

RESOLUTION NO. 2657

Introduced by All Commissioners

A RESOLUTION UPDATING POLICY AND PROCEDURES FOR PUBLIC RECORDS AND INFORMATION REQUESTS, AND REPEALING RESOLUTION NO. 2531

WHEREAS, the City desires to amend the City of Warrenton Public Records Request policies and procedures, pursuant to ORS 192.311 – 192.478; and

WHEREAS, the City of Warrenton recognizes that Oregon Public Records Law (ORS 192.311 - 192.478) gives the public the right to inspect and copy certain public records maintained by the City; and

WHEREAS, the City of Warrenton has recently updated its public records request process and has implemented new software; and

WHEREAS, the City of Warrenton desires to update its Public Records Request Policy, as set forth in the attached Exhibit A; and

WHEREAS, the City of Warrenton will establish the Public Records Fee Schedule in a separate stand-alone resolution;

NOW, THEREFORE, BE IT RESOLVED that the City Commission of the City of Warrenton resolves as follows:

Section 1: The Warrenton City Commission hereby adopts the attached Public Records Request Policy, as attached in Exhibit A.

Section 2: Resolution No. 2531 is repealed and is no longer in effect.

Section 3: This resolution will take effect upon implementation of the new Public Records Request software.

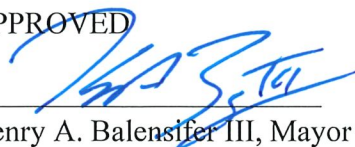
Adopted by the City Commission of the City of Warrenton this 28th day of November 2023.

ATTEST



Dawne Shaw, CMC, City Recorder

APPROVED



Henry A. Balensifer III, Mayor



CITY OF WARRENTON

PUBLIC RECORDS REQUEST POLICY

EFFECTIVE: January 1, 2024
ADOPTED: November 28, 2023

City of Warrenton Public Records Request Policy

Policy and Purpose:

It is the policy of the City of Warrenton to make public records easily accessible to interested parties. The City of Warrenton recognizes that Oregon Public Records Law (ORS 192.311-192.478) gives the public the right to inspect and copy certain public records maintained by the city. The city also recognizes that certain records are exempt from disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidentiality issues and attorney/client privilege. The city is not required under Oregon Public Records Law to create a public records. Additionally, when the city receives a request to inspect or copy public records and there are costs incurred by the city in responding to the request, it is in the public interest to recover those costs incurred.

The purpose of this Public Records Policy is to: **(a)** Establish an orderly and consistent procedure for responding to public records requests; **(b)** Establish the basis for a fee schedule intended to reimburse the city for actual costs incurred in responding to public records requests; and **(c)** Inform citizens of the procedures and guidelines that apply to public records requests.

Procedure:

a. Making a Public Records Request:

All public records requests must be submitted in writing (either electronic or paper format). Persons are encouraged to use the electronic request form available using the city's Public Records portal on the city's website, at: <https://www.warrentonoregon.us>. A printed form may be submitted if computer access is not available to the requester. Printed requests shall be delivered to the City Recorder either by email to cityrecorder@warrentonoregon.us; or may also be delivered in person, by mail, or by fax, to the City Recorder, 225 S. Main Avenue, P.O. Box 250, Warrenton, OR 97146; 503-861-2351 (fax). For Police Department requests, please see Attachment A.

b. Processing a Public Records Request:

Under the Oregon Public Records Laws the city has 5 business days to acknowledge a public records request, and 10 business days to complete the request or provide an update on when the request will be completed.

Public record requests submitted after regular business hours will be considered "received" on the next regular business day. The City Recorder is the designated Records Officer for the City of Warrenton. The City Recorder or their designee shall provide an acknowledgment to the requester within five (5) business days of receiving the request, with at least one of the following responses:

- Confirm that the public body is the custodian of the requested record;
- Inform the requester that the public body is not the custodian of the requested record; or
- Notify the requester that the public body is uncertain whether they are the custodian of the requested record.

As soon as reasonably possible, but no later than ten (10) business days after the request is received, the City Recorder or their designee shall:

- Provide a written estimate of the cost to produce and/or provide the requested records;
- Complete the response to the public records request; or
- 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 current information available.

