



**TOWN OF LONGBOAT KEY
PUBLIC RECORDS INFORMATION**

Employee Name:

(Please Print)

Department:

Supervisor:

Extension:

By signing below, employee acknowledges he/she has received an overview of the Public Records and Sunshine Law as it pertains to the Town of Longboat Key and agrees to abide with established procedures for retention of public records and Sunshine Law compliance.

Date of Request: _____

Employee Signature: _____

Town Clerk's Signature: _____

For Town Clerk's Office Use Only

Date: _____ Scheduled Training Date: _____

- ☐ Completed overview of Public Records Law
- ☐ Provided E-Mail Disclaimer Language
- ☐ Completed overview of Electronic Records

By: _____

TOWN OF LONGBOAT KEY PUBLIC RECORDS POLICY

TOWN CLERK'S DEPARTMENT

I. RESEARCH PROCEDURES AND PRODUCTION

The Town Clerk, as custodian of the public records of the Town of Longboat Key, shall produce all requested records on file in the Town Clerk's Department in a reasonable time frame as outlined in Chapter 119 of the Florida Statutes.

All records on file in the Town Clerk's Department may be reviewed and inspected by the public at any reasonable date, time and within view of the records custodian or Deputy Clerks.

Record requests must specifically identify the subject documents by name and date and by as much other information as possible to aid in locating the documents; while staff will cooperate as fully as possible in providing documents, the Town has no legal obligation to perform research when insufficient information has been provided by anyone requesting documents.

The Town Clerk's Department will accommodate members of the public who research documents. The Town adheres to guidelines set forth by the Florida State Archives as it applies to researchers.

Researchers may bring pencils, blank paper, spiral and ring notebooks and legal pads into the office. Any notebook or pad which contains folders must be examined and the folders emptied. Briefcases, backpacks, purses, and portfolio bags are prohibited in the research area. Also prohibited are ink pens, felt tip pens, and highlight markers of any type. Pencils are furnished.

Researchers may not have any food or beverages in the records area.

II. DOCUMENT COPIES

A. REPRODUCTION

All photocopying of paper records or dubbing of tapes shall be done by the records custodian or Deputy Clerk. Photocopying of records and dubbing of tapes will be handled in a timely manner.

B. COST

When the nature or volume of records requested to be copied is extensive, a special service charge may be made in addition to the actual cost of duplication; in accordance with State law this charge shall be based upon the labor cost of the personnel providing the service.

A charge of \$.15 shall be made for each one-sided copy of not more than 14 inches by 8-1/2 inches. A charge of no more than an additional \$.05 shall be made for each two-sided copy. (As provided in F.S. 119.07(1)(a).)

A charge of \$1.00 per copy shall be made for a certified copy of a public record.

Audio tapes shall be dubbed at a cost of \$15.00 for each tape.

III. DISPOSITION OF PUBLIC RECORDS

All public records shall be retained or disposed of in accordance with State of Florida guidelines.

- IV. When there are questions concerning public records on file with the Town of Longboat Key not covered in this policy, Chapter 119 of the Florida Statutes shall be considered Town policy.

Revised: October 1993

Electronic Records

- This type of record involves the use of a computer to create, store, or retrieve records.
- Electronic Records must be scheduled and disposed of in the same manner as all other record types.

Electronic Records

Electronic Records are recorded
in machine-readable form

Hard or Floppy Disks

Optical Disks /Platters

Magnetic Tapes

Electronic Records

Advantages of Electronic Records:

- reduce storage space
- multiple user access
- elimination of misfiles
- improved readability

Electronic Records Advantages of E-Mail

Rapid transmittal of information

Elimination of telephone tag

Transmission of detailed messages

Electronic Records When is E-Mail public record?

Prepared in connection with
agency business

Intended to perpetuate,
formulate or communicate
knowledge

Electronic Records When is E-mail not a Public Record?

- Personal communications, internal or external

Examples:

Announcements of social events, retirement parties or holiday celebrations.



What Is A Public Record?

The Florida Supreme Court has interpreted a public record to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.

Any document meeting the above criteria is a public record.

