

## ADMINISTRATIVE POLICY

### ADM/POL

#### **TITLE: PUBLIC RECORDS REQUEST**

Effective Date: 12/10/18      Last Approved Revision: 09/01/2019

References: Public Records

Amends: All Prior Policies

Approved by: Nathan Cherpeski, City Manager

**Policy Purpose:** Establishes an Administrative Policy for responding to public record requests correlating with State law.

This policy repeals all prior City policies and includes changes to Public Records Law from Senate Bill 481 passed by the House on June 12, 2017.

#### **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 (unless a digital imprint/record is created); 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. All Public Record Request are to be forwarded to the City Recorder to handle; except for the Police Department's, which will be handled through their Office Manager in the same manner as related and prescribed by House Bill 481. Upon request by the Department any Public Record Request can be handled by the City Recorder. With any

Public Record Request with questions related to complex requests that may implicate application of statutory exemption from disclosure or litigation, shall be submitted to the City Attorney, who shall determine if the request can be legally complied with.

- b. All requests shall be responded to with receipt of receiving the request within 5 days and complied with or handled as prescribed by HB 481 within 10 days, as allowed. All requirements are listed within the Bill and are, therefore, not restated in this policy.
  - c. When requested, City staff shall provide a copy of this policy and refer the requestor to ORS 192.440 and HB 481 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 for: staff time as determined by the City Finance Department (varies based on personnel); paper copies (\$0.25 a page); Police Reports or CDs (\$10.00); and maps (based on copy size/cost of paper).
- 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. City Staff shall provide electronic copies whenever possible and as deemed appropriate.
4. Payment of Fees. All estimated costs 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.
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. 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 the City;
  - c. any government agency; or
  - d. any entity that meets State law requirements for *payment exemption*.

