



# Public Records Policy

Adopted via Resolution No. 5144-13

## I. Purpose

The City of Tualatin recognizes that the Oregon Public Records Law (ORS 192.410-192.505) gives members of the public the right to inspect and copy certain public records maintained by the City. The City also recognizes that certain records maintained by the City are exempt from public disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidentiality issues and attorney/client privilege. Additionally, when the city receives a request to inspect or copy public records, costs are incurred by the City in responding to the request. The purpose of this Public Records Policy is (a) to establish an orderly and consistent procedure for responding to public records requests; (b) to establish the basis for a fee schedule designed to reimburse the City for the actual costs incurred in responding to public records requests; and (c) to inform citizens of the procedures and guidelines that apply to public records requests.

## II. Policy

It is the policy of the City to respond in an orderly, consistent and reasonable manner in accordance with the Oregon Public Records Law to requests to inspect or receive copies of public records maintained by the City. The City shall respond to all requests as soon as practical and without unreasonable delay within five (5) business days, or within five (5) business days will explain why more time is needed for a full response.

## III. Public Records

Oregon Statutes define public records to include “any writing containing information relating to the conduct of the public business, including but not limited to court records, mortgages, and deed records, prepared, owned, used, or retained by a public body regardless of physical form or characteristics.” Oregon Statutes also provide that a record may be handwritten, typed, photocopied, printed, microfilmed, and exist in the electronic form such as e-mail or a word processing document, or other types of electronic recordings.

Many public records requests are requests for information that would require the creation of a new public record. Public bodies are not obligated under Oregon’s Public Records Laws to create new public records where none exists to respond to requests for information. Although a public body may, if it chooses, create a new record to provide information, the

public body does not have to create a new record and only has a duty to allow the inspection and copying of an existing public record.

The city is obligated to provide public records in the format in which they exist. The city will provide records in alternative format at no cost, if necessary to provide reasonable accommodation for persons with disabilities.

#### **IV. Public Records Exempt from Disclosure**

There are certain records that are exempt from disclosure. Other public records are conditionally exempt from disclosure. A determination based on any exemption will be made only after review and advice from the City Attorney.

A few specific exemptions that apply to public records include, but are not limited to, the following:

- a) Personal Safety Exemption- ORS 192.445(1)
- b) Public Records Relating to Pending Litigation- ORS 192.501 (1)
- c) Personnel Discipline Actions- ORS 192.501 (12)
- d) Personnel Privacy Exemption- ORS 192.502(2)
- e) Public Employees Addresses, Dates of Birth and Telephone Numbers- ORS 192.502(3)
- f) Confidential Information Submitted by Citizens- OR 192.502(4)
- g) Records Deemed Confidential or Privileged under Federal and State Laws or Regulation- ORS 192.502(8) & (9)
- h) Social Security Numbers

#### **V. Copyrighted Material**

If the City maintains public records containing copyrighted material, the City will permit the person making the request to inspect the copyrighted material and may allow limited copying of such material if allowed under Federal copyright law. The City may require written consent from the copyright holder or an opinion from the person's legal counsel before allowing copying of such materials.

#### **VI. Fees**

The fee for responding to a public records request will be established in the fee schedule adopted by the City. The fee will be reasonably calculated to reimburse the city for its actual costs in making the records available and may include:

- a) Charges for the time spent by City staff or any City contractor to locate the requested public records, to review the records in order to determine whether any requested records are exempt from disclosure, to segregate exempt records, to

supervise the requestor's inspection of original documents, to copy records, to certify records as true copies and to send records by special or overnight methods such as express mail or overnight delivery.

- b) A per page charge for photocopies of requested records.
- c) A per item charge for providing CDs, audiotapes, or other electronic copies of requested records.

The City will prepare an estimate of the charges that will be incurred to respond to a public records request. If the estimated cost is \$25 or more, the city will require the requestor to deposit the full amount of the estimated amount before fulfilling the request. If the actual costs incurred by the City to respond to the request are more than the amount deposited, the City may charge the requestor for all additional costs and may require an additional amount be deposited before any additional work on fulfilling the request proceeds. If the actual costs incurred by the City to respond to a records request are less than the amount of any required prepayment, the overpayment will be promptly refunded. If the cost to fulfill the request is estimated to be less than \$25, the city will fulfill the request and present the requestor with an invoice to be paid before the release of the documents.

Unless otherwise prohibited by law, the City may, at the City's discretion, with the permission of the City Manager, furnish copies of requested records without charge or at a reduced fee if the City determines that the waiver or reduction of fees is in the public interest.

