

<b>GRESHAM PROCEDURES MANUAL</b>	<b>Effective Date:</b> <b>5-16-2022</b>	<b>Last Updated:</b>
	<b>Public Records Requests</b> <b>5-2-22: Legislative Format showing changes made after feedback period of 8-27-21 through 9-27-21</b>	
<b>Supersedes: GAR Article 6.20 Public Records</b>		

## Right to Inspect

(a) Every person has a right to inspect any non-exempt public record of the City subject to reasonable procedures. The City shall provide proper and reasonable opportunities for inspection and examination of the records during usual business hours if such request does not interfere with the regular discharge of duties. The City must provide a non-exempt copy of a public record upon request.

(b) A public record is any City record that is prepared, owned, used, or retained by the City regardless of physical form or characteristics, unless exempt from disclosure, and includes information stored on virtually any medium. Examples include, but are not limited to: electronic documents; audio or video recordings; text messages; instant messages; posts, comments, and “likes” on social media; pictures; browsing history on City equipment or systems; call history.

(c) City records, including but not limited to electronic files which are created, loaded onto, or stored on a personal device are public records and subject to inspection by the City and pursuant to a public records request. Staff must comply with all City rules and policies about using personal electronic devices for City business.

(d) The Attorney General’s Public Records and Meetings Manual 2019, as well as Appendix B – Samples, Forms can answer questions and provide guidance on Public Records requests and exemptions:

<https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/appendix-b/>

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**Responsibility for  
Responding to Public  
Records Requests**

**The Responsibility for responding to Public Records Requests will depend on whether the records request is for records maintained and stored only by one department or service area, or if the request affects multiple departments and multiple service areas.**

(a) Each service area shall respond to requests to inspect public records in that service area's possession. Each service area manager shall designate a person to coordinate the response to public records requests. A list of contacts by department can be found on the City's website.

(b) Requests requiring inspection of records from multiple service areas can **should** be forwarded to the Assistant City Recorder to coordinate **the response and track the records from multiple staff persons. The Assistant City Recorder will serve as the coordinator of collecting all responsive records and closing out the request.**

(c) Requests from the press to inspect public records shall be coordinated with the Communications Manager.

(d) Requests involving public records that may be exempt from disclosure and require legal advice or research shall be coordinated with the City Attorney's Office.

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**Levels of Public  
Records Requests**

(a) **Level 1 Request:** A routine request to inspect public records that are readily available; handled on a regular basis; and the response requires less than 30 minutes of staff time. No prepayment of any fee is required. Copying fees may apply. If fees apply, payment is due before records are released.

(b) **Level 2 Request:** A request to inspect public records that are not readily available. Requested records must be located in a single service area; may not contain sensitive, confidential, or privileged information; must not require attorney review prior to release; and requires 30 minutes to two hours of staff time to respond. Research charges may apply. A written cost estimate will be provided to the requester before staff retrieves the records. If the costs exceed \$25, the requester may be required to deposit the total estimated cost before records are retrieved and pay any balance remaining before records are released.

(c) **Level 3 Request:** A request that is complex; requires more than two hours to respond; involves multiple service areas; contains sensitive, confidential or privileged information; and/or requires attorney review. A written cost estimate will be provided and the requester shall be required to deposit the estimated cost before staff retrieves the records and pay any balance remaining before records are released.

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**Written Request**

(a) All requests to inspect a public record shall be in writing. City staff shall refer requesters that need accommodations in creating and/or submitting a request to the Assistant City Recorder. The request shall specify the type of record(s) the requester seeks to inspect. The written request may be submitted to the City by the following means:

(i) Public Records Request Form. A records request form is available upon request and on the City's website. The completed form may be mailed, faxed, emailed, or hand-delivered to the appropriate staff member.

(ii) Letter or Email. A letter, email, or other written communication specifying the type of record(s) the requester seeks to inspect. A letter may be mailed, faxed, emailed, or hand-delivered to the appropriate staff member. An email may be sent directly to the appropriate staff member.

