

**CITY OF SILVERTON**  
**RESOLUTION**  
**19-14**

**A RESOLUTION OF THE SILVERTON CITY COUNCIL UPDATING THE CITY'S PUBLIC RECORDS REQUEST PROCEDURES AND INCORPORATING CHANGES IN ACCORDANCE WITH OREGON REVISED STATUTE 192**

**WHEREAS**, the City adopted Resolution No. 08-19, which outlined a City policy for responding to public record requests; and

**WHEREAS**, the Oregon State Legislature approved Senate Bill 481 in July 2017, which took effect January 1, 2018; and

**WHEREAS**, the City needs to amend its processes and forms to comply with the changes in state law; and

**WHEREAS**, Senate Bill 481 modifies the Oregon Public Records Law in the Oregon Revised Statutes (ORS) 192.311 to 192.338. The bill amends the following:

- A. The requirement for a written records request policy, which now must include a provision providing for a written response to requests within at least five business days with at least one of the following responses:
  - a. Confirm that the public body is the custodian of the requested record;
  - b. Inform the requestor that the public body is not the custodian of the requested record; or
  - c. Notify the requestor that the public body is uncertain whether the public body is the custodian of the requested record.
- B. The definition for the timeframe to respond to public records requests as described in ORS 192.329 is as soon as practicable without unreasonable delay.
  - a. A public body's response to a public records request is complete when the public body:
    - i. Provides access to or copies of all requested records within the possession or custody of the public body that the public body does not assert are exempt from public disclosure, or explains where the records are already publicly available;
    - ii. Asserts any exemptions from disclosure that the public body believes apply to any requested records and, if the public body cites ORS 192.355 (8) or (9), identifies the state or federal law that the public body relied on in asserting the exemptions;
    - iii. Complies with ORS 192.338;
    - iv. To the extent that the public body is not the custodian of the records that have been requested, provides a written statement to that effect;
    - v. To the extent that state or federal law prohibits the public body from acknowledging whether any requested record exists or that acknowledging whether a requested record exists would result in the loss of federal benefits or imposition of another sanction, provides a written statement to that effect, citing the state or federal law that the public body relies on,

- unless the written statement itself would violate state or federal law; and
- vi. If the public body asserts that one or more requested records are exempt from public disclosure, includes a statement that the requester may seek review of the public body's determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427, and 192.431.
- C. As soon as reasonably possible but not later than 10 business days after the date by which a public body is required to acknowledge receipt of the request under ORS 192.324, a public body shall:
- a. Complete its response to the public records request; or
  - b. Provide a written statement that the public body is still processing the request and a reasonable estimated date by which the public body expects to complete its response based on the information currently available.

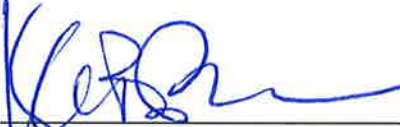
**NOW THEREFORE, BE IT RESOLVED BY THE CITY OF SILVERTON, AS FOLLOWS:**

Section 1: Resolution No. 08-19 is hereby repealed.

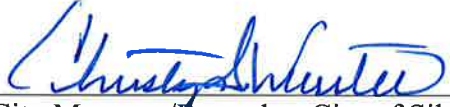
Section 2: The City policy on public records requests as stated in Exhibit 'A', which is incorporated in full by this reference, is adopted.

Section 3: That this resolution is and shall be effective after its passage by the City Council.

Resolution adopted by the City Council of the City of Silverton, this 1<sup>st</sup> day of April, 2019.

  
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Mayor, City of Silverton  
Kyle Palmer

ATTEST

  
\_\_\_\_\_  
City Manager/Recorder, City of Silverton  
Christy S. Wurster



# CITY OF SILVERTON

306 S. Water Street | Silverton, Oregon 97381

## PUBLIC RECORDS REQUEST PROCEDURES

**Right to Inspect Public Records.** ORS 192.314 gives every person 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 these procedures.

**Documentation.** All public records requests must be documented. If the request is for records generated at City Hall, complete the Public Records Request Form and return it to the Assistant to the City Manager/City Clerk in the City Manager's Office. If the request is for Police Department records, complete the Police Public Records Request Form and return it to the Police Technician in the Police Department.