The City Recorder shall be copied on all communications with the requester.

c. Fees:

Fees charged to the requesting party for fulfilling public records requests shall be reasonably calculated to reimburse the city for its actual costs for processing and responding to the request. These costs shall include, but are not limited to, personnel costs, attorney fees, and costs associated with materials used in processing the request.

- Personnel costs shall include, but are not limited to, employee time spent while locating, reviewing, and copying records and supervising public inspection of records. Costs shall be at an hourly rate equivalent to the salary plus benefits of each employee involved in processing the request.
- Attorney fees will be the fee charged by the attorney to the city for time spent reviewing the public records, and redacting or segregating exempt and nonexempt records.
- If the estimated costs involved in fulfilling your request exceed \$25.00, the city will require your approval before beginning the work.

The fees are set through resolutions adopted by the Warrenton City Commission.

d. Payment of Fees:

The City Recorder or their designee shall provide the requester with an estimate of the cost to produce the requested records. Depending on the volume or difficulty in retrieving the records, and if the estimated cost is over \$25.00, a deposit of at least half of the estimated cost may be required prior to conducting the work. Full payment of the total costs incurred is required before the public records are inspected or released.

e. Fee Waiver:

As provided by Oregon Public Records Law, the city may, but is not required to, waive, or reduce a fee for responding to a request, if doing so is in the public interest because making the record available primarily benefits the general public. A request for a fee waiver or reduction must be submitted in writing to the City Recorder. The City Recorder will review the request and may consider the requester's ability to pay, the requester's identity, the purpose for which the requester intends to use the information, the character of the information, whether the requested information is already in the public domain, whether the requester can demonstrate the ability to disseminate the information to the public, and any financial hardship on the city that might arise from granting the waiver. Anyone who believes there has been an unreasonable denial of a fee waiver or reduction request may petition the district attorney.

f. Exemptions:

Some public records are exempt from disclosure under state law. Many of the exemptions can be found in ORS 192.345 and ORS 192.355; (https://oregon.public.law/statutes/ors_chapter_192). Others may be located in other Oregon statutes. For Police Department requests, please see Attachment A.

g. Definitions:

Public Body: Oregon Revised Statute (ORS) 192.311(4) "Public body" includes every state officer, agency, department, division, bureau, board, and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency if the state.

Public Record: ORS 192.311 (5)(a) "Public record" 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 a public body regardless of physical form or characteristics. ORS 192.311 (5)(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: ORS 192.311(7) "Writing" means handwriting, typewriting, printing, photographing, and every means of recording, including letters, works, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles, or electronic recordings.



WARRENTON POLICE DEPARTMENT ADDENDUM TO PUBLIC RECORDS REQUEST



Requests for Police Body Cam Video

A request for police body cam video is regulated and controlled by ORS 192.345. Such recordings are exempt from disclosure *“unless the public interest requires disclosure in the particular instance.”* ORS 192.345. In other words, the video will not normally be released, unless the requestor first establishes a public interest that requires such disclosure.

All such public record requests must be subjected to an additional process to determine whether the video must be released under the exception to the ORS 192.345 conditional exemption.

If such an exception is established, further guidelines for ORS 192.345(40) must be followed. Subsections (a), (b) and (c) of Section 40 provide the following:

(a) Recordings that have been sealed in a court's record of a court proceeding or otherwise ordered by a court not to be disclosed may not be disclosed.

(b) A request for disclosure under [ORS 192.345(40)] must identify the approximate date and time of an incident for which the recordings are requested and be reasonably tailored to include only that material for which a public interest requires disclosure.

(c) A video recording disclosed under this subsection must, prior to disclosure, be edited in a manner as to render the faces of all persons within the recording unidentifiable.

This means that the request must identify the date and time of an identified incident and be limited only to those materials justified by the identified public interest. Further, prior to releasing the recording, the faces of **ALL** persons in the recording must be blurred or blocked. Personal information must also be redacted (ex: someone reciting their date of birth or social security number).

In order to meet these conditions, it will take additional time to determine whether a body cam video is subject to disclosure and, if it is, additional time to process the video. It will also mean additional processing costs. You will receive an estimate for this cost before any processing is done and you may be required to put a deposit down prior to any processing. Either way, you will be given an estimate and the opportunity to decide if you want to proceed.