

PUBLIC RECORDS REQUEST POLICY AND PROCEDURE

1. Application.

A person or organization may inspect or request copies of public records held by the City of Myrtle Point (hereinafter "City"). Public records requests shall be in a written form and should be as specific as possible for the City to identify and locate the requested records in a prompt manner. The less precise the request, the more likely that a records search will involve extensive time and resources.

The following policy applies to all requests to inspect or copy public records including requests made in person to the City.

2. How to Request Public Records.

All requests for public records must be in writing, signed by the person making the request, and mailed or presented in person to the City of Myrtle Point. Direct your request to the City Manager at the City offices.

The City does not accept requests by fax or email, except for limited exceptions for requests from certain business or government customers that have established a business relationship with us.

We are not the custodian of records held by federal or state public bodies, other municipal bodies or any special Districts.

3. When We Receive Your Request.

When we receive your request, the City Manager, or his/her designee, will determine whether the City is the custodian of the requested records. This may require that we contact other divisions, units, or personnel in the City. Within five (5) business days from the initial receipt of the request the City will provide an initial response to the request.

The initial response to the public records request will acknowledge the receipt of the request and will:

1. Confirm to the requester that the City is the custodian of at least some, if not all, of the requested records; and
2. Provide an estimate of the time required before the public records may be provided; and
3. Provide an estimate of the fee, if any will be charged, that the requester must pay as a condition of the City providing the public records to the requester or, if not fee will be charged, provide the requested records; or
4. Inform the requester that the City is not the custodian of the requested records; or

5. Notify the requester that the City is uncertain if the City is the custodian of the requested records and that the City will search for the records and make another appropriate response as soon as practicable.

The City may request additional information or clarification from the requester for the purpose of expediting the City's response to the request. The City's response to the records request may be suspended until the requester provides the requested information or clarification. If the requester fails to respond within 60 days of the date on which the City requested the clarification, the City may close the request.

If the City has informed the requester that a fee will be charged for responding to the records request, the City's obligation to complete the record request is suspended until the requester has paid the fee or until the fee has been waived. If the requester fails to pay the fee within 60 days of the date on which the City informed the requester of the fee or of the denial of the fee waiver, the City may close the request.

As soon as reasonably possible, but no later than ten business days after the City has acknowledged receipt of the record request and provided its initial response to the request, the City shall:

1. Complete its response to the public record request by either:
 - a) Providing access to, or copies of, all requested records within the possession or custody of the City that are not exempt from public disclosure;
 - b) Asserting any exemptions from disclosure that the City believes apply to any requested records and, if the City cites ORS 192.502 (8) or (9), identify the state or federal law that the City relied on in asserting the exemptions;
 - c) Separate exempt from non-exempt material as provided by ORS 192.505, and provide access to, or copies of, the requested public records for which the City does not claim an exemption from disclosure;
 - d) If the City asserts that one or more requested records are exempt from public disclosure, include a statement that the requester may seek review of the City's determination pursuant to ORS 192.450, 192.460, 192.465, 192.470, 192.480 and 192.490.
 - e) Providing a written statement that the City does not possess, or is not the custodian of, the public records;
 - f) Providing a statement that state or federal law prohibits the City from acknowledging whether the records exist or that acknowledging whether the records exist would result in the loss of federal benefits or other sanction, and a citation to the state or federal law relied upon; or
2. Provide a written statement that the City is still processing the request and a reasonable estimated date the City expects to complete its response based on the information currently available.

The time periods mentioned above may not apply to the City if compliance would be impractical because:

1. The staff necessary to complete a response to the public record request are unavailable (on leave or not scheduled for work);

2. Compliance would demonstrably impede the City's ability to perform other necessary services; or
3. Of the volume of public records requests being simultaneously processed by the City.

However, the City must still acknowledge receipt of the request and complete the response to the request as soon as practical and without unreasonable delay.

4. Providing Public Records in Response to a Public Record Request.

If the public record is maintained in a machine readable or electronic format, the City shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the City shall make the public record available in the form in which the City maintains the public record.

5. Limitation on Response to Public Record Request.

The City does not have a duty to create public records or data that does not exist, nor is it required to develop or acquire new or additional software or programs to retrieve the requested record(s) or information.

State law requires the City to make available for inspection or to copy only those records that exist at the time of the request. If you want to inspect or obtain copies of records on a continuing basis, we may require you to make a new request for records created after the earlier request.

State law does not require the City to create new public records to respond to a request.

State law does not require the City to create new information using our computer programs or to create a new program to extract data in our computers in a manner you request.

State law does not require us to develop or acquire new or additional software or programs to retrieve information you request.

State law gives priority to our regular duties. It does not require the City to provide records by a deadline you set. The City will process requests in the order they are received.

State and federal law require or allow us to keep some information and records confidential.

