ORDINANCE NO. 2006-02-15

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE TO AMEND THE OPEN RECORDS POLICY FOR THE CITY OF SANDY SPRINGS

WHEREAS, it is necessary, from time to time, to establish policies and procedures consistent with the administration of a municipal government in alignment with federal and state regulations; and

WHEREAS, the City of Sandy Springs intends to utilize this policy and procedures in all applications of open records requests.

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on February 7, 2006 at 7:00 p.m. as follows:

SECTION 1. That the City of Sandy Springs adopted an Open Records Policy on the 3rd day of January, 2006, Ordinance No. 2006-01-03; and

SECTION 2. That the Ordinance relating to Open Records Policy is hereby adopted, amended, and approved and is attached hereto as if fully set forth herein; and,

SECTION 3. That the First Reading of the Ordinance to Amend the Open Records Policy was held on February 7, 2006; and

SECTION 4. That this Ordinance shall be designated as the Open Records Policy of the City of City of Sandy Springs, GA; and,

SECTION 5. This Ordinance shall be effective immediately upon its adoption.

NOW, THEREFORE, BE IT SO ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, this the 21st day of February, 2006.

Approved:

Eva Galambos

Eva Galambos, Mayor

Attest:

Jeanette R. Marchiafava

Jeanette R. Marchiafava, City Clerk

(Seal)

CITY OF SANDY SPRINGS OPEN RECORDS POLICY

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I. **PURPOSE** - The purpose of this policy is to provide procedures for open records requests.

II. **POLICY** - The City of Sandy Springs is committed to conducting City business in a manner that complies with all legal requirements, fosters citizen confidence in City government, and promotes efficient and effective governmental operations. The City recognizes the importance of communicating information to citizens and other interested parties and will cooperate in supplying requested information which is considered a matter of public record.

III. **PUBLIC RECORDS** - O.C.G.A. 50-18-70 (a) defines a public record as all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency. Public records shall also mean such items received or maintained by a private person or entity on behalf of a public office or agency that are not otherwise subject to protection for disclosure.

O.C.G.A. 50-18-70 through 77, called the Georgia Open Records Act, establishes the right of every citizen to inspect and take a copy of all records except those specifically exempt from being open. When the City of Sandy Springs receives a record request under the Open Records Act, it must comply with guidelines established in the law:

- The City of Sandy Springs shall determine to determine if the requested records are subject to access and are public documents as defined by the Georgia Open Records Act. The City shall have a reasonable amount of time to determine whether or not the requested document(s) is a public record(s), and in no event shall this time exceed three (3) business days.
- Documents determined to be public documents shall be produced at the earliest possible time after the City of Sandy Springs receives any applicable fees and copying costs.
- If the records are not public documents as defined by the Georgia Open Records Act, the City of Sandy Springs must respond in writing specifying the legal authority for restricting access to the records.
- If the public documents are not immediately available, the City of Sandy Springs must provide a written description of the records and a timetable for their production.

IV. **OWNERSHIP OF PUBLIC RECORDS** – Records created and acquired in the course of conducting government business are the property of the City of Sandy Springs and of the State of Georgia. Persons who create or acquire custody or possession of official records

by virtue of their positions do not necessarily attain a proprietary interest in these records. City of Sandy Springs records are public records under the law and belong to the government. All employees are responsible for reporting any actual or threatened loss or removal of records to the City Clerk, or City Manager.

V. **RELEASE OF INFORMATION PROCEDURES** - Formal requests for information under the Public Records Act pursuant to O.C.G.A. § 50-18-70 should be made in writing to the City Clerk. The City Clerk may accept requester's formal written or verbal request or shall provide an Open Records Request Form to the person making the request, which must be completed and returned to the City Clerk for further action. Upon receipt of request, the City Clerk will notify the appropriate Department Head/Director by Form ORR-1 for retrieval of information and any deadlines. When the requested information is compiled, all information along with Form ORR-1, reflecting approval by the Department Head/Director and an estimate of costs and time, will be submitted to the City Clerk. (See Form ORR-1) The City Clerk will certify information, arrange for the attorney review and approval, issue an invoice, and notify requester that information is ready for review.