**Notification to Requestor.** ORS 192.324(2) requires that the City acknowledge all written requests within five business days or complete the City's response to the request. The acknowledgment must:

- a) Confirm that the City is the custodian of the requested record;
- b) Inform the requester that the City is not the custodian of the requested record; or
- c) Notify the requester that the public body is uncertain whether the City is the custodian of the requested record.

As soon as reasonably practicable, but not later than ten (10) business days after the date by which the City is required to acknowledge receipt of the request, the City shall:

- a) Complete its response to the public records request; or
- b) Provide a written statement that the City is still processing the request with a reasonable estimated date by which city staff expects to complete its response based on the information currently available.

The City of Silverton's Public Records Request Form and Police Public Records Request Form were designed to include all of these mandatory statements in the "City Staff Only" section so that it can serve as both the documentation and notification. If a cost estimate is provided, the City must receive written or verbal confirmation from the requestor the desire to have the request completed. Estimates over \$10.00 will be paid in advance.

If the request is to inspect records at City Hall, the requestor will be called with an available time to inspect the records. A place for one person to review the records will be provided. If more than one person wants to look at the files at the same time, reservations must be made in advance for a conference room. A research fee will be charged to cover a staff person's time for remaining in the room with the files. If more than one document or file is requested to be viewed, one document or file at a time will be made available. Any pages to be copied should be marked with sticky notes provided by the City.

If staff is available, the copies will be available at that time. If staff is not available to copy the requested pages at that time, the requestor will be advised they will be called at the phone number on the Public Records Request Form once staff has had time to copy the requested pages.

**Fees.** ORS 192.324(4)(a) authorizes the public body to charge fees associated with requests. Additionally, public bodies are required to publicize the fees. City of Silverton records request fees are listed on the Public Records Request Form, Police Public Records Request Form, and the City's Administrative Fee Schedule adopted by Resolution No. 19-13. Prepayment will be required for requests that will exceed \$10.00. Per ORS 192.329(3)(b) the requestor has 60 days to pay the fee before the City of Silverton closes the request.

**Exempt Records.** Certain public records are exempt from disclosure per ORS 192.340 to 192.360. Some examples are: customer information, union negotiations, and property appraisals. For a full list of exempt records, refer to the ORS. The employee completing the request is responsible for verifying the records being released are not exempt. If there is doubt about whether or not a record can be disclosed, please contact the Assistant to the City Manager/City Clerk.

**Payment.** The department responding to the request is to write the revenue account number below the fee total under the "City Staff Only" section of the form. If the records requested are being mailed, the department is to notify the requestor to mail payment to the Finance Department with a copy of the public records request. Once the payment is received, the Finance Department will notify the department fulfilling the request so the document(s) may be mailed to the requestor. If the records request is being picked up, the department will provide the requestor with a copy of the Public Records Request Form and refer the requestor to the Finance Department to make payment.

**Closing of the Request.** Response to the public records request is complete when the City:

- a) Provides access to or copies of all requested records within the possession or custody of the City that are not exempt from public disclosure, or explains where the records are already publicly available;
- b) Asserts any exemptions from disclosure that the City believes apply to any requested records and, if the City cites ORS 192.355(8) or (9), identifies the state or federal law that the City relied on in asserting the exemptions;
- c) Complies with ORS 192.338;
- d) To the extent that the City is not the custodian of the records that have been requested, provides a written statement to the effect;
- e) To the extent that state or federal law prohibits the city from acknowledging whether a requested record exists would result in loss of federal benefits or imposition of another sanction, provides a written statement to the effect, citing the state or federal law that the City relied on, unless the written statement itself would violate state or federal law; and
- f) If the City asserts that one or more requested records are exempt from public disclosure, includes a statement that the requestor may seek review of the City determination pursuant to ORS 192.401, 192.407, 192.411, 192.415, 192.422, 192.427, and 192.431.

**Archiving.** Once the request is satisfied, department's should send the original request, a copy of the notification and the receipt of payment to the City Manager's Office for archival.

**Questions.** For questions about these procedures, contact the Assistant to the City Manager/City Clerk at 503-874-2216.