## VII. Procedure

1. All public records requests must be made in writing (by mail, in person delivery, fax, or electronic transmission). Persons are encouraged to use the standard Public Records Request Form provided by the city, although other forms of written requests will be accepted if all the information required on the standard form is provided.
2. Requests shall be submitted directly to the Deputy City Recorder by the person making the request. Requests can be submitted through the City's website ([www.tualatinoregon.gov](http://www.tualatinoregon.gov)) or can be made in person, by mail, by facsimile or via electronic mail, and shall be directed to: The City Manager's Office, Attn: Deputy City Recorder, 18880 SW Martinazzi Ave, Tualatin, OR 97062. 503.691.3011 (phone); 503.692.5421 (fax).
3. The City shall respond to all requests as soon as practical and without unreasonable delay within five (5) business days or within five (5) business days will explain why more time is needed for a full response.
4. The City will provide the requestor with an estimate of the costs incurred by the City to provide the requested documents, including copying charges, research time (if required), and redaction of materials. There is no research cost for the first  $\frac{1}{2}$  hour of

staff time. Upon receipt of the cost estimate, the requestor must confirm to the City in writing that the requestor wishes for the City to proceed with the request.

5. If the estimated cost is \$25 or more, the city will require a deposit in the full amount of the estimate before fulfilling the request. If the actual costs incurred by the City to respond to the request are more than the amount deposited, the City may charge the requestor for all such additional costs and may require an additional amount to be deposited before any additional work on fulfilling the request proceeds. If the actual cost exceeds the estimate, the city will not release the documents until the fee is received in full. If the cost estimated is less than \$25, the city will fulfill the request and present the requestor with an invoice to be paid before release of documents.
6. Upon receipt of payment the City will contact the requestor and arrange for inspection of the original public records, or to pick up the copies, or to confirm the copies are to be mailed, and advise of the final cost which must be paid before inspection occurs or the copies are provided.
7. A place for one (1) person will be provided for reviewing files. One file at a time will be made available. If more than one person wants to review files at the same time, reservations must be made in advance for a conference room. A research fee will be charged to cover staff person's time for remaining in the room with the files.
8. If a public records request is denied, the City shall prepare a denial of the request, which shall be provided to the person making the request in writing as soon as is practicable.
9. If a public records request is denied, the requestor may appeal the decision to the Washington County District Attorney.

## **VIII. Departmental Duties and Policies**

The City Manager/City Recorder by charter is the designated Records Custodian for all public records maintained by the city, regardless of which City Department maintains the record or where the record is located. In the City Recorder's absence, the Deputy City Recorder shall serve as the Custodian.

The City Recorder shall establish a system to monitor each step of the process in responding to a request to inspect public records to insure that the person making the request has a response within a reasonable time frame, and shall maintain a copy of each request and corresponding records related to the City's response, including notes of each contact with the person making the request.

Subject to prior approval by the City Manager and the City Attorney, a Department Manager may establish a separate Departmental policy to allow verbal or written requests to be made directly to the Department for public records maintained by the

Department that are routinely requested by members of the public in connection with the Department's regular duties.

The Department Manager shall appoint a Designated Records Manager, who shall be responsible for reviewing and responding to public records requests received from the Deputy City Recorder or made under a Department Policy for responding to routine requests.

The Designated Records Manager shall conduct a review to determine what public records, if any, exist which are responsive to the request and if any records might be exempt from disclosure. The Department should not, without prior approval of the City Manager, compile information or create documents related to a public records request.

Once it is determined whether any responsive public records exist, the Designated Records Manager should make an estimate of the expected costs in complying with the request and forward a copy of the estimate to the Deputy City Recorder within five business days of receipt of the materials from the Deputy City Recorder. If the estimate cannot be completed within five business days, the Deputy City Recorder should be advised of the estimated time to complete the review and estimate. *No further work on the request will be undertaken until the Designated Records Manager has received notice from the Deputy City Recorder that the estimated costs have been deposited with the Deputy City Recorder.*

When the Deputy City Recorder has given notice that the estimated costs have been paid, the Designated Records Manager should proceed to prepare the original public records for inspection, or have photocopies made of the records if copies have been requested.

The Designated Records Manager shall keep a record of all time spent in responding to the request and any applicable costs.

The original public records, or the photocopies, if applicable, should be forwarded to the Deputy City Recorder, along with a final report of costs incurred.

Should the Designated Records Manager or Deputy City Recorder believe there are public records that are, or may be, exempt from public disclosure, the records shall be provided to the City Attorney for review and redaction before the records are released for inspection or copying. The City Attorney shall keep a record of all time spent reviewing the request and provide that information to the Designated Records Manager for inclusion in the final report of costs incurred.