If a request is received by anyone other than the City Clerk, who is the Custodian of Records, that person shall notify the City Clerk as quickly as possible and the requester shall be referred to the City Clerk. Within three (3) business days from the receipt of the request by the City, the City Clerk shall advise the requester when the documents will be available for inspection and copying and what, if any, documents are not subject to the Open Records Act. The City shall make reasonable efforts to expedite an Open Records Request providing information that is readily available in advance of three (3) business days.

Exception: Standardized and routine open records requests such as accident, incident, and miscellaneous reports and general research and analysis requests from the Police and Fire Departments will be received and handled by the Police and Fire Departments. Open record requests pertaining to municipal court dispositions will be handled by the Clerk of Court.

Whenever either type of request is received, the Department Head/Director or designated person responsible for control of that information should ensure that the information is provided as quickly as possible. Within three (3) business days, the City Clerk will be advised of requests, which cannot be available to the requester within three (3) business days from the date of receipt. The advisory will include a description of the records requested and a timetable for availability. The City Clerk will provide a written notification of this information to the requester within three (3) business days ~~24 hours.~~ In no event shall more than three (3) business days lapse before a written timetable of inspection is provided to the requester from the City Clerk or the information is provided to the requester.

Exceptions to the Open Records law are provided in Section VII, "Exemptions". If there is a question as to whether or not information requested is subject to the Open Records law, the Department Head/Director shall immediately contact the City Clerk. ***In all cases, the City Attorney shall make the final decision if information is to be withheld and will provide a written response citing the appropriate code section, which exempts the records from being released.***

VI. **INSPECTION OF RECORDS; FEES, COSTS** – Pursuant to O.C.G.A. § 50-18-70, if an individual has the right to inspect a record, he/she also has the right to make extracts or to make copies of the records under the supervision of the custodian of the records. If information is to be released, the requester will be allowed access, during normal business hours, to the documents containing the requested information. Documents are available for inspection during normal city business hours.

The City of Sandy Springs it not obligated to prepare reports, summaries or compilations of public records not in existence at the time of the request.

A written response to all formal requests must be prepared indicating the time and place the record may be inspected and the approximate cost involved. Copies must be furnished, if requested, and created via the most economical means available. The person making the request shall reimburse the City a fee of $.25 cents per page before any public documents are produced. In addition, the person making the request may be assessed a reasonable charge for the search, retrieval, monitoring and other administrative costs of complying with the request. The administrative charge shall not exceed the lowest paid full-time employee who, in the discretion of the City of Sandy Springs, has the necessary skill and training to perform the request. The person making the request shall not be charged for the first fifteen minutes of that employee's time in complying with the request.

-Additional fees may be charged for other relevant information (e.g. comprehensive plans, manuals, zoning and municipal ordinances, CDs) in accordance to the adopted citywide fee schedules.

Where information requested is maintained by computer, and the person requesting the information requests the information in an electronic format, the City of Sandy Springs shall charge the requesting person the City's actual cost of a computer disk or cd onto which the information is transferred and will charge for the administrative time involved as set forth above.

Redaction of Information Some documents/materials are exempted from release in their entirety and these items documents shall not be produced subject to an Open Records Act request. Other documents/materials contain only specific information, which is exempted from release. In these instances, a photocopy of the document will be made and the specific exempted information will be redacted. The document photocopy will then be recopied to insure it cannot be read. If any information is redacted or removed from a public document, the person requesting the information should be provided with a written explanation specifying the legal authority upon which the removal or redaction is based.

VII. **EXEMPTIONS**

Types of documents that are not subject to disclosure under the Georgia Open Records Act are defined in O.C.G.A. 50-18-72. ***(In all cases, the City Attorney shall make the final***

decision if information is to be withheld and will provide a written response citing the appropriate code section, which exempts the records from being released)

Exempted documents include:

1. Any record required by the federal government to be kept confidential.

2. Medical or veterinary records and similar files, the disclosure of which would be an invasion of personal privacy.

3. Certain records pertaining to law enforcement and prosecutions, including:

    a. Documents that would disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person, or disclose the existence of a confidential source of investigation.

    b. Documents regarding a pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving said investigation and prosecution has become final or otherwise terminated.

