.....</b>	<b>0.40</b>
<b>CD's and DVD's.....</b>	<b>1.00</b>

The Town of Sewall's Point may also collect a reasonable service charge, in addition to actual costs, when a request for public records requires the extensive use of information technology resources and/or clerical or supervisory assistance. The Town of Sewall's Point considers records requests taking more than **thirty minutes** to located, 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 Policy and Procedures)

**Total Cost Incurred = \$** \_\_\_\_\_

**BUILDING DEPARTMENT 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: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Requested Record: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Will this information be used for commercial purposes? Yes \_\_\_\_\_ No \_\_\_\_\_

Subdivision: \_\_\_\_\_ Permit Number(s) \_\_\_\_\_

Address of Building(s): \_\_\_\_\_

**Reproduction of Plans and Drawings:**

Federal Copyright laws vests the owner of a copyright, subject to certain limitations, the exclusive right to do or authorize, among other things, the reproduction of the copyrighted work in copies and the distribution of the copyrighted work to the public by sale or transfer of ownership. **The unauthorized reproduction in part or in whole of any copyrighted work in copies constitutes an infringement of such copyright.** Copyright infringement is a tort and all persons concerned therein are jointly and severally liable as joint tort-feasors. In 1990, Congress amended the federal copyright law specifically to provide that relief for infringement is available against "anyone" including any State or Locality or any officer/employee of a State or Locality acting in his or her official capacity.

The Town does allow an inspection of the drawings or plans as required under the Public Records Law, but the Town must require a waiver or written permission from a copyright holder before reproducing any copyrighted works. I have read and understand the above statement regarding copyright laws.

Signature: \_\_\_\_\_

Address: \_\_\_\_\_