

## **ORDINANCE NO. 1458-17**

**AN ORDINANCE ESTABLISHING SECTION 2-33 COMPLIANCE AND SECTION 2-33(1) DUTIES OF ELECTED OFFICIALS IN THE CODE OF ORDINANCES FOR THE PURPOSE OF IDENTIFYING METHODS OF COMPLIANCE WITH PUBLIC RECORDS REQUESTS PERTAINING TO CELL PHONE USAGE, PROVIDING FOR SEVERABILITY, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Milton is aware that public records requests are inclusive of cell phone text messages;

WHEREAS, the City Council of the City of Milton seeks to ensure compliance with the duty to preserve public records;

WHEREAS, the City Council of the City of Milton seeks to ensure compliance with the Florida Sunshine law;

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

### **DUTIES OF ELECTED OFFICIALS**

- a) The Mayor and the City Council are understood to have a duty to preserve public records created on cellular phones any of them use, whether issued by the City or privately owned;
- b) The Mayor and the City Council are responsible for preserving or providing to the Custodian of Records for preservation the following: cell phone records, including text message content (if available), voice mail records, SMS text messages, telephone number logs, and all text message details to the extent any of these are public records or a portion of them are public records;
- c) Because cell phone providers cannot be relied upon to provide promptly the content of text messages or other content which may be a public record, the Mayor and the City Council are responsible for (1) refraining from deleting any content which may be a public record; and (2) providing access to cell phone text message content to the Custodian of Records or an IT professional employed by the City to ensure the electronic public record is preserved;
- d) To review the public records policy of the City of Milton and, where a question exists, to consult with the City Attorney as to whether a record is a public record.

### **SEVERABILITY**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**REPEALER**

All ordinance and parts of ordinances in conflict with this ordinance are hereby repealed.

**EFFECTIVE DATE**

This Ordinance shall be effective upon passage by the City Council.

PASSED by the City Council of the City of Milton, Florida on the 14<sup>th</sup> day of September, 2017.

CITY OF MILTON, FLORIDA

BY: Wesley Meiss  
WESLEY MEISS, MAYOR

ATTEST:  
CITY CLERK: Danette Reeves  
First Reading: August 8, 2017  
Second Reading: September 12, 2017

Legal in form and valid when signed by City Attorney.

Heather F. Lindsay  
HEATHER F. LINDSAY, ESQUIRE

**NOTICE OF PROPOSED ORDINANCE ENACTMENT**

**TO WHOM IT MAY CONCERN:**

Please be advised that on the 12th day of September, 2017 at 5:31 p.m., CST,  
in the City Council meeting room at the City Hall at 6738 Dixon Street, in the City of Milton,  
Florida there will be proposed for enactment an Ordinance whose title is as follows:

**ORDINANCE NO. 1458-17**

**AN ORDINANCE ESTABLISHING SECTION 2-33  
COMPLIANCE AND SECTION 2-33(1) DUTIES OF ELECTED  
OFFICIALS IN THE CODE OF ORDINANCES FOR THE  
PURPOSE OF IDENTIFYING METHODS OF COMPLIANCE  
WITH PUBLIC RECORDS REQUESTS PERTAINING TO  
CELL PHONE USAGE, PROVIDING FOR SEVERABILITY,  
REPEALING ALL ORDINANCES IN CONFLICT  
HEREWITH, AND PROVIDING AN EFFECTIVE DATE.**

This Ordinance is on file in the City Clerk's office for inspection. Any interested party may  
appear at the meeting and be heard with respect to the proposed Ordinance.

This date of August 9, 2017.

  
City Clerk

To be published at least ten (10) days in advance of the date of adoption.

Copy of this notice emailed to the newspaper August 9, 2017.

## CITY CLERK'S CERTIFICATE

THIS ORDINANCE was read by title on the 8th day of August, 2017 ,  
and on the 12th day of September , 2017. Notice of the proposed ordinance was published  
ten (10) days in advance of its adoption on the 12th day of September, 2017, and this  
ordinance has been on file in the office of the City Clerk for inspection for more than ten (10)  
days prior to its publication.

  
City Clerk

8/856

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posed Ordinance.

This date of August 9,  
2017.

Dewitt Nobles  
City Clerk

8/16 & 8/23/2017

8/856