

RESOLUTION NO. 33-2018

A RESOLUTION OF CITY OF MADRAS ADOPTING A PUBLIC RECORDS REQUEST POLICY AND PROCEDURES.

WHEREAS, City desires to ensure that all requests for public records are handled in a manner that complies with the Oregon Public Records Law, ORS 192.311 - 192.431, as amended from time to time; and

WHEREAS, City finds it necessary to update City's public records request policy to address changes in Oregon law; and

WHEREAS, City desires to provide reasonable measures to (a) protect and preserve the integrity of City's public records, and (b) maintain office efficiency and order.

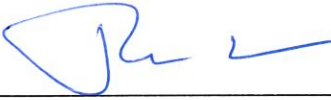
NOW, THEREFORE, BE IT RESOLVED, the Common Council of the City of Madras resolves as follows:

1. Findings; Adoption. The above-stated findings contained in this Resolution No. 33-2018 (this "Resolution") are hereby adopted. The Madras City Council (the "Council") hereby approves and adopts the City of Madras Public Records Request Policy attached hereto as Exhibit A (the "Policy").
2. Miscellaneous. This Resolution (which includes the Policy) replaces and supersedes any existing and/or previous practices establishing City public records request policies and/or procedures in their entirety. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Council to cure editorial and/or clerical errors.

[Signatures on next page]

APPROVED AND ADOPTED by the Common Council of the City of Madras and signed by the Mayor this 12 day of December, 2018.

Ayes:	<u>5</u>
Nays:	<u>0</u>
Abstentions:	<u>0</u>
Absent:	<u>1</u>
Vacancies:	<u>0</u>



Royce Embanks, Mayor

ATTEST:



Lysa Vattimo, City Recorder

Exhibit A
City of Madras
Public Records Request Policy

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1. Purpose and Compliance. The purpose of this policy is as follows: (a) ensure that all requests for public records are handled in a manner that complies with the Oregon Public Records Law, ORS 192.311 - 192.431, as amended; (b) provide reasonable measures to protect and preserve the integrity of the public records; and (c) maintain office efficiency and order. To the extent this policy conflicts with any federal, state, and/or local laws, regulations, and/or ordinances, City of Madras ("City") will comply with the applicable federal, state, and/or local laws, regulations, and/or ordinances.

2. Public Records Requests - Procedure.

2.1 Method of Records Requests. A request for public records that are in the custody of City must be made by submitting a written request, on the form prescribed by City, to the following:

City of Madras
Attn: City Recorder
125 SW "E" Street
Madras, OR 97741
Telephone: 541-475-2344; Facsimile: 541-475-7061
Email: lvattimo@ci.madras.or.us

A public records request may be submitted in person or via mail, facsimile, or electronic mail.

2.2 Specificity of Records Request. All requests for public records must be dated and signed by the person (the "Requester") requesting to inspect the public records or receive a copy of the public records. In addition, in order to facilitate the public's access to public records in City's possession, and to avoid unnecessary expenditure of City's personnel time, a request to inspect public records or receive copies of public records must contain the following minimum information: (a) the Requester's name and address; (b) the Requester's telephone number or other contact information; and (c) a sufficiently detailed description of the public records requested, including the dates, subject matter, and such other information concerning the requested public records as may be necessary to enable City personnel to search for and readily locate the desired public records.

2.3 City Response.

2.3.1 Subject to and except as otherwise provided under this policy or applicable law, if the city recorder receives a written request to inspect or receive a copy of a public record in accordance with this policy and applicable law, City will, within five business days after receiving the public records request, acknowledge receipt of the request or complete City's response to the request. City's acknowledgment will (a) confirm that City is the custodian of the requested record, (b) inform the Requester that City is not the custodian of the requested record, or (c) notify the Requester that City is uncertain whether City is the custodian of the requested record. For purposes of this policy, the term "business day" means a day other than Saturday, Sunday, and/or a legal holiday and on which at least one paid City employee that received the public records request is scheduled to and does report to work.

2.3.2 City may request additional information or clarification from the Requester to expedite City's response to the request. If City requests additional information or clarification, City's 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. City will close the subject request if the Requester fails to respond within 60 days to City's request for additional information or clarification.

2.3.3 City will provide the Requester an estimate of the fees applicable to making the public records available for inspection or providing copies. City will also advise the Requester that the requested public records will not be released (i.e., City's obligation to provide the requested records is suspended) unless and until City receives payment of the estimated fees for providing the service. City will close the subject request if the Requester fails to pay the fees within 60 days after the date on which City informed the Requester of the fees, or fails to pay the fee within 60 days after the date on which City informed the Requester of the denial of the fee waiver (if applicable). City's failure to advise the Requester of the prepayment obligation will not relieve the Requester of the obligation to pay applicable fees.