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**Written Response to Public Records Request and Timeline**

(a) City staff shall acknowledge receipt of a public records request within five business days of its receipt. City staff must do one of the following within 15 business days of receiving the request: (1) complete the request or (2) provide a written statement that the City is still processing the request and include an estimated completion date.

(b) City staff may seek additional information or clarification, or request a deposit of the total estimated costs for any Level 2 requests (or above) before completing the request. A clarification request, or a request for a research deposit, suspends the deadline to complete the public records response until the requester provides clarifying information or the research deposit. Staff shall close the request 60 calendar days after requesting clarification or requiring a deposit if the requester fails to provide the information or deposit.

(c) "Business day" means a day other than a weekend or legal holiday and on which at least one paid employee that received the request is scheduled to and does report to work.

(d) All requests require an initial written response that formally acknowledges receipt of the request, and includes at least one of the following:

(i) a request for clarification or additional information from the requester about the records request;

(ii) a statement that provides a cost estimate for the actual cost of making public records available;

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(iii) a statement that the public body is in possession of at least some of the requested records, the amount of time City staff will expend before the records will be available to inspect, a cost estimate for providing the records, and, if the estimated cost exceeds \$25, a statement that a deposit of the estimated cost is required prior to retrieval of the records and any remaining balance is due before records will be released;

(iv) a statement that the City is uncertain if it possesses the records, the amount of time City staff will expend to search for the records, a cost estimate for the time to search for the records, and, if the estimated costs exceeds \$25, a statement that prepayment is required prior to retrieval of the records; or

(v) a statement completing the request, if applicable. See Section (e) below.

e) A completed request must include the following:

(i) a statement that the City is not in possession of the requested records;

(ii) a statement refusing to acknowledge if the documents exist (pursuant to state or federal law);

(iii) access to responsive and non-exempt records; or

(iv) a statement that some or all of the responsive records are withheld and/or redacted pursuant to state or federal law and assert all applicable exemptions. If applicable, provide the redacted records; and

(v) Information about the option to seek review by the Multnomah County District Attorney's Office of the City's decision if access is denied either by withholding or redacting records.

(f) If a requester repeatedly requires inordinate staff time to respond to inquiries and/or public records request, or has other general questions relating to public records, staff should contact the Assistant City Recorder to discuss options.

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**Personal Information  
of Employees or  
Volunteers**

(a) A public records request for the personal information (e.g. residential addresses, home telephone numbers, personal cellphone numbers, personal email addresses, driver's license numbers, emergency contact information, social security information, birthdates, etc.) of employees or volunteers, must include:

(i) the names of the individuals for whom personal information is

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sought;

(ii) a statement describing the personal information being sought;  
and

(iii) a statement that shows by clear and convincing evidence that the public interest requires disclosure in the particular instance.

(b) A copy of the request and any materials submitted with the request shall be forwarded to the individuals whose personal information is being sought or to any representatives of each class of persons whose personal information is the subject of the request. Staff may not disclose information for at least seven calendar days after forwarding copies of the request. The City has sole discretion to determine the classes of persons whose personal information that is the subject of the request and to identify the representatives for each class. **When an employee(s) are represented by a bargaining unit, the bargaining unit leadership will be informed of the request at the time the individual employee is notified of the request.**

(c) Staff shall consider all information submitted under this section and disclose requested information only if staff determines, in consultation with the Assistant City Recorder, that the party seeking disclosure has demonstrated by clear and convincing evidence that the public interest requires disclosure in a particular instance.

(d) Staff should consult HR upon receipt of a public records request for the personal information of employees and volunteers.

**(e) Copies of any personal information disclosed will be provided to the individual employee, volunteer and representative, if applicable, at no cost to the individual or their representative.**

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**Electronic Documents**

If the public record is maintained in a machine readable or electronic form, City staff shall provide copies of the public record in the form requested, if available. If the public record is not available in the form requested, it shall be made available in the form in which it is maintained.

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**Customized Public Records**

The City is not obligated to create a public record (e.g., combine multiple public records to create one document); disclose the “reasoning” behind its actions or other “knowledge” staff might have; explain, analyze, or answer questions about the records; perform legal research or opinions for the requester; create new information using its computer programs; or create a new program to extract data in a manner requested. However, if records can be extracted from electronic documents City staff shall provide a written estimate of the amount of time City staff will expend to extract the records and, if the estimated cost exceeds \$25, prepayment of the total estimated

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cost shall be required prior to extracting the data.

