



CITY OF ROCKAWAY BEACH
PUBLIC RECORDS REQUEST POLICY

POLICY NUMBER: 200.1	EFFECTIVE DATE: October 11, 2023 REVIEWED: REVISED:
CATEGORY: Records Management	RELATED DOCUMENTS: Resolution 23-996 - adopting this policy Resolution 19-674 - providing for copy fees Resolution 23-1010 - providing for processing fees

I. Purpose and General Information

It is the policy of the City of Rockaway Beach to make public records easily accessible to interested parties. The City of Rockaway Beach recognizes that Oregon Public Records Law (ORS 192.311-192.478) gives members of the public the right to inspect and copy public records that are not otherwise exempt from public disclosure. It is the policy of the City of Rockaway Beach to respond to public records requests in an orderly, consistent and reasonable manner in accordance with Oregon Public Records Law.

The purpose of this Policy is to:

- Establish an orderly and consistent procedure for responding to public records requests;
- Establish the basis for a fee schedule designed to reimburse the City for the actual costs incurred in responding to public records requests; and
- Inform residents, staff and officials of the procedures and guidelines that apply to public records requests.

Although the city needs to respond to a request under the federal Freedom of Information Act (FOIA), Oregon public bodies are covered by the Oregon Public Records Law and are not bound by the timeframes or other requirements of the federal act.

The city is not required to create a public record to disclose the reasoning behind an action or knowledge the staff might have. The Attorney General's Office has concluded that:

The Public Records Law does not require public bodies to create new public records. Nor does it require public bodies to disclose the reasoning behind their actions; answer questions about their records; analyze their records; or perform legal research in order to identify records that are responsive to a request.

II. Definitions

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- A. “Business Day”** means a day other than Saturday, Sunday or a legal holiday and on which at least one paid employee of the public body that received the public records request is scheduled to and does report to work.
- B. “City”** refers to the City of Rockway Beach and all employees, appointees and elected officials associated therewith.
- C. “Custodian”** refers to the City Recorder or his or her designee mandated, directly or indirectly, to create, maintain, care for or control a public record.
- D. “Public Record”** has the meaning established in ORS 192.311(4). In general, it refers to any writing containing information relating to the conduct of the public’s 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. A record may be handwritten, typed, photocopied, printed, microfilmed, or exist in an electronic form such as email or a word processing document, or other types of electronic recordings.

III. Procedures for Public Records Request

A. Making a Request

1. A request to inspect or obtain copies of a public record must be made in writing. Persons are encouraged to use the City’s Public Records Request Form that is available on the Forms page of the City’s website at: <http://corb.us>. Other forms of written requests will be accepted only if all of the following information required to respond to the request is provided, including name, address, email, phone, date of request, and a detailed description of the requested records including year of creation or range of dates. If electronic records are requested, keywords must be sufficient to locate the requested records.
2. The written request shall be delivered to the City Recorder either by email to cityhall@corb.us; or by accessing the Public Records section on the City’s website at <http://corb.us>. Requests may also be delivered in person, by mail, or by facsimile, to the City Recorder, P.O. Box 5, Rockaway Beach, OR 97136; 503-374-0641 (fax).

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3. Except as otherwise provided by these rules, public records will not be released for inspection or copies provided to the requestor unless the City receives payment of the required estimated fee from the requesting party.

B. Initial Response to Public Records Request

1. After receiving a request for a public record, the City will reply to the requester within five business days with one or more of the following responses:

- A statement that the City does or does not have custody of the requested public record(s);
- Copies of all requested public records for which the City does not claim an exemption from disclosure under ORS 192.311 to 192.478;
- A statement that the City is the custodian of some responsive records, an estimate of time in which copies will be provided or inspection will be available, and an estimate of the fees the requester must pay prior to receiving the records;
- A statement that the City is uncertain whether it possesses any requested records and that it will search for the requested records and respond as soon as practicable; or
- A statement that state or federal law prohibits the City from acknowledging whether the record exists and a citation to the relevant state or federal law.

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C. Clarification of Request

If the City receives an unusual request, or the scope of the request is unclear, the City may request additional clarification before responding to the request. Once the City makes a request for additional information or clarification, its obligation to complete its response to the request is suspended until the requester provides the information or clarification or affirmatively declines to provide additional information or clarification. If the requester does not respond to the City's request for clarification or additional information within 60 days, the City will close the request.

