

RESOLUTION No. 2008-2771

**A RESOLUTION ADOPTING A CITY WIDE RECORDS REQUEST
POLICY AND REPEALING RESOLUTION No. 2003-2414, WHICH
REVISED THE PUBLIC RECORDS FEE SCHEDULE**

RECITALS:

1. On January 6th, 2003, City Council approved Resolution No. 2003-2414 adopting a revised Public Records Fee Schedule amending the Public Records Fee Schedule adopted July 6, 1998, by Resolution 1998-2122.
2. To date, staff has followed informal departmental records request procedures with no formal records request policy approved by Council.
3. On January 1, 2008, SB 554 went into effect, which modified the Oregon Public Records Law represented in the Oregon Revised Statutes (ORS) 192.410-505. This Bill requires Cities to publish a written records request policy stating the name or names of persons requests must be submitted to, fees associated with the request, manner of fee calculations, and staff must provide a written response to requests with at least one of the following:
 - A statement that the public body is not in possession of the requested records;
 - A request from the public body clarifying the request;
 - Copies of the requested records;
 - A statement that the public body is in possession of at least some of the requested records, the amount of time the public body needs before the records will be available to the requestor, and a cost estimate for providing the records;
 - A statement that the public body is uncertain if it is in possession of the records and the amount of time the public body needs to search for the records; or
 - A statement that the public records are exempted from public disclosure under State and Federal Laws.
4. The City of Newberg desires to adopt a policy addressing the procedure for records requests of non-exempt records and to be in compliance with the Oregon Public Records Law, ORS 192.410-505. Each department will be responsible to establish a policy addressing records requests of exempt records.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City desires to maintain rules that provide reasonable access to non-exempt public records, hereafter referred to as records, and approves the following records request policy:

Section 1. Right to Inspect Public Records. Per ORS 192.420 every person has the right to inspect any non-exempt public record held by a public body. Requests for such City records must be made under the Oregon Public

Records Law and in accordance with the rules of this policy.

Section 2. Written Requests. Unless otherwise provided in this policy, requests for inspection and copies of public records must be in writing on a form prescribed by the City or sufficient email for the City to make an appropriate response.

Section 3 Levels of Requests and Staff Response. The purpose of this policy is to help provide accurate records to the public in a reasonable time. In order to accommodate the purpose of this policy, levels of requests have been established.

Level 1 Request. Does not require a written request or payment of a fee and can be provided by any staff member. Requested records must be current and readily available, require no duplication, may not be subject to the Public Records Fee Schedule, and must require no additional staff time or resources to be made available. These types of records are intended for public distribution, such as informational brochures, agendas, permit applications, job applications, or election-related petitions.

Level 2 Request. Requests may be made in writing. Requested records are not immediately available, but can be made available with no more than 15 minutes of staff time. This request can be made to the departmental staff who is the custodian of requested records. Request must be made clearly, correctly identify the records, may not include more than 50 pages, and are not more than one year old. Requested records must be located in a single department, may not contain sensitive, confidential, or privileged information, and must not require attorney review prior to release. Payment due upon receipt.

Level 3 Request. Requests must be made in writing. This type of request is complex, involving multiple staff and/or departments, or requires more than 15 minutes of staff time. It may involve extensive research or compilation of records, and may require legal review. Unless otherwise provided in this policy, a deposit must be received prior to staff beginning work on request.

Section 4. Procedures. The procedures for the public records requests will follow these guidelines.

4.1 Requests for public records must include the following:

4.1.1 The name, address, contact information, date and signature of the person making the request or their authorized representative; and

4.1.2 A detail description, when known to the requestor, such as the department file number, year of creation, and any other pertinent information that may assist City staff in locating the

requested records. The City will not author or prepare new records in response to a records request.

- 4.2 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. The person making the request will be informed that the requested records will not be released without payment of the fee required by this resolution. Failure to inform the requesting party of this requirement does not relieve the requesting party of the obligation to pay the required fee.
- 4.3 Written requests for inspection or copies of city records must be submitted, on a form prescribed by the City, to one of the following for processing: the city recorder for general City records, the police records custodian for police records, the fire records custodian for fire records, and the court administrator for court records. If the City needs additional information or clarification, City staff will contact the requestor.
- 4.4 If the City is unable to comply with a request, a written response explaining why the City is unable to process the request will be mailed to the requesting party.

Section 5. Inspection of Records. Inspection of records will occur during regular City business hours, by appointment, to help prevent interference with the regular discharge of duties and in order to not postpone or disrupt current and ongoing matters of City business. All records shall be inspected at the City of Newberg'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. There will be no more than two (2) persons plus one (1) staff member in the room to inspect 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.

Section 6. Copies of Records. The cost of copies will be set out in a fee schedule, which will be approved by resolution. All records shall be copied at the City of Newberg's place of business, unless staff coordinates for a third party vendor to copy the records. If the record is maintained in a machine readable or electronic form, the City shall provide copies of the public record in the form requested, if available. If not available in the form requested, it shall be made available in the form in which it is maintained. If staff is available, the copies will be available once all files are reviewed. If staff is not available to copy the requested pages at the time, the requestor will be called once staff has had time to copy the requested pages in order to make arrangements for pick-up, mailing, or emailing of records.

