

RESOLUTION NO. 2016-R-48

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, PROVIDING FOR A REASONABLE PERIOD OF TIME FOR THE CITY TO RESPOND TO PUBLIC RECORDS REQUESTS, PURSUANT TO FLORIDA PUBLIC RECORDS LAW UNDER SECTION 119.07, FLORIDA STATUTES (2015); FURTHER AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO IMPLEMENT AND EFFECTUATE THE PROVISIONS OF THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, on June 23, 2015, the Mayor and City Council passed and adopted Resolution 2015-R-62, providing the following guidelines: (1) documents under 15 pages or less must be provided to the requestor within two (2) business days; (2) documents over 15 pages must be provided by the requestor within seven (7) days, unless the City Manager demonstrates additional time is needed; (3) no fees or costs will be charged for public records requests under 15 pages; and (4) each department will assign a staff member to coordinate compliance with all public records request (emphasis added); and

**WHEREAS**, Florida Public Records Law does not contain a specific time limit for compliance with a public records request, pursuant to Section 119.07, Florida Statutes (2015); and

**WHEREAS**, the Florida Attorney General has opined that cities are not authorized to establish an arbitrary time period during which records may or may not be inspected, ensuring that public records must be made available for inspection and examination by any person "at reasonable times, under reasonable conditions..." [AGO 81-12]; and

**WHEREAS**, the only time allowed for producing public records, is the reasonable time allowed the custodian to retrieve the record and delete those portions of the record exempted by law [*Tribune Company v. Canella*, 458 So.2d 1075 (Fla. 1984); *DePerte v. Tribune Company*, 105 S.Ct. 2315 (1985)]; and

**WHEREAS**, City Administrative Regulation 00-4, must also mirror the statutory guidelines for the processing of public records request in compliance with Chapter 119, Florida Statutes (2015); and

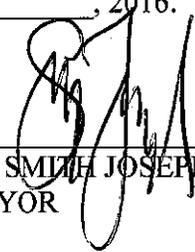
WHEREAS, the Mayor and City Council believe it is in the best interests of the City to adopt this Resolution removing all fixed timelines in response to a public records request, in compliance with the Florida Public Records Law.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

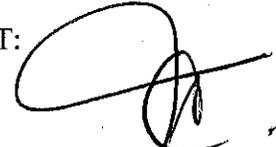
**Section 1. Authority of City Manager.** The Mayor and City Council of the City of North Miami, hereby provide for a reasonable period of time for the City to respond to public records requests, pursuant to Florida Public Records Law under Section 119.07, Florida Statutes (2015); further authorizing the City Manager to do all things necessary to implement and effectuate the provisions of this Resolution.

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

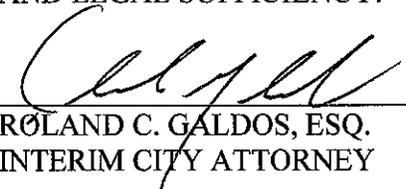
**PASSED AND ADOPTED** by a 4 -1 vote of the Mayor and City Council of the City of North Miami, Florida, this 12th day of April, 2016.

  
\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

  
\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
ROLAND C. GALDOS, ESQ.  
INTERIM CITY ATTORNEY

SPONSORED BY: VICE MAYOR ALIX DESULME

Moved by: Desulme

Seconded by: Galvin

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.

           (Yes)   X   (No)

Vice Mayor Alix Desulme

  X   (Yes)            (No)

Councilman Scott Galvin

  X   (Yes)            (No)

Councilwoman Carol Keys, Esq.

  X   (Yes)            (No)

Councilman Philippe Bien-Aime

  X   (Yes)            (No)

CITY OF NORTH MIAMI  
ADMINISTRATIVE REGULATIONS

~~Arthur H. Sorey~~Larry  
~~M. Spring, III~~Jr.  
~~Interim~~ City Manager

ALL DEPARTMENTS

PUBLIC RECORDS REQUESTS

PURPOSE

To provide efficient and effective methods for responding to public records requests, in accordance with Chapter 119, Florida Statutes (2015), as amended.

OBJECTIVES

To provide guidelines for the processing of public records requests, in the manner required by law.

To comply with federal and state guidelines that govern access to public records, including the Public Records Act, Chapter 119, Florida Statutes (2015), as amended.

To comply pursuant to Resolution 2015-R-62-\_\_\_\_\_ adopted by City Council on \_\_\_\_\_, 2016.

RESPONSIBILITIES

The City Clerk's Office will be responsible for overseeing the release of all public records to the public.

The City Clerk's Office will track the request and release of public records.

The —Police Department will coordinate public —records requests —pertaining to —law enforcement records.

Pursuant to Resolution 2015-R-62-\_\_\_\_\_, adopted June 23, 2015-\_\_\_\_\_, 2016, Department heads shall appoint one employee to coordinate compliance with all public records request.

Each Department head shall inform the City Clerk's Office of the name of the liaison.

Department heads will be responsible for ensuring that procedures outlined in this administrative regulation are distributed to, read, and understood by those employees responsible for providing information to and assisting the public or the City Clerk's Office in obtaining public records.

Any employee who receives a public records request from an individual shall input the request into the Public Record Request tracking software and provide a request number to the requester.

Any employee who receives a public records request from a member of the media shall refer the requester to the City's Public Information Officer.

Any employee who receives a public records request from an attorney shall input the request into the Public Record Request tracking software and provide a request number to the requester; said employee will then provide a copy of the request to the City Attorney's Office.