4. Accident Reports.
    a. Individual Georgia Uniform Motor Vehicle Accident Reports, shall not be produced without a written statement from the requesting party or that party's attorney stating that the party:

        i. Has a personal, professional, or business connection with a party to the accident;

        ii. Owns or leases an interest in property allegedly or actually damaged in the accident;

        iii. Was allegedly or actually injured by the accident;

        iv. Was a witness to the accident;

        v. Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;

        vi. Is a prosecutor or a publicly employed law enforcement officer;

        vii. Is alleged to be liable to another party as a result of the accident;

viii. Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;

ix. Is gathering information as a representative of a news media organization;

x. Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, this subparagraph will apply only to accident reports on accidents that occurred more than 30 days prior to the request and which shall have the name, street address, telephone number, and driver's license number redacted; or

xi. Is a governmental official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties.

b. Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any person absent a written statement described in subsection (a) and a written statement showing the need for each such report in bulk.

5. Documents Relating to Public Employment. Records that consist of confidential evaluations submitted to, or examinations prepared by, a governmental agency and prepared in connection with the appointment or hiring of a public officer or employee; and records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees until ten days after the same has been presented to the agency or an officer for action or the investigation is otherwise concluded or terminated, provided that this paragraph shall not be interpreted to make such investigatory records privileged.

6. Documents Relating to Public Property. The following documents are exempt and shall not be produced pursuant to an Open Records Act Request.

(a) Real estate appraisals, engineering or feasibility estimates, or other records made for or by the state or a local agency relative to the acquisition of real property until such time as the property has been acquired or the proposed transaction has been terminated or abandoned; and

(b) Engineers' cost estimates and pending, rejected, or deferred bids or proposals until such time as the final award of the contract is made or the project is terminated or abandoned.

7. Records of farm water use by individual farms as determined by water-measuring devices installed pursuant to *Code Section 12-5-31* or 12-5-105; provided, however, that compilations of such records for the 52 large watershed basins as identified by the eight-digit United States Geologic Survey hydrologic code or an aquifer that do not reveal farm water use by individual farms shall be subject to disclosure under this article;

8. Records that contain site specific information regarding the occurrence of rare species of plants or animals or the location of sensitive natural habitats on public or private property if the Department of Natural Resources determines that disclosure will create a substantial risk of harm, theft, or destruction to the species or habitats or the area or place where the species or habitats are located; provided, however, that the owner or owners of private property upon which rare species of plants or animals occur or upon which sensitive natural habitats are located shall be entitled to such information pursuant to this article;

9. Financial and Identification Matters.

a. An individual's social security number and insurance or medical information in personnel records, which may be redacted from such records;

b. An individual's social security number, mother's birth name, credit card information, debit card information, bank account information, financial data or information, and insurance or medical information in all records, and if technically feasible at reasonable cost, day and month of birth, which shall be redacted prior to disclosure of any record requested pursuant to Georgia Open Records Act.

c. Public records containing information that would disclose or might lead to the disclosure of any component in the process used to execute or adopt an electronic signature, if such disclosure would or might cause the electronic signature to cease being under the sole control of the person using it. For purposes of this paragraph, the term "electronic signature" has the same meaning as that term is defined in *Code Section 10-12-3*;

d. The exemptions in this subparagraph do not apply:

i. If the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity which states that such person or entity is gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that this news media organization exception for access to social security numbers and day and month of birth and the other protected information set forth in this subparagraph shall not apply to teachers and employees of a public school.

ii. The disclosure of information contained in the records or papers of any court or derived therefrom including without limitation records maintained pursuant to Article 9 of Title 11;

iii. The disclosure of information to a court, prosecutor, or publicly employed law enforcement officer, or authorized agent thereof, seeking records in an official capacity;

iv. The disclosure of information to a public employee of this state, its political subdivisions, or the United States who is obtaining such information for administrative purposes, in which case, subject to applicable laws of the United States, further access to such information shall continue to be subject to the provisions of this paragraph;

v. The disclosure of information as authorized by the order of a court of competent jurisdiction upon good cause shown to have access to any or all of such information upon such conditions as may be set forth in such order;

vi. The disclosure of information to the individual in respect of whom such information is maintained, with the authorization thereof, or to an authorized agent thereof; provided, however, that the agency maintaining such information shall require proper identification of such individual or such individual's agent, or proof of authorization, as determined by such agency;

vii. The disclosure of the day and month of birth and mother's birth name of a deceased individual;

viii. The disclosure by an agency of credit or payment information in connection with a request by a consumer reporting agency as that term is defined under the federal Fair Credit Reporting Act *(15 U.S.C. Section 1681,* et seq.);

ix. The disclosure by an agency of information in its records in connection with the agency's discharging or fulfilling of its duties and responsibilities, including, but not limited to, the collection of debts owed to the agency or individuals or entities whom the agency assists in the collection of debts owed to the individual or entity; or

x. The disclosure of information necessary to comply with legal or regulatory requirements or for legitimate law enforcement purposes.

e. In the event that the City of Sandy Springs has good faith reason to believe that a pending request for such records has been made fraudulently, under false pretenses, or by means of false swearing, such custodian shall apply to the superior court of the county in which such records are maintained for a protective order limiting or prohibiting access to such records.

