

INTRODUCED BY:  
COUNCILOR TUCKER



ORDINANCE NO. 2015-16

A BILL TO BE ENTITLED

**AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE III, OFFICERS AND EMPLOYEES; DIVISION 4, CITY CLERK, SECTION 2.168, RECORDS MANAGEMENT PROGRAM; ADDING SECTION 2.168(5) PUBLIC RECORDS POLICY; AND PROVIDING AN EFFECTIVE DATE.**

**Whereas**, the City Council of the City of Neptune Beach, Florida has determined that it is necessary to amend the following:

**Now, Therefore**, be it ordained by the City Council of Neptune Beach, Florida:

**Section 1.** Section 2.168. Records Management Program shall be amended as follows:

**Sec. 2.168. Records Management Program**

There is hereby created a city records center, under the office of City Clerk, with the responsibility of creating and maintaining a complete records management program for the city.

(1) Definitions.

- a. Archival records. Those public records, manuscripts and other records which document the origin and history of the government of the city and the development of its agencies, which are worthy of permanent preservation and special administration because of the importance of the information they contain.
- b. Disposition. The transfer of semi-active records to the city records/archive center for storage.
- c. Inactive records. Those records no longer required in active office areas but which require further retention due to legal, operating or historical reasons.
- d. Maintenance of public records. The creation, maintenance, protection, use and disposition of all public records of the city, including the establishment and maintenance of a system of filing and indexing public records.
- e. Records management. The guiding principle of records management is to insure that information is available when and where it is needed, in an organized and efficient manner, and in a well-maintained environment.
- f. Vital records. Those records which are essential to the operation of the city and the continuation of business or those records that are needed to protect the rights of the city's employees and/or citizens.

(2) Ownership of public records; legal custodial site.

- a. Ownership. All public records shall be the property of the city; and, in this regard, such records shall be delivered by outgoing officials and employees to their successors.

- b. Legal custodial site. Records not in current daily use shall be transferred to the city records center and, upon acceptance; said location shall be considered the legal custodial site of such records. Original records shall not be removed from the records center, except as deemed appropriate by the City Clerk.
- (3) Duties of City Clerk. It shall be the responsibility of the City Clerk to administer the records management program of the city in a manner consistent with the law. In this regard the City Clerk shall, among all other things that may be required for the proper and efficient management of the public records of the city:
- a. Inactive records. Provide and maintain a city records center to house and preserve inactive records prior to disposition.
  - b. Retention and disposition. Advise and assist city departments in the preparation of records retention and disposition schedules.
  - c. Approval of destruction schedules. Approve all destruction schedules before disposition of public records.
  - d. Archives preservation. Establish and maintain city archival records to ensure the preservation of historical documents.
  - e. Assistance to city department. Advise and assist city departments in reviewing and selecting material to be transferred to the records center for continued preservation, cataloging and research access.
  - f. Research. The City Clerk shall be responsible to insure the sound management of archival records and their availability for research.
  - g. Digital. Provide legally acceptable digital or other long-term preservation system services for public records for the centralization of such services.
  - h. Safety of essential records. Develop and institute a vital records program to ensure the safety of essential records in the event of a disaster.
- (4) Duties of the city departments.
- a. Create and maintain records. In the creation and development of public record, departments shall maintain complete and accurate records in a manner which will provide to the reader, the ability to reconstruct all events.
  - b. Records management. Departments, with the advice of the City Clerk, shall establish and maintain an active, continuing program for the economical and efficient management of the records of the department. Such program shall, among other things, provide for the following:
    - 1. Efficient control. Effective controls over the creation, maintenance, and use of records in the conduct of current business.  
  
Cooperation with City Clerk. Cooperation with the City Clerk in applying standards, procedures, and techniques designed to improve the management of records.
    - 3. Security of records. Promotion of the maintenance and security of records deemed appropriate for preservation.
    - 4. Disposition of non-record documents. City departments have the authority to destroy non-records documents when no longer needed for reference, as authorized by the City Clerk.

- c. Transferal to records center. Those public records which are not required in the current daily operation of the office where they are made or kept, and all public records which can properly be abolished or discontinued, including duplicate files, shall be transferred to the city records center so that the selected historical records of the city may be centralized, preserved, and made more widely available, or be approved for destruction.
- d. Representative. The city manager shall designate a representative of each department to coordinate the management of records in that department.

The representative shall:

- 1. Coordinate all records management activities and functions within the department and with the City Clerk;  
With the advice and assistance of the City Clerk, inventory or manage the inventory of all public records for disposition scheduling and transfer action in accordance with procedures recommended by the City Clerk;
- 3. Consult with any other personnel responsible for creation or maintenance of specific records within the department regarding records retention and transfer recommendations;
- 4. Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the City Clerk retention for all copies commensurate with legal, financial and administrative needs;
- 5. Review established records retention schedules at least annually to insure that they are complete and current.

(5) Public Record Request Policy.

It is the policy of the City of Neptune Beach that all employees comply with Florida's public record law and records retention schedules for public records, including electronic mail (e-mail).

- a. Public Records Provided on the City of Neptune Beach Website: To reduce the amount of public records requests, the entire City of Neptune Beach Code of Ordinances can be found on the City website as well as all newly adopted ordinances and resolutions.

All Council and Board meeting agendas, minutes, public notices and audio should also be easily accessible to the public on the City website to help minimize the number of public record requests. It shall be the responsibility of the department creating said documents to ensure they are updated on the website in a timely manner. All meeting and board minutes do not need to be approved before they are placed on the website, but it should be clearly noted that those minutes have not been approved by the Council or Board.