D. Completed Response Deadline

Within 10 business days after the date by which the City is required to acknowledge receipt of a public records request, the City will either complete its response to the request or provide a written statement that the City is still processing the request and provide an estimated date by which the City expects to complete its response. The timeframes established to acknowledge and respond to a request do not apply if compliance would be impracticable due to staffing unavailability, the City's ability to perform other necessary services, or the volume of other public records requests being simultaneously processed. If the City cannot comply with the five-business day acknowledgement or 10-business day response deadlines, the City must complete the public records request as soon as practicable and without unreasonable delay.

IV. Fees.

A. The Oregon Public Records law [ORS 192.324(4)] allows the City to recover its actual costs in fulfilling a public records request.

B. Fees for public records requests are set by resolution by the City Council.

C. If a record contains exempt information, the city will provide a copy with the exempt portion redacted. The city may include the cost of having legal assistance to redact material in the charged fee.

D. The city will establish a fee that is reasonably calculated to reimburse the city for the actual cost of making public records available, and may include:

- Charges for the time spent by City staff 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 requester's inspection of original records, 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;

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- Fees set by the Council may be calculated at an hourly rate equivalent to the salary plus benefits (computed at an hourly rate) of each employee involved in processing the request;
- Charges for the time spent by the city attorney reviewing, redacting and segregating records at the City's request;
- A per-page charge for photocopies of requested records; and
- A per-item charge for providing CDs, DVDs, audiotapes, or other electronic copies of requested records.

E. A listing of these fees is available on the city website. A request that would significantly disrupt staff's regular duties will be assessed a fee regardless of whether copies are provided.

F. The city may not establish a fee greater than \$25 unless the city provides written notice of the estimated amount to the requestor and the requestor confirms that they want the city to proceed. Pre-payment of at least half the estimated fee amount is required if the amount of the request is greater than \$25. If a requester fails to provide written confirmation of the estimated fees within 60 days of the City's estimate, the city will close the request.

V. Inspection of Records

A. Inspection of records will occur during regular City business hours, by appointment. All records shall be inspected at the City of Rockaway Beach's place of business. A person making a public records request may personally inspect the requested records, but the right to inspect records does not include the right to access file cabinets or the right to disassemble or change the order of records in files or binders. Original records may not leave the custody of the City. A City staff member must be present while any records are inspected to ensure protection of the records. If any person attempts to alter, remove, or destroy any record, the City staff shall immediately terminate review and notify the City Attorney.

B. If the City maintains 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 the requestor to obtain written consent from the copyright holder before allowing copying of such material.

VI. Application of Fees.

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1. A fee will not be charged if a requested document(s) is current and readily available and requires less than 5 minutes of staff time or resources to be made available.
2. All time for public records requests will be recorded in 15-minute increments. If the requester was required to make a deposit, fees will be debited against that deposit. If the fees are less than the deposit, the City will provide the records along with a refund of the deposit, less the fee. If the deposit is insufficient to cover the entire costs of completing the public records request, or the requester was not required to pay a deposit, the City will generate an invoice for the unpaid costs of completing the public records request. The requester must pay the amount owing before the City will deliver the requested records or make them available for viewing.

VII. Fee Waiver Request.

1. Under ORS 192.324(5), the custodian of a public record may reduce or waive fees if the custodian determines that doing so is in "the public interest because making the record available primarily benefits the general public." Application of the public interest test requires analysis of whether disclosure of a record will benefit the interests of the community or society as a whole, i.e., "the public." A personal benefit to be derived by the requester alone is insufficient to permit a fee waiver. Requests for a fee waiver should identify the reason for the request and the public interest served in waiving or reducing fees. The decision to waive or reduce fees is within the reasonable discretion of the City. Requests for a fee waiver or reduction must be evaluated on a case-by-case basis.
2. Requests for fee waiver or reduced fees may be made in writing to the City Manager at the contact address listed above. The City Manager shall determine if the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public and outweighs the cost of furnishing the record.
3. In accordance with ORS 192.324 (6), a requester who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or the district attorney in the same manner as a requester who petitions when inspection of a public record is denied under ORS 192.311 to 192.478. The Attorney General, the district attorney and the court have the same authority in instances when a fee waiver or reduction is denied as when inspection of a public record is denied.