Section 7. City Response. Within five business days the City will either respond to all records requests or explain why more time is needed for a full response. This timeline does not apply to requests for police related records that are not legally available. Additional time may be necessary to allow City staff to consult with the City Attorney's Office to obtain legal advice prior to releasing records. Additional time is necessary when the City is presented with a physically extensive or legally complex records request.

Section 8. Preparation of Cost Estimate. Upon receipt of a records request, City staff will first prepare a cost estimate reflecting the cost of City staff time and materials required to make the records available. Cost estimate will include costs of summarizing, compiling, or tailoring the public records, either in organization or media, in order to meet the request. Additional costs, to include observation of inspection, will be added if requestor decides to inspect the records.

Section 9. Deposit and Payment Requirements. If the estimated cost is \$25.00 or more, the City will require a deposit in the full amount of the estimated costs before expending additional City resources on the request. City staff will begin work on the request only upon receipt of the deposit. If the actual cost of completing the request exceeds the estimate, the City will not release the search results until the City's actual costs are received in full. If the actual cost of responding to the request is less than the estimated cost, then the balance of the deposit will be refunded promptly. If the estimated cost is less than \$25.00, City staff will begin to fulfill the request and will present a bill for the City's actual costs payable in full upon completion of the request. City staff will not release the records until the total costs are paid in full. The Payment will be in the form generally accepted for City purchases.

Section 10. Waiver or Reduction of Fees. Copies of records may be furnished without cost, or at a reduced cost, if the city manager determines that a waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.

10.1 A person requesting a waiver or reduction of fees must file a written request, which includes the requestor's name and address, the purpose for which the records are sought, the character of the information and whether the requestor can demonstrate the ability to disseminate the information to the public or otherwise benefit the general public with the information. The city manager, or designee, will review the request and may also consider the requestor's ability to pay and any financial hardship on the City that would arise from granting a waiver or reduction.

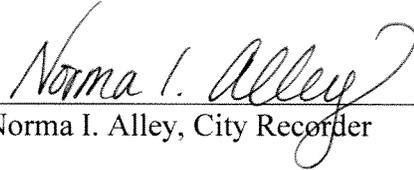
10.2 Any requestor disabled within the definition of the Americans With Disabilities Act may also apply for a waiver or reduction of fees if any of the cost of complying with the request were due to the requestor's disability.

- 10.3 Requests for records at a Level 1 or Level 2 by the news media will be made available without charge. Any request at a Level 3 may be charged in accordance with the Public Records Fee Schedule.
- 10.4 Copies of routine materials requested by any City of Newberg public official will be furnished without charge if the request relates to information needed in the requestor's official capacity.
- 10.5 The decision of the city manager on any fee waiver or reduction is final.

2. Per Oregon Revised Statute 192.440 the City sets fees and charges permitting the City to recover actual reasonable costs, including labor and material, incurred in making public records available. These fees are set out in a Public Records Fee Schedule attached as Exhibit "A" and by this reference incorporated. The city recorder may update the fee schedule annually or as needed to reflect changes in actual costs of providing services.

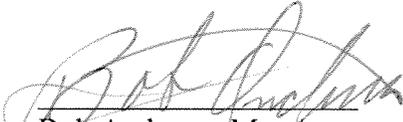
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 4, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 3rd day of March, 2008.



 Norma I. Alley, City Recorder

ATTEST by the Mayor this 6th day March, 2008.



 Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____ / ____ /200x meeting. Or, None.
(committee name) (date) (check if applicable)

**City of Newberg
Public Records Fee Schedule
Effective March 4, 2008**

- 1. Research Requests.** These fees are in addition to any copy, shipping, and handling fees. When research is less than 15 minutes, research fees may be waived.
 - a. General records research..... \$35.50/hour
 - b. GIS research..... \$39.20/hour
 - c. City Attorney research \$92.10/hour
 - d. Records research requiring special staff staff time cost
- 2. Paper copies and prints.** Fees noted are for one sided copies. For two-sided copies, fees are double those shown.¹
 - a. Letter or legal size, black and white\$0.25/copy
 - b. Letter or legal size, color\$1.00/copy
 - c. Tabloid size (11"x 17"), black and white\$0.50/copy
 - d. Tabloid size, color.....\$2.00/copy
 - e. Copies larger than tabloid, up to 28" x 36", black and white \$5.50/copy
 - f. Prints (from large size printer) up to 28" x 36"\$15.00/print
 - g. Copies larger than 28" x 36", black and white \$1.00/square foot
 - h. Prints (from large size printer) larger than 28" x 36" . \$2.50/square foot
 - i. Copies by third party.....Cost + 25%
 - j. Self-service copies (in Library)\$0.15/copy
 - k. Certified as true copy\$10.00/first page and \$0.25/page thereafter
- 3. Electronic copies.** Fees noted are in addition to research fees. Two-sided originals are counted as two pages.
 - a. Electronic documents or file copied to CD or DVD.....\$13.50/disk
 - b. Electronic documents sent by e-mail, FTP, or loaded to customer provided compatible media
 - i. Less than 10 MB and 10 files no additional cost
 - ii. 10 MB, 10 files, or greater²\$12.00
 - c. Paper documents scanned to PDF format, up to 11" x 17" ...\$0.15/page
 - d. Paper documents scanned to PDF, up to 28" x 36"\$4.50/page
 - e. Larger documents scanned to PDFhourly cost
- 4. Other copies**
 - a. Copies of Audio Tapes³\$37.00/tape
 - b. Copies of Video Tapes.....\$39.00/tape
 - c. Prints of photographs⁴ (up to 4" x 6") \$15.00/first, \$1.00/photo after
 - d. Prints of photographs, larger..... \$15.00/first + cost