State law allows us to take reasonable measures to protect City records. It also restricts who may remove files from City offices. The City therefore requires that City staff supervise inspection of City records for requestors who want to inspect records on-site rather than have the City first make a copy of the records. The City will charge for staff time to supervise an on-site inspection. For some types of records (e.g., digital recordings of City proceedings or documents with some information that is exempt from disclosure), we will make a copy available for inspection as needed to protect the original and to protect confidential information.

6. Fees

State law allows the City to charge fees to recover its actual costs for locating and providing public records. The City has established and imposed fees for providing copies of public records, or for making public records available for inspection, in response to a record request. (See *Public Records Fee Schedule*.) The Fee Schedule may be revised at the City's discretion to reflect current direct costs.

For photocopies that the City makes of letter-size or legal-size pages, including normal and reasonable staff time to locate, separate, photocopy, and return documents to files and to prepare copies for mailing, the charge is:

- \$0.25 per page (a double-sided copy is two pages)
- Normal and reasonable staff time is 30 minutes or less per request.

The City may charge additional amounts for staff time and other actual costs when responding to requests that require additional services or more than the normal and reasonable time for routine requests, including:

- time spent to locate, compile, and sort requested records, even if the City finds no records that respond to the request or the records found are exempt from disclosure
- time spent to review requested records and redact any exempt material
- time spent to copy requested records
- time spent returning documents to files
- time spent to supervise inspection by the requestor
- necessary research time
- time spent preparing correspondence related to your request
- special copy services and mailing services for documents that are not of standard size or for voluminous requests

State law permits us to charge for certifying that a copy of a document is a true copy. If you request a certified copy, we charge \$1 per document.

The City may not impose a fee greater than \$25.00 unless the City provides the requester written notification of the estimated amount of the fee and the requester confirms, in writing, that the City proceed with making the public records available.

Involvement of City Attorney:

For all record requests requiring the involvement of the City attorney, the City will charge its direct costs associated with the production of the records according to the Fee Schedule. The record requests that will require the involvement of the City attorney may include the cost of time spent by the attorney in reviewing the public records, redacting material from the public

records or segregating the public records into exempt and non-exempt records. This will not include the cost for the attorney in determining the application of the provisions of the Public Records Act contained in ORS 192.410 to 192.505.

The City will give the requester an estimate of costs to provide and/or copy the public records requested in its initial response to the public records request. If the fee will likely be more than \$25.00, the City will not proceed further with the request until the requester confirms, in writing, that the requester wants the City to proceed with a response to the request and until the requester sends payment, in advance, and the payment clears. The City will refund any excess payment made over actual costs. If the City underestimated the costs of the response, the City will inform the requester as soon as possible so requester can determine whether the requester want the City to continue working to respond to the records request.

If the City has informed the requester that a fee will be charge for responding to the records request, the City's obligation to complete the record request is suspended until the requester has paid the fee or until the fee has been waived. If the requester fails to pay the fee within 60 days of the date on which the City informed the requester of the fee or of the denial of the fee waiver, the City may close the request.

7. Required Information

To help the City find records that respond to a request, the request must identify as specifically as possible the following:

- type of record(s)
- subject matter
- approximate dates(s) the City created or received the record
- names of people named in the record or who created or received the record
- the number of copies requested for each record requested
- which copies, if any, the requester want the City to certify

Your request must also include the requestor's

- name and signature
- address
- telephone number where the City can reach you during business hours
- email address, if possible

If a request is not specific enough for the City to easily identify and locate the records requested or is very broad (and therefore costly), the City may call or write the requester for more information or clarification so that the City can keep the cost as reasonable as possible.

8. Fee Waiver/Fee Reduction Requests.

Oregon's taxpayers bear the cost to provide records for free or reduced cost.

The costs which the City believes are appropriate to charge for a particular request may be reduced or waived on the basis that the requested records' disclosure primarily benefits the general public (it affects the community or society as a whole, in contrast to a concern or interest of a private individual or entity). A concern or interest of a private individual or entity does not merit a fee waiver. (See *Public Records Fee Waiver Request form*.)

Factors that the City will consider in evaluating a cost reduction or waiver include the requesters identity, the purpose for which the requester intends to use the information, the character of the information, whether the requested information is already in the public domain, whether the requester can demonstrate the ability to disseminate the information to the public, and the requesters inability to pay.

If any organization seeks a fee waiver, that request must come from a legally authorized representative of the organization. The City generally does not waive fees for requests made by for-profit business entities except when necessary to enlist the public's assistance in public safety or personal safety issues.

The City Public Records Administrator, or his/her designee, shall determine within their reasonable discretion whether (and how much) a reduction or waiver is appropriate for the specific records request. The City will respond to the reduction or waiver request in writing to the requester within five business days after receipt of the request.

If the requester disagrees with the decision of the Public Records Administrator, City representatives encourage further discussion from the requester as a change in decision could result.

Regardless of the pendency of a cost reduction or waiver request, the City will proceed with the compilation and disclosure of records, provided the requester's deposit has been delivered. If a reduction or waiver is allowed, the deposit will be returned consistent with the City's decision.