Florida Statutes provides for the exemptions of various types of information in the course of providing access to various types of public records.



Exemption Information

- ★ A document is not automatically exempt from review if it contains information that is not to be released. The exempt information must be redacted (removed) prior to review of the document by any person not authorized to view the information.



Where Are Public Records Reviewed?

Public records are generally reviewed at the Office of the Town Clerk; however, there will be times when an active file is requested and when convenient to the requester and Staff, can be viewed in the office where the file is maintained. When providing access to public records, staff is not required to:

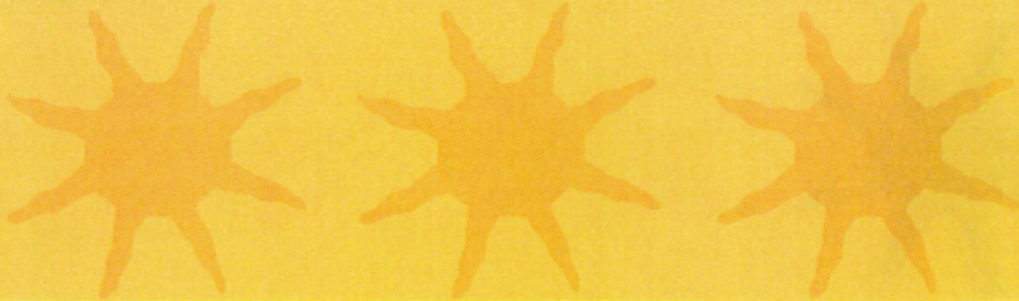
- ★ Produce information in a particular format not currently utilized by the Town
- ★ Create a **NEW** record
- ★ Interpret the information in the record
- ★ Provide *information* in a file (i.e.: read the contents of a file or document to an individual over the phone)



What Is The Charge For Duplication Of Public Records?

Florida Statutes, Chapter 119.07(1)(a), sets the fee schedule as follows:

- ★ .15¢ for a one-sided legal or letter size
- ★ .20¢ for a two-sided legal or letter size
- ★ \$1.00 for a certified copy (*certification is performed at the Office of the Town Clerk*)
- ★ Large documents (plans, blueprints, surveys, etc.) are reproduced off-site and the actual cost plus any applicable delivery fees are charged. No "add on" fees by the Town are assessed.



OPEN GOVERNMENT OVERVIEW:

Sunshine Law and Public Records Law

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Special Counsel for Open Government

Attorney General Pam Bondi



SCOPE OF THE SUNSHINE LAW

- Board members may not engage in private discussions with each other about board business, either in person or by telephoning, emailing, texting or any other type of electronic communication (i.e Facebook, blogs).



SCOPE OF THE SUNSHINE LAW

There are three basic requirements:

1. Meetings of public boards or commissions must be open to the public
2. Reasonable notice of such meetings must be provided; and
3. Minutes of the meetings must be prepared and open to public inspection.

SCOPE OF THE SUNSHINE LAW

- Staff meetings are not normally subject to the Sunshine Law.
 - However, staff committees may be subject to the Sunshine Law if they are deemed to be part of the “decision making process” as opposed to traditional staff functions like factfinding or information gathering.
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BOARD MEETINGS

- While boards may adopt reasonable rules and policies to ensure orderly conduct of meetings, the Sunshine law does not allow boards to ban nondisruptive videotaping, tape recording, or photography at public meetings.

PENALTIES

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- Civil action
 - Action taken in violation of the Sunshine Law may be invalidated.
 - Criminal penalties
 - Suspension or removal from office
-

THE TERM “PUBLIC RECORDS” MEANS:

- a) 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” (includes electronic communications like text messages, emails).
- b) Made or received pursuant to law or ordinance or in connection with the transaction of official business
- c) By any agency [including a private entity acting ‘on behalf of’ a public agency]
- d) Which are used to perpetuate, communicate, or formalize knowledge.

PROVIDING PUBLIC RECORDS

- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days).
- The Florida Supreme Court has stated that the only delay in producing records permitted under the statute is the reasonable time allowed the custodian to retrieve the record and redact those portions of the record the custodian asserts are exempt.