2.4 Completion of Records Request. City will complete its response to a properly completed written records request as soon as practicable and without unreasonable delay. To this end, as soon as reasonably possible, but no later than 10 business days after the date by which City is required to acknowledge receipt of the request under Section 2.3.1, City will (a) complete its response to the public records request, or (b) provide a written statement that City is still processing the request and a reasonable estimated date by which City expects to complete its response based on information then-available. Notwithstanding anything contained in this policy to the contrary, the time periods established under Section 2.3.1 and/or this Section 2.4 do not apply if compliance is impracticable because (x) staff or volunteers necessary to complete the response are unavailable, (y) compliance will demonstrably impede City's ability to perform other necessary services, and/or (z) the volume of public records requests being simultaneously processed by City. If City is unable to comply with the time periods established under Section 2.3.1 and/or this Section 2.4 for a reason identified under this Section 2.4, City will, as soon as practicable and without unreasonable delay, acknowledge the public records request and complete the response to the request.

2.5 City Attorney. Routine public records requests will be handled by the city recorder or his or her designee. More complex public records requests and/or public records requests that may implicate the application of one or more statutory exemptions from disclosure will be submitted to the city attorney for review and evaluation. After reviewing and evaluating the public records request, the city attorney will (a) make a determination as to whether the public records request may be processed, and (b) inform City whether to process the public records request. If the city attorney determines that City is unable to process the requested public records, the city attorney will provide the Requester a written response identifying the basis for the denial.

2.6 Access to Public Records. City will permit inspection and examination of its non-exempt public records during regular business hours in City's offices, or such other locations as City may reasonably designate from time to time. Copies of non-exempt public records maintained in machine readable or electronic form will be furnished, if available, in the form requested. If not available in the form requested, such public records will be made available in the form in which they are maintained. City is not required to engage in any of the following activities: (a) create any new public records and/or customize any existing public records in response to a public records request; (b) produce "lists" of public records that are not already available in the form of a "list"; (c) create a public record to disclose the reasoning behind City's actions or other knowledge City personnel may have; and/or (d) explain or answer questions or provide legal research and analysis on or about any public records.

2.7 Public Records Request Form. A request for public records must be made by submitting a written request to City on the form prescribed by City. The public records request form will be made available to the public. City may make modifications to the public records request form at any time and from time to time as City deems necessary or appropriate.

2.8 Certified Copies. Certified copies of non-exempt public records will be furnished upon request and receipt of payment therefor.

3. Fee Schedule.

3.1 Fees for Public Records. To recover City's actual cost for responding to public records requests, fees that may be assessed are outlined in the City's adopted Fee Schedule.

3.2 Fees Exceeding \$25.00. City will not charge a Requester a fee for making the public records requested available for inspection, or for providing copies of the same, in excess of \$25.00 unless City first provides the Requester written notification of the estimated amount of the fees and the Requester confirms that the Requester wants the public body to proceed with making the public records available.

3.3 Advance Payment of Fees. All estimated fees for making the public records requested available for inspection, or for providing copies of the same, must be paid before the public records will be made available. If City's estimated fees exceeds the actual cost, the overpayment will be refunded by City to the Requester. If City's estimated fees is less than the actual expense incurred by City to process the records request, the Requester will pay such additional fees before the public records will be made available. Public records will not be released for inspection or copying unless and until City has received payment from the Requester for providing the requested public records.

3.4 Reduced Fee or Free Copies. City may furnish copies of any public record without charge or at a substantially reduced fee if City determines that the waiver or reduction of fees is in the public interest because making the public record available primarily benefits the general public.

4. Original Records.

4.1 Authorization Required for Removal of Original Records. At no time will an original public record be removed from City's files or the place at which the public record is regularly maintained except upon authorization of the city recorder.

4.2 On-Site Review of Original Records. If a request to review original public records is made, City will permit such review if search fees are paid in advance in accordance with Section 3. If City deems necessary or appropriate, City may require that City personnel be present during the review of any original records. The person reviewing the original records will be charged for City personnel's time for being present while the original records are being reviewed.

4.3 Unauthorized Alteration, Removal, or Destruction of Original Records. If any person attempts to alter, remove, and/or destroy any public record, City's representative will immediately terminate such person's review and will notify the city attorney.