- b. Florida Public Records Law: Florida Statutes Chapter 119 defines public records as: "All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of physical form, or characteristics, or means of transmission, made or received pursuant to law or ordinances or in connections with the transaction of official business of any agency."

The Florida Supreme Court interprets this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate or formalize knowledge. All of these materials, regardless of form, are open for public inspection unless the legislature has specifically exempted them from disclosure.

Email created or received by City employees in connection with official business which perpetuates, communicates, or formalizes knowledge is subject to the public records law and open for inspection. If in doubt as to whether an email is public record or contains exempt information, contact the City Clerk.

- c. Records Custodian: The Charter of the City of Neptune Beach designates the City Clerk as custodian of all City public records. The City Clerk is charged with developing a records management system for all public documents within the City, inclusive of distribution and retention.

For purposes of the State Public Records law, the custodian of any public record is the official charged with the responsibility of maintaining an office controlling public records. The custodian therefore is the person in charge of the office wherein the records are maintained.

- d. Responding to Public Record Requests:

1. Public record requests may be made in writing or orally.
2. Public record requests may be made at any individual department location.
3. All public record requests should be referred to the City Clerk's Office.
4. The department director or the city clerk is responsible for assigning an employee(s) to gather the requested documents and forward them to the city clerk.
5. City employees cannot require the requestor to make their request in writing. The requestor is also not required to identify himself or herself. In certain cases it may be necessary to obtain a contact telephone number to arrange for a follow up meeting.
6. If unable to comply with the request, the employee shall document the reason(s) why. If the information requested is not available in the originating department the request shall be directed to the City Clerk's office, who shall contact the appropriate department.
7. If the information is available in the originating department the copies are made and forwarded to the City Clerk's office who shall be responsible for contacting the requestor. NOTE: If extraordinary supervisory or clerical time is required to comply with the request it shall be noted so that appropriate charges may be assessed.
8. In order to minimize inconveniencing citizens, if a public records request is received in a particular department and the department staff has the document readily available, they may disseminate the requested information.

9. The City Clerk shall maintain a comprehensive file of the requests. The City Clerk will be responsible for determining the applicable monetary charges if any, for the copies and providing it to the requestor.
  10. In the event that City personnel are unable to determine which records are being requested or have determined these records do not exist, the City Clerk will be responsible for informing the requestor.
- e. Exemptions: There are limited exemptions to the Public Records Statute. There are exemptions in the area of certain personnel information, employee medical information, collective bargaining, limited, uncirculated "draft" documents and several other areas.
- If a public employee is working on a true "draft" document before it is transmitted, disseminated or circulated for review or comment, that draft is NOT a public record and need not be released. When a version of the document is ultimately transmitted, disseminated or circulated for review or comment that version IS a public record and all draft versions (not transmitted or circulated) may be deleted or discarded.
- There is no unfinished business exemption. Any agency document, however prepared, if circulated to review, comment or information is a public record, regardless of whether or not is an official expression of policy or marked "draft" or "working draft" or "preliminary." Documents need not be circulated or transmitted to someone else in order to become a public record. Personal notes are public records if they are intended to perpetuate or formalize knowledge or information related to official business.
- If an employee handling a public records request is unsure if a requested document is exempted, that employee shall contact either the City Clerk or the City Attorney for clarification.
- When a public record contains some information which is exempt from disclosure, 119.07 requires (2)(a), or requires the custodian of that document to delete or excise only that portion or portions of the record for which an exemption is asserted and to furnish the remainder of that record for examination.
- A custodian of a public record who contends that a record or part of a record is exempt from inspection must state the basis for the exemption including the statutory cite to the exemption. Upon request the custodian must state in writing and with particularity the reason for the conclusion that the record is exempt from inspection. Each of these cases shall be referred to the City Clerk.
- f. Time to Respond: The Public Records Law requires that requests be responded to within a reasonable time. This has been interpreted by the Courts that it is not reasonable to indefinitely delay a request because of other, more pressing or important matters pending.
  - g. Guidelines: It is the intent and policy of the City of Neptune Beach to comply with the State of Florida Public Records Law. Public policy dictates that the City protect its public records with legal, fiscal, administrative or historical value and make those applicable records available to the public.

City employees are expected to handle all public record requests, promptly, courteously and efficiently. Employees uncertain about requests or elements of a request are expected to seek guidance from their department director or the City Clerk.

h. Fees for copies of public records:

One sided copies letter or legal - \$0.15

Two sided copies letter or legal - \$0.20

One of two sided copies ledger 11 x 17 - \$0.25

Large blueprint size copies - \$6.00

Certified copy of public record - \$1.00

**Section 2.** The Ordinance shall become effective on after passage by the City Council.

**VOTE RESULTS OF FIRST READING:**

Mayor Harriet Pruette	Yes
Vice Mayor Richard Arthur	Yes
Councilor John Jolly	Yes
Councilor Kara Tucker	Yes
Councilor Scott Wiley	Yes

Passed on First Reading this 9<sup>th</sup> day of September, 2015.

**VOTE RESULTS OF SECOND AND FINAL READING:**

Mayor Harriet Pruette	Yes
Vice Mayor Richard Arthur	Yes
Councilor John Jolly	Yes
Councilor Kara Tucker	Yes
Councilor Scott Wiley	Yes

Passed on Second and Final Reading this 5<sup>th</sup> day of October, 2015.

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Harriett Pruette, Mayor

ATTEST:

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Karla Strait, CMC, City Clerk

Approved as to form and correctness:

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Patrick Krechowski, City Attorney