All employees with access to public records and who assist the public must be familiar with the procedures outlined in this administrative regulation.

## PROCEDURES

Employees will not create public records that do not exist in current form.

Public records shall be provided in their original format, unless the record also exists in a digital format.

### A. Requests

When a public records request to review or make copies of documents is made, Employees must:

1. Direct the requester to the City Clerk's Office who will oversee the public records process.
2. The City Clerk's Office will ask the requester to either complete a request form (Exhibit A), which may be amended as needed, or submit a digital request. Request forms are not required by law.
3. The City Clerk's Office will forward the request to the appropriate department's public records liaison and said liaison shall provide a retrieval cost estimate to the City Clerk's Office.
4. Upon receiving the cost estimate for the requested records, the City Clerk's Office shall inform the requester to pay the retrieval cost.

5. Once the requester has paid the cost of retrieval or paid the 50% deposit (if applicable), the City Clerk's Office shall inform the department's public records liaison to provide the requested records as soon as possible.
6. Each department is responsible for the records that pertain to their department and the redaction of exempt information. The City Attorney's Office shall provide a list of exempt information to all the department liaisons. The departments will coordinate with the City Attorney's Office to ensure the redaction of exempt information is done in compliance with State Statutes.
7. Any questions on the status or disposition of a public record request will be directed to the City Clerk's Office.

#### B. Review of Public Records

Request for review of public records may be oral or written.

If the requester is seeking to review documents, then after the procedure under Section A takes place:

1. The City Clerk's Office will coordinate with the appropriate department for the review of requested documents.
2. The department will contact the requester to notify of a specific time and date when documents will be ready for review and will inform the City Clerk's Office. If the requester is a member of the media, the review will be facilitated by the City's PIO, or the Police Department's PIO for any law enforcement records.
3. The department will ensure visual contact of the requester at all times during the review of any original documents.
4. The department will ensure that no public document will be removed out of departmental files during non-business hours or without the permission of the City Clerk's Office.

#### C. Copies of Public Records

Request for copies of public records may be oral or written.

If the requester is seeking copies of the documents, then after the procedure outlined in Section A takes place:

1. Upon notification from the City Clerk's Office of a public record request, departments will estimate the cost of duplication and provide estimated charges to the City Clerk's Office (Exhibit B, which may be amended as needed).
2. The City Clerk's Office will advise the requester as to the charges.
3. Prior to departments making copies, payment must be made in full as outlined under Service Charges, (Exhibit B).
4. Upon receipt of payment, the City Clerk's Office will advise departments to proceed with the duplication and possible redaction of requested records information which is exempted by law.
- 4.5. Copies of requested records shall be provided within a reasonable period, i.e., the time necessary to retrieve the records and delete those portions exempted by law.
- 5.6. Payment in full of any outstanding balances will be required before records are released.
- 6.7. If actual costs are less than estimated, the requester will receive a refund of the difference.
8. The City Clerk's Office will contact the requester to advise that the documents are ready to be picked up during the City's regular business hours.
- 7.9. Complaints received by a requestor shall be submitted to the City Manager (with a copy to the City Attorney) to determine the cause of any delay in the attainment of records. The City Manager or his/her designee, must factually demonstrate the reason for delays and submit such findings in writing to the requestor. Unexcused delay by an employee may result in disciplinary action being taken by the City Manager.

#### D. Service Charges

Actual cost of duplicating a public record includes the cost of materials and labor costs to retrieve.

The requester must pay in full and in advance any estimated fees or the required deposit. A 50% deposit is required for all Public Record Request estimates greater than \$50 and 100% of the cost is due upfront for all estimates less than \$50. Estimates less than \$10.00 are waived.

Requesters may appeal any charges assessed by a Department to the City Manager before a request is processed. The decision of the City Manager will be final.

##### a) Cost of materials

Pursuant to Resolution 2015-R-62, adopted June 23, 2015, 2016:

- ~~1. Documents under 15 pages or less must be provided to the requester within two (2) business days.~~
- ~~2. Documents over 15 pages must be provided by the requester within seven (7) days, unless the City Manager demonstrates additional time is needed.~~
- 3.1. No fees or cost will be charged for public records requests under 15 pages.

Unless specifically stated otherwise, the following fees will apply to copying of public records:

Paper Copies:

Paper size 8Y:z x 11" to 8Y:z x14"

Single sided page \$0.15 per page

Double sided page \$0.20 per page

Certified copies:

\$1.00 per certified document plus the number of pages as applicable.

Audio and video meeting copies:

\$5.00 per meeting regardless of meeting duration.

b) Costs of labor

If the nature or volume of public records requested to be inspected, examined, or copied is such as to require clerical and/or supervisory assistance, state law permits a special service charge, in addition to the actual cost of duplication, which will be reasonable and based upon the labor costs actually incurred for the clerical and supervisory assistance required.

Special service charges will be administered by the department head or designee in a manner consistent with the following guidelines:

After 10 minutes, a minimum charge of \$10 per hour will be charged for clerical assistance for an employee(s) time.

To compute special service charges, departments will use a current calculation formula table (Exhibit B), which may be amended as needed, in consultation with the Personnel Department.

This A.R. rescinds: A.R. 1-4 dated 7-2-90  
A.R. 1-4 dated 1-8-97  
A.R. 1-4 dated 5-27-98  
A.R. 1-4 dated 5-11-2015  
A.R. 1-4 dated 5-11-2015