

CITY OF HARRISBURG

INTERNAL POLICY MANUAL

HIP 19-1.1 General: Public Records Disclosure Policy

Approved:

19-1.1.010 Purpose

The City is required per ORS 192.018 to have a written policy on the use, retention and ownership of public records. As such, this sets the policy in relation to public disclosure for records that are owned by the City of Harrisburg, and/or the Harrisburg Redevelopment Agency (HRA), both of which are political subdivisions of the State of Oregon.

19-1.1.020 Definitions

“Business Day” means a day other than Saturday, Sunday, or a legal holiday, and on which at least one paid employee of the City that received the public records request is scheduled to and does report to work.

“Custodian” means the person mandated directly by the City of Harrisburg and the HRA and to create, maintain, care for or control a public record. The Custodian is the City Recorder/Assistant City Administrator.

“Public Record” (a) includes any writing that contains 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 the City of Harrisburg or HRA regardless of physical form or characteristics.

(b) “Public Record” does not include any writing that does not relate to the conduct of the public’s business and that is contained on a privately owned computer.

“Writing” means handwriting, typewriting, printing, photographing, and every means of recording, including letters, words, pictures, sounds or symbols, or a combination thereof, and all papers, maps, files, facsimiles or electronic recordings.

19-1.1.030 City of Harrisburg & HRA Response and Procedure for Records Requests.

1. The custodian has created a Public Records Disclosure Form, on which official requests for copies or inspection of public records shall be made.
2. Upon the receipt of a Public Records Disclosure form, by the custodian of record, whether by receipt of mail, or E-Mail on a regularly scheduled business day in which the custodian is present at the City of Harrisburg:
 - a. The custodian shall within five business days after receiving the request acknowledge receipt of the request or complete the response to the request. Acknowledgements must:
 - i. Confirm that the City/HRA is the custodian of the requested record, or
 - ii. Inform the requestor that the City/HRA is not the custodian of the requested record, or

- iii. Notify the requester that the City/HRA is uncertain as to whether the City is the custodian of the requested record.
3. If the public record is maintained in a machine readable or electronic form, the custodian 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 custodian shall make the public record available in the form in which the City/HRA maintains the public record.

19-1.1.040 Inspection of Original Records:

1. A person making a public records request may personally inspect the requested records within City Hall, during regular City business hours, by appointment only. 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 at all times while records are inspected. City staff shall immediately terminate a review if a person attempts to alter, remove or destroy any record.
2. The City will allow persons requesting copyrighted records to inspect those records, and may allow limited copying of such records if authorized by Federal copyright law. The City may require the requestor to obtain written consent from the copyright holder before allowing copying of such materials.
3. A person inspecting records that are not exempt under public records laws, or that are not copyrighted, is allowed to take a picture upon a tablet, camera or smart phone without charge.

19-1.1.050 Fees

Fees will be set by Resolution of the City Council of the City of Harrisburg; and (a) are charged to the requestor as reasonably calculated to reimburse the City for the actual cost of making public records available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the request; and,

(b) The fee may include the cost of time spent by an attorney for the City of Harrisburg/HRA in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. The City of Harrisburg/HRA may not include in the fee the cost of time spent by an attorney in reviewing the records contained in provisions of ORS 192.311 to 192.478; and,

(c) The City of Harrisburg/HRA is not allowed to charge a fee greater than \$25 under this section without first providing the requester with a written notification of the estimated amount of the fee and the requester confirms that the requester wants the City of Harrisburg to proceed with making the public record available; and,

(d) The City of Harrisburg/HRA shall receive the fee payment before proceeding with making the public records available to the requestor.

19-1.1.060 Waived Fees

The custodian is allowed to furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available benefits the general public. The general public, in this decision, are determined to be the tax payers of the City of Harrisburg and HRA.

1. A requester who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or district attorney in the same

manner as a requestor who petitions when inspection of a public record is denied under ORS 192.311 to 192.478.

19-1.1.070 City of Harrisburg's and HRA's Response to Public Records Requests

1. The custodian shall complete the response to a written public records request that is received by the custodian as soon as practicable and without reasonable delay.
2. The response to a public records is complete when the custodian:
 - (a) Provides access to or copies of all requested records within the possession or custody of the City/HRA that the City/HRA does not assert are exempt from public disclosure, or explains where the records are already publicly available;
 - (b) Asserts any exemptions from disclosure that the City/HRA believes apply to any requested records and, if the City/HRA cites ORS 192.355 (8) or (9), identifies the state or federal law that the public body relied on in asserting the exemptions;
 - (c) Complies with ORS 192.338;
 - (d) To the extent that the City/HRA is not the custodian of records that have been requested, provides a written statement to that effect;
 - (e) To the extent that state or federal law prohibits the City/HRA 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 City/HRA relies on, unless the written statement itself would violate state or federal law; and
 - (f) If the City/HRA asserts that one or more requested records are exempt from public disclosure, includes a statement that the requestor may seek review of the public body's determination pursuant to ORS 192.401, 192.411, 192.418, 192.422, 192.427 and 192.431.
3.
 - (a) If the City/HRA has informed the requestor of a fee permitted by state statute, the obligation of the City/HRA to complete its response to the request is suspended until the requester has paid the fee, or the fee has been waived by the City/HRA.
 - (b) If the requestor fails to pay the fee within 60 days of the date on which the custodian informed the requestor of the fee, or fails to pay within 60 days of the date on which the custodian informed the requestor of the denial of a fee waiver, the custodian shall close the request.
4.
 - (a) The custodian may request additional information or clarification from a requestor of public records for the purpose of expediting the City's/HRA's response to the request. If the custodian has requested additional information or clarification in good faith, the obligation to further complete its response to the request is suspended until the requester provides the requested information or clarification, or affirmatively declines to provide that information or clarification.
 - (b) If the requestor fails to respond within 60 days to a good faith request from the custodian for information or clarification, the request shall be closed.
5. As soon as reasonably possible but not later than 10 business days after the date in which the custodian is required to acknowledge receipt of the request, the custodian shall:
 - (a) Complete the response to the public records request; or
 - (b) Provide a written statement that the custodian is still processing the request and a reasonable estimated date by which the custodian expects to complete its response based on the information currently available.

6. The time periods established by the City and HRA above and by ORS 192.324 do not apply if the compliance would be impracticable because:
 - (a) The staff or volunteers necessary to complete a response to the public records request are unavailable;
 - (b) Compliance would demonstrably impede the City's/HRA's ability to perform other necessary services; or
 - (c) Of the volume of public records requests being simultaneously processed by the City/HRA.
 - (d) For purposes of this section, staff members or volunteers who are on leave or are not scheduled to work are considered to be unavailable.
7. If the City/HRA can't comply within the time limits established above, and as required by state statutes, it shall as soon as practicable and without unreasonable delay, acknowledge a public records request and complete the response to the request.
8. The custodian will not accept public disclosure requests based upon dates more than 30-days in the future.

19-1.1.080 Review and Update

This policy shall be reviewed every two years by the City Recorder/ACA, depending upon changes implemented by the Oregon Legislature or Attorney General.

Review and Approval:



Brian Latta
City Administrator