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**Integrity of Records**

Staff shall take reasonable measures to preserve the integrity of City records and maintain office efficiency and order:

(a) The Public Records Law allows for the inspection of the original record; the right to inspect does not include the right to rummage through file cabinets or file folders.

(b) Before releasing a public record for inspection, a staff member must review the document to make certain the record does not contain any exempt information.

(c) A staff member must remain present while any original public record is being inspected in person to ensure the protection of the document.

(d) Copies may be furnished in lieu of inspection of the original document. Charges for copies may apply.

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**Fees**

(a) The City Manager shall establish fees to reimburse the City for its total actual cost in making public records available for inspection and/or providing copies. Total actual cost includes, but is not limited to, paper or other media and mailing expenses, as well as the time spent by staff in locating the requested records, reviewing the records in order to delete exempt material, supervising the requester's inspection of original documents, materials and services, equipment, and administrative overhead. Actual costs also may include time spent by the City Attorney's Office to review, redact, and/or segregate records for possible exemptions; and/or assist in writing response(s) to the request.

(b) Staff shall provide an estimate of the charges for responding to a records request. If the estimated charge is over \$25, prepayment of the total estimated cost will be required before acting on a request. If the total actual charges are less than the prepayment, a refund of the overpayment will be issued within 14 calendar days, or as soon as practicable if the City cannot refund it within 14 calendar days.

(c) Actual staff time may be charged even if copies are not provided (e.g. the billable hourly rate of the staff person providing the service).

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**City of Gresham –  
Public Records Fee  
Schedule**

The fees to recover the actual cost of services in connection with providing public records shall be incorporated into the City of Gresham Fee Schedule, which can be found on the City's website.

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**Waiving or Reducing Fees**

(a) Copies of public records may be furnished without, or at a reduced cost, if the service area manager determines that the waiver is in the public interest after considering (1) the character of the public interest at stake; (2) the extent to which the fee impedes the public interest; (3) the extent to which a waiver or reduction would burden the City.

(b) A person requesting a waiver or reduction of charges shall file a written request that includes the requester's identity, the purpose for which the requester intends to use the information, the character of the information, and whether the requester can demonstrate the ability to disseminate the information to the public. The service area manager will review the request and consider the requester's inability to pay and any financial hardship on the City that would arise from granting a fee waiver or reduction.

(c) Copies of routine materials requested by the news media will be made without charge. Any extraordinary request will be charged as outlined above in the "Fees" section of this policy.

(d) Copies of routine materials requested by any Gresham elected official or advisory committee member will be furnished without charge if the request relates to information needed in their official capacity.

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**Postponing Request for Legal Opinion**

A response to a public records request may be postponed if staff needs to consult with the City Attorney's Office to obtain legal advice prior to releasing documents. This will be necessary when the City is presented with a physically extensive, non-routine, or legally complex request for disclosure of public records.

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**Public Record Exemptions**

Staff should contact the City Attorney's Office if they believe or are uncertain whether a public records exemption may apply. The most common exemptions include:

- Public Records Pertaining to Litigation
- Trade Secrets – includes non-patented information known to certain individuals that allows the individuals to obtain a business advantage over those who do not have the information
- Criminal Investigatory Materials
- Tests and Examination Materials
- Personnel Discipline Actions
- Internal Advisory Communications
- Personal Privacy
- Confidential Submissions
- Federal Law Exemptions
- State Law Exemptions

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**Retention of Public Records**

The City of Gresham retains records in accordance with the City General Records Retention Schedule (OAR Chapter 166, Division 200) prepared by the Archives Division of the Oregon Secretary of State's Office. The retention schedule can be viewed at:

[http://arcweb.sos.state.or.us/pages/rules/oars\\_100/oar\\_166/166\\_200.html](http://arcweb.sos.state.or.us/pages/rules/oars_100/oar_166/166_200.html).