10. Information Relating to Alarm Systems. Records that would reveal the names, home addresses, telephone numbers, security codes, or any other data or information developed, collected, or received by counties or municipalities in connection with the

installation, servicing, maintaining, operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other electronic security systems; provided, however, that initial police reports and initial incident reports shall remain subject to disclosure in accordance with this policy and the Open Records Act.

11. Records that reveal the home address, home telephone number, or the social security number of or insurance or medical information about public employees.

12. Acquired by an agency for the purpose of establishing or implementing, or assisting in the establishment or implementation of, a carpooling or ridesharing program, to the extent such records would reveal the name, home address, employment address, home telephone number, employment telephone number, or hours of employment of any individual or would otherwise identify any individual who is participating in, or who has expressed an interest in participating in, any such program. As used in this paragraph, the term "carpooling or ridesharing program" means and includes, but is not limited to, the formation of carpools, vanpools, or bus pools, the provision of transit routes, rideshare research, and the development of other demand management strategies such as variable working hours and telecommuting;

13. Records Requiring Protection For Security Purposes.

a. Records, the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, or public property, which shall be limited to the following:

i. Security plans and vulnerability assessments for any public utility, technology infrastructure, building, facility, function, or activity in effect at the time of the request for disclosure or pertaining to a plan or assessment in effect at such time;

ii. Any plan for protection against terrorist or other attacks, which plan depends for its effectiveness in whole or in part upon a lack of general public knowledge of its details;

iii. Any document relating to the existence, nature, location, or function of security devices designed to protect against terrorist or other attacks, which devices depend for their effectiveness in whole or in part upon a lack of general public knowledge; and

iv. Any plan, blueprint, or other material which if made public could compromise security against sabotage, criminal, or terrorist acts.

b. As used in divisions (i) and (iv) of subparagraph (a) of this paragraph 13, the term "activity" means deployment or surveillance strategies, actions mandated by changes in the federal threat level, motorcades, contingency plans, proposed or alternative motorcade routes, executive and dignitary protection, planned responses to criminal or terrorist actions, after-action reports still in use, proposed or actual plans and responses to bioterrorism, and proposed or actual

plans and responses to requesting and receiving the National Pharmacy Stockpile.

14. Documents Relating to 9-1-1 Emergency Call Systems. Unless the request is made by the accused in a criminal case or by his or her attorney, public records of an emergency 9-1-1 system, as defined in paragraph (3) of *Code Section 46-5-122*, containing information which would reveal the name, address, or telephone number of a person placing a call to a public safety answering point, which information may be redacted from such records if necessary to prevent the disclosure of the identity of a confidential source, to prevent disclosure of material which would endanger the life or physical safety of any person or persons, or to prevent the disclosure of the existence of a confidential surveillance or investigation;

15. Trade Secrets. Any trade secrets obtained from a person or business entity which are of a privileged or confidential nature and required by law to be submitted to a government agency or to data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher learning, or other governmental agencies, in the conduct of or as a result of, study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where such data, records, or information has not been publicly released, published, copyrighted, or patented;

16. Attorney-Client Privilege.

a. Communications between any person and his or her attorney shall not be produced pursuant to an Open Records Act request. The attorney-client privilege recognized by state law to the extent that a record pertains to the requesting or giving of legal advice or the disclosure of facts concerning or pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee; provided, however, attorney-client information may be obtained in a proceeding under *Code Section 50-18-73* to prove justification or lack thereof in refusing disclosure of documents under this Code section provided the judge of the court in which said proceeding is pending shall first determine by an in camera examination that such disclosure would be relevant on that issue;

b. Documents that are subject to the attorney work product doctrine are not subject to disclosure pursuant to an Open Records Act request.

17. Certain Computer Programs. Any computer program or computer software used or maintained in the course of operation of a public office or agency.

Adopted on the 21st day of February, 2006.