PROVIDING PUBLIC RECORDS

- Chapter 119 authorizes the custodian to charge a fee of up to 15 cents per one-sided copy for copies that are 14 inches by 8 1/2 inches or less. An additional 5 cents may be charged for two-sided copies. For other copies, the charge is the actual cost of duplication of the record. Actual cost of duplication means the cost of the material and supplies used to duplicate the record but does not include labor or overhead cost.
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RETENTION

- All public records must be retained in accordance with retention schedules approved by the Department of State
 - Even exempt records must be retained
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REVIEW QUESTIONS

1. Two county commissioners are talking to each other at a football game. A reporter is with the commissioners and able to hear the entire conversation. The commissioners:

The correct answer is D- Both B. and C. are correct.

- ✓ Have violated the Sunshine Law if they talked about matters that foreseeably could come before the commission for discussion or action.
- ✓ Have violated the Sunshine Law if they were talking about commission matters that have been scheduled for a vote by the commission.

2. A city commissioner meets privately with another member of the commission to discuss a contract which is under consideration by the commission. Which of the following is true?

The correct answer is A.

✓ The State Attorney could charge the commission members with a violation of the Sunshine Law.

3. On May 1, 2016, an election was held to fill 3 seats on the local soil and water conservation district. John Smith has been a supervisor on the district board since 2005 and was reelected. Jane Doe and Mary Jones have never served on the board and both were elected. All Three will be officially sworn in on June 1, 2016. Which of the following meetings is subject to the Sunshine Law?

The correct answer is D. Both A. and C. are correct.

✓ A meeting held May 2 between Jane Doe and Mary Jones.

✓ A meeting held on June 2 between Jane Doe, Mary Jones, and John Smith.

4. A city clerk wants to send an email from his personal computer to a city councilmember about an item on the council agenda. Which statement is correct?

The correct answer is A.

✓ The email is a public record.

Question #5

- A. Because the reprimand was overturned, the agency should destroy it.
 - B. The reprimand is a public record and must be provided in response to the public records request although the agency may attach a statement noting that the reprimand was overturned by a grievance committee.
 - C. Because the reprimand was overturned, the reprimand should be placed in a sealed envelope and the agency should not produce it in response to the public records request.
 - D. The reprimand is a public record because the grievance committee should not have held a public hearing on the grievance.
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6. A city advisory committee is voting to elect officers. The Chair has proposed that the members use written ballots. She would prefer that members be able to simply identify the person they are voting for, and not themselves on their ballots if they choose. Which of the following statements is true?