1 Large format copies or large packet requests where third party copying is used will be charged at cost + 25%.

2 Very large requests charged at research hourly rate. Technology limits both on sending and receiving ends may preclude sending documents via e-mail or other methods.

3 Costs are for copies of magnetic tapes. For copies of digital audio or video files, use electronic copies schedule.

4 Costs are for prints made from negatives, slides or other prints. Photocopies of photographs may be made at the copy rate. Electronic copies of digital photo files may be made at the electronic copy rate.

- 5. **Other charges**
 - a. Faxes – outgoing \$0.25/page
- 6. **Shipping and Handling**
 - a. Standard items able to be sent First Class mail, up to 2 oz.....\$3.25
 - b. Audio tapes, video tapes, bound documents.....\$5.80
(up to 2 lbs., able to be sent Media Mail)
 - c. Other items.....(postage + 25%) + \$2.75
- 7. **Specific Records⁵**
 - a. Police and Fire and EMS record sets, up to 10 pages.\$15.00
 - b. Police and Fire and EMS record sets, over 10 pages
\$27.18/hour research + copy, shipping and handling fees
 - c. Certified letter documenting background, police record, or other fact⁶...
.....\$35.00
 - d. City Lien Search..... \$22.00 per search
 - e. City of Newberg Street Maps.....\$3.00
 - f. Comprehensive Plan Map and Zoning Maps.....\$15.00

The City Recorder may update the fee schedule annually or as needed to reflect changes in actual costs to providing services.

⁵ Where the records are subject to disclosure

⁶ Requests requiring over 1 hour research charged at general research rate plus copying and shipping and handling fees.

**Public Records Fee Schedule
Cost Justification**

General: All fees are estimated to recover the actual costs of producing the records.

1. **Records research:** Records research staff costs are estimated at the actual staff costs, including salary and benefits. Benefits are estimated at 70 percent of salary
 - a. General research is estimated one-half at the City Recorder rate (157C: \$43.84 salary + benefits) and one-half Secretary rate (117C: \$27.18 salary + benefits) = \$35.50/hour
 - b. GIS research is estimated at GIS Analyst rate (148C: \$39.21 salary + benefits)
 - c. City attorney research is estimated at the attorney contract rate (\$92.12 salary + benefits)

2. **Paper copies:** Average copy machine rental and material costs are estimated at \$0.10 per copy. Labor costs are estimated at \$0.20 per copy based on a Secretary being able to make about 25 copies in 10 minutes, considering document handling. Rate of \$0.25 per copy is actually subsidized for ease in calculating prices. Tabloid size copies are estimated at double the letter size rate due double machine rental and material costs, and to special handling needed. Larger format copies require special handling through the large format printer. Machine rental and material costs are estimated at \$1.00 per typical 28" x 36" copy. Handling is estimated at one copy in ten minutes, or \$4.50 per copy. Larger copies are estimated based on this price.

3. **Electronic copies**
 - a. **Copy onto CD.** Cost estimated at 0.35 hours labor, plus \$1.50 for CD and case.
 - b. **Paper documents scanned to PDF:** Cost is generally the paper copy cost without the material costs.

4. **Other copies**
 - a. **Audio tape cost:** Estimate 1 hour labor in copying, plus \$3.00 material cost for cassette.
 - b. **Video tape cost:** Estimate 1 hour labor in copying, plus \$5.00 material cost for tape
 - c. **Photo prints:** Estimate 0.5 hour labor at Secretary time for delivery and pickup of photos, plus actual cost charged.

5. **Shipping and Handling.**
 - a. Standard documents: Estimate 0.1 hours Secretary time for packaging and labeling a standard document, and delivering to mail carrier, plus postage and 25% of postage rate for the cost of boxes, envelopes, packaging, and labels.

Exhibit "A"
To Resolution No. 2008-2771

- b. CD, Audio Tape, Video Tapes: \$2.47 media mail plus 25% for supplies, 0.1 hours Secretary time.

6. Specific Records.

- a. Police, Fire and EMS record sets records require additional handling to comply with public disclosure laws and medical privacy laws. Cost is estimated at 0.35 hours labor at secretary rate (\$9.50) + copy (\$2.50) + shipping and handling costs (\$3.25)
- b. Police records documenting background history estimated at 1 hour labor at general research rate.