

RESOLUTION NUMBER 7271

WHEREAS, the Mayor and City Council of the City of Beatrice wish to revise the policy and procedures for processing public records requests.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That the "Public Records Request Policy & Procedures", marked as Exhibit "A", attached hereto and incorporated herein by this reference, be and hereby is adopted.

SECTION 4. That Resolution 5551 and any and all resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLUTION PASSED AND APPROVED this 15th day of April, 2024.

Attest:


Erin Saathoff, CMC, City Clerk


Mike McLain, Acting Mayor



PUBLIC RECORDS REQUEST POLICY & PROCEDURES

OVERVIEW

The Legislature of the State of Nebraska enacted the Nebraska Public Records Act (Neb. Rev. Stat. § 84-712 through 84-712.09, as amended) (the "Act") to provide for an express right for citizens and interested parties to inspect and obtain copies of public records. Under this Act, it was intended that all public records of the state, its counties, and other political subdivisions should be open to inspection by citizens of the State of Nebraska and other interest parties, except where the Legislature has otherwise provided that such records shall be exempt or withheld from disclosure. The purpose of this policy is to establish procedures for fulfilling non-exempt public records requests and to promote transparency and disclosure in the workings of government.

POLICY

The City of Beatrice ("City") is subject to the Nebraska Public Records Act, and the City shall comply with Nebraska law regarding disclosure of any responsive requests to public records requests, except for public records subject to any applicable exemptions to disclosure. Nebraska law does not require the City to create or compile a record which does not exist at the time of the request. The following sections of this document establishes the procedures for requests public records, including when a fee may be charged relating to such requests. This policy shall not be construed to require the Designated Public Records Custodian, the Beatrice City Clerk, or his or her designee, to copy any public record that is available to the requester on the City's website.

PUBLIC RECORDS CUSTODIAN

PROCEDURES FOR SUBMITTING A PUBLIC RECORDS REQUEST

1. Submitting a Request

Requests for Public Records, including from media, shall be submitted in writing (if possible) to the Designated Public Records Custodian on the form available on the City of Beatrice website at beatrice.ne.gov:

City of Beatrice
ATTN: City Clerk
400 Ella Street
Beatrice, NE 68310
esaathoff@beatrice.ne.gov
402-228-5200

OPERATING PROCEDURE

1. City Time Period to Respond to Requests.

Pursuant to the Act, the Designated Public Records Custodian, or his or her designee, shall release any non-exempt responsive records within four (4) business days from the date the request is received, unless good cause exists to prevent the release of responsive records within that time frame. If a request cannot, with reasonable good faith efforts, be fulfilled within four (4) business days after receiving the request, a written explanation for the delay shall be provided to the requester which shall also include an estimate of the expected cost of the copies, if any. The four (4) business days shall be computed by excluding the day the request is received, after which the designated period of time shall begin to run. "Business days" does not include a Saturday, Sunday, or a day during which City offices are closed.

2. Records Eligible For Disclosure; Fees and Costs.

a. Records Eligible for Disclosure.

Copies of City publications, regulations, maps, etc., that are (i) not exempt pursuant to the Act, (ii) not deemed a security breach or violation of the Homeland Security Act, and (iii) are determined to be accessible public records, shall be made available after the receipt of any applicable costs for compiling the records and/or fee(s) established by resolution, and adopted by the city council.

b. Fees and Costs

- i. When a request has been made for inspection or production of any public record which is readily available for inspection or production, there shall be no inspection or fee charged to the requester, except for paper copies.
- ii. Where a request has been made for inspection or production of any public record which is not readily available to the Designated Public Records Custodian, or his or her designee, there shall be no inspection or production charge to the requester for the first eight (8) hours of cumulative searching, identifying, redaction, and/or administrative copying, unless the requester is not a resident of the State of Nebraska, in which case the requester shall be charged for any and all time necessary for the cumulative searching, identifying, redaction, and/or administrative copying to produce such records. For purposes of this subsection resident means a person domiciled in Nebraska and includes news media without regard to domicile.
- iii. After the first eight (8) hours of cumulative searching, identifying, redaction, or administrative copying, a record inspection and/or production fee shall be charged at an hourly rate determined by the actual per hour rate of the employee(s) engaged in the record search plus twenty-eight percent (28%) to cover benefits. A minimum of ten dollars (\$10.00) shall be charged for each request where the cumulative searching, identifying, redaction, or administrative copying exceeds eight (8) hours.

- iv. Fees for copies of records and facsimile transmission of records shall be charged to cover the cost of materials and equipment and shall be charged as established by resolution, and adopted by the city council
- v. If fees and/or costs exceed fifty dollars (\$50.00), the City shall only begin the process of compiling and review the requested records when a deposit in the amount of half the total estimated costs and/or fees has been paid by the requester.
- vi. A per page fee for large format maps and documents printed or scanned by the City Engineering Department to cover the costs of materials and equipment shall be charged as established by resolution, and adopted by the city council.
- vii. Where the copying of any public records which are not or cannot be reproduced by the City's photocopying equipment, the requested shall be charged the actual cost to the City for reproducing such records, which shall include but not be limited to cds, dvds, flash drives, and maps.
- viii. The Designated Public Records Custodian, or his or her designee, shall determine and assess a charge covering mailing, electronic transfer, and handling costs accrued in responding to requests received and processed through mail service or electronic media.
- ix. No inspection or production fee shall be charged when a denial of request is made.
- x. In inspection or production fee shall be charged for any charges for the services of an attorney to review the requested public records for seeking a legal basis to withhold the public records requested.

c. Payments.

All fees and costs charged under this policy shall be paid to the appropriate department of the records inspected and/or produced, unless the requester has established an open account with the City, for purposes of billing and payment. All such accounts must be approved in advance by the City Administrator, or his or her designee, and a deposit may be required. All fees paid shall be receipted immediately and placed in the City's General Fund.

3. Time Period to Close Out Request if Requester Does Not Respond

The requester shall have ten (10) calendar days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten (10) calendar days, the request shall not be fulfilled.

4. Denial of Requests.

If a request is denied, in full or in part, the Designated Public Records Custodian, or his or her designee, shall provide a written denial to the requester with an explanation for why the request or any part of the request was denied. If there is a legal basis for denial of the request, the Designated Public Records Custodian, or his or her designee, shall provide a written denial together with the information required pursuant to Neb. Rev. Stat. § 84-712.04.



MEMORANDUM

TO: Mayor & City Council

DATE SUBMITTED: April 5, 2024

FROM: Taylor Rivera
City Attorney

FOR AGENDA OF: April 15, 2024

SUBJECT: Public Records Request Policy & Procedures

EXHIBIT(S): Public Records Request Policy
& Procedures

On August 5, 2013, the City adopted a Public Records Request Policy via Resolution Number 5551. Recently, LB43 was passed and changed some of the rules regarding Public Records Requests. The proposed updated policy reflects these changes, specifically:

- Section 84-712(3)(c)
 - For residents of Nebraska, the City cannot charge for our time for the first eight (8) hours of fulfilling the request. Previously, it's the first four (4) hours of work.
 - For nonresidents, City can charge for all time to fulfill the request.
- Section 84-712(5)
 - Defines "resident" as a person domiciled in Nebraska and includes news media without regard to domicile.
 - Does not define "news media".