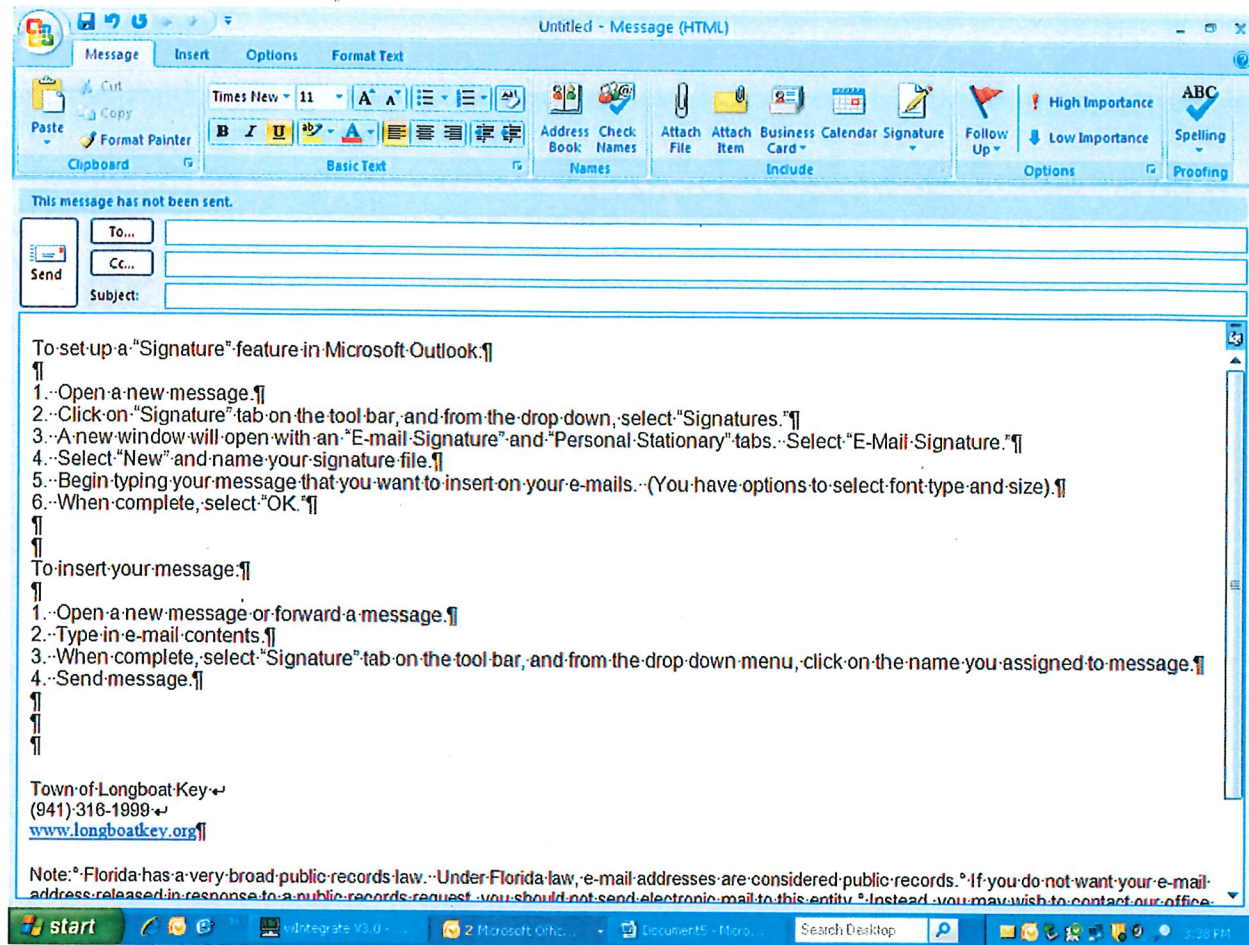
- A. Because the committee is only an advisory committee, the members are not required to use ballots that include the name of the person voting and the person they voted for. The members can simply mark their choice on the ballot and remain anonymous if they choose.
 - B. Because the vote is only to elect officers rather than to discuss or take action on committee issues, the members are not required to use ballots that include the name of the person voting and the person they voted for. They can simply mark their choice on the ballot and remain anonymous.
 - C. If written ballots are used, the ballots must include the name of the person voting and the person they voted for.
 - D. The committee is not allowed to use written ballots and can only cast votes via roll call.
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7. A city clerk has received over 150 public requests over the past year from John Jones. Each of the public records requests asks for records relating Jones' ex-wife who is a city employee. Jones is very rude and obnoxious when he comes to city hall to make his requests. Which of the following options is available to the clerk?

- A. Because Jones is so rude, the clerk would be authorized to ban him from city hall and instead require him to make his requests in writing or over the telephone.
 - B. Because Jones has asked for an extraordinary number of records, the city clerk would be authorized to ask him to specify the particular records that he wants.
 - C. Because Jones has made numerous public records requests which all relate to his ex-wife, he can be charged with stalking.
 - D. None of the above.
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ADDITIONAL RESOURCES

- Office of Attorney General Pam Bondi website:
<http://www.myfloridalegal.com>
- Governor Rick Scott website:
<http://www.flgov.com>
- First Amendment Foundation website:
<http://www.floridafaf.org>



E-Mail Disclaimer

Note: Florida has a very broad public records law. Under Florida law, e-mail addresses are considered public records. If you do not want your e-mail address released in response to a public records request, you should not send electronic mail to this entity. Instead, you may wish to contact our office by phone or in writing. All written documents are also considered public records and open for inspection upon request.