

ADMINISTRATIVE POLICY

PUBLIC RECORDS/INFORMATION REQUEST POLICY

Dated: August 19, 2009

Amended: January 1, 2012

This policy is amended to include changes to the Definition of a Public Record. <sup>1</sup>

**Definition of a Public Record.** A Public Record is defined as:

- Any information that is prepared, owned, used or retained by a public body;
- Any document or retainable information that relates to an activity, transaction or function of a public body, and
- Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of a public body.

A Public Record does not include:

- Records or information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905;
- Extra copies of a document, preserved only for convenience of reference;
- Messages on voice mail or on other telephone message storage and retrieval systems; and
- Spoken communication that is not recorded.

1. Public Record Written Requests. Unless otherwise provided by this policy, requests for inspection and/or copies of public records shall be in writing on a form prescribed by the City. The form shall, at a minimum, require submission of the following information:

- a. The name, address, telephone number and signature of the person making the request, or the person's authorized representative.
- b. A statement of sufficient specificity to determine the nature, content, and probable department within which the record may be located and the reason for the request.
- c. The date of the request.

2. Records Request Procedures: Upon receipt of a written request for public records, the request shall be date stamped and processed as follows:

- a. Routine requests will be handled within the Department. Complex requests that may implicate application of statutory exemption from disclosure shall be submitted to the City Attorney, who shall: determine if a request can be complied with; and direct the submitting City employee, the City Recorder or his/her designee whether to comply with the request.
- b. All requests shall be responded to "as soon as possible and without unreasonable delay." [ORS 192.440(2)] The written response must: formally acknowledge the receipt of the request; when possible, provide an estimate of the costs of making the records available

---

<sup>1</sup> Passed by the 2011 Legislature - HB 2244

for inspection or providing copies (together with an explanation of how the estimated costs were calculated); and include at least one of the following:

- A statement that the City is not in possession of the requested records or is not the custodian of the records or is not the custodian of the records;
- A request from the City asking the requestor to clarify the request for the purpose of expediting the City's response to the request;
- Copies of the requested records and an invoice for the costs to provide the records (including an explanation of how the costs were calculated);
- A statement that the City is in possession of at least some of the requested records, the amount of time the City needs before the records will be available to the requestor, and a cost estimate for providing the records; unless exempted by the City Manager or City Attorney, staff shall require payment of the costs in advance;
- A statement that the City is uncertain if it is in possession of the records and the amount of time the City needs to search for the records; or
- A statement that the public records are exempt from public disclosure under state and/or federal law (including a reference to the specific statutory exemption).

A form letter containing the standard response option is included as an attachment to this policy. City staff should use this format in preparing its responses. An electronic, Word version is available from Administration staff.

- c. When requested, City staff shall provide a copy of this Policy as the adopted written procedures for handling public records requests.

3. Fees. ORS 192.440(4) authorizes the public body to charge fees associated with requests, including requiring that the fees be paid up front. The fees charged shall include, but not be limited to, personnel and copying costs associated with processing the request plus all other costs allowed under state law. The standard fees to be charged are located on the back of the Public Records Request forms (as established by City Manager per § 6.d of this policy).

- a. Personnel costs include, but are not limited to, employee's time spent while locating, compiling, reviewing, separating and copying records, including time required to segregate or redact exempt information and time spent supervising public inspection of records. Costs shall be at an hourly rate equivalent to the salary plus benefits (computed at an hourly rate) of each employee involved in processing the request. The fee will be charged based on the level of the employee needed to secure the requested information.
- b. Costs for locating and duplicating photographs, audio tapes and other non-paper materials shall be fully reimbursed.
- c. City personnel are not to reduce copy size or otherwise manipulate records in order to fit additional records on a page thereby reducing per page costs, unless concluding it would be the most effective use of their time. To conserve paper, copies should be double-sided when it is practical to do so. A double-sided copy consists of two pages for purposes of calculating the appropriate costs.

4. Payment of Fees. All estimated costs exceeding \$20.00 must be paid before the records can be made available for inspection or copies provided. When the estimate exceeds actual cost, the overpayment shall be refunded by the City. Except as otherwise provided by these rules, public records shall not be released for inspection or as copies to members of the public unless the City has received payment from the requesting party for providing the information.

5. Records Requested for Court Proceedings. The City shall not charge fees or costs incurred by the City when an employee of the City, in the employee's role as custodian of the records, is a witness in a trial or other court proceeding. When the City is a party, or representative of a party, to a court proceeding and a request for copies of public records is made by a party to a court proceeding in the course of discovery, then the cost to be charged for providing such copies shall be limited to those indicated above; provided, however, that the attorney representing the City may, in his/her discretion, waive such costs.

6. City Manager Authority. The City Manager or his/her designee shall have the authority to:

- a. waive the requirement that the request must be in writing on a form provided by the City; this authority shall also extend to the City Attorney;
- b. waive fees if the request is of a one-time nature, requires copying five or less pages and involves less than ten minutes of staff time to process; this authority shall also extend to all City Department Heads;
- c. waive required compliance with this policy in special cases where the public interest in supplying a public record free of charge outweighs the cost of furnishing the record;
- d. establish a particular charge or fee for routinely-requested documents where the charge is a reasonable approximation of the City's cost; and
- e. periodically adjust fees to cover increased costs of providing public records and information.

7. Exemption from Fees. The following individuals, groups or organizations shall not be charged for photocopying costs or the first thirty (30) minutes of staff time required to process a public information request. However, if it is determined a specific request will take longer than thirty (30) minutes of staff time to process, the requesting party may ask the City Manager to reduce or waive all additional fees associated with providing the requested record:

- a. any member of the City Council;
- b. a board, commission or committee member of this City; or
- c. any other government agency.