

RESOLUTION NO. 2018-11

**A RESOLUTION OF THE CITY OF BENTON CITY,
WASHINGTON, AMENDING RESOLUTION 2009-07
REGARDING PUBLIC RECORDS REQUESTS**

WHEREAS, the City of Benton previously adopted the Washington State Attorney General's advisory rules regarding public records requests; and

WHEREAS, the City finds it necessary to update its public records disclosure procedures to facilitate the efficient use of staff time and more effectively accommodate the accessibility of its public records, as well as expedite any disputes in regard to their disclosure; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTON CITY,
WASHINGTON, AS FOLLOWS:**

Section 1. AGENCY DESCRIPTION - CONTACT INFORMATION - PUBLIC RECORDS OFFICER.

A) The City of Benton City is a Washington Municipal Corporation providing municipal services. The City's central office is located at City Hall, 1009 Dale Ave., Suite A, Benton City, Washington.

B) The City Clerk shall be the City of Benton City's Public Records Officer. The name and contact information of the City's public records officer shall be posted at City Hall, posted on the City's website, or included in its publications. Any person wishing to request access to public records of the City, or seeking assistance in making such a request should contact the Public Records Officer at:

Office of the City Clerk
City of Benton City
1009 Dale Ave., Suite A
PO Box 70
Benton City, WA 99320
Phone: (509) 588-3322
Facsimile: (509) 588-3323
Email: shaug@ci.benton-city.wa.us

C) Many records are also available on the City's website at www.ci.benton-city.wa.us. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

D) The Public Records Officer will oversee compliance with the Act but another City staff member may process a request. Therefore, these rules will refer to the Public Records Officer "or designee." The Public Records Officer or designee and

the City will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the City.

Section 2. AVAILABILITY OF PUBLIC RECORDS.

A) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the City, Monday through Friday, 7:30 a.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the office of the City Clerk at City Hall.

B) Records Index. The City finds that maintaining an index is unduly burdensome and would interfere with City operations. Due to the limited financial resources and staff, the City is without sufficient resources to construct an index and maintain it; nor does the City have many of its records retrievable in an electronic format; nor are resources readily available to place these records in an electronic format.

C) Organization of records. The City will maintain its records in a reasonably organized manner. The City will take reasonable actions to protect records from damage and disorganization. A requestor shall not take City records from City offices, or that location designated for the inspection of public records, without the permission of the Public Records Officer or designee. A variety of records is available on the City's website at www.ci.benton-city.wa.us. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

D) Making a request for public records.

1) Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form, or by letter, fax, or e-mail addressed to the Public Records Officer and including the following information:

- a) Name of requestor;
- b) Address of requestor;
- c) Other contact information, including telephone number and/or e-mail address;
- d) Identification of the public records adequate for the Public Records Officer or designee to locate the records; and
- e) The date, and if presented at City Hall, the time of day of the request.

2) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Standard photocopies will be provided at 15 cents (15¢) per page.

3) A records request form is available for use by requestors at the office of the Public Records Officer and online at www.ci.benton-city.wa.us.

4) The Public Records Officer or designee may accept requests for public records that contain the above information by telephone or in person. If the Public Records Officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

5) In the event the records requested in any department are readily available, of a routine nature, and do not involve the interest of any other person, the Public Records Officer or the department head may authorize the immediate inspection and/or copying of such record without the necessity of filing the request as provided in Subsection 1) above.

Section 3. PROCESSING OF PUBLIC RECORDS REQUEST - GENERAL.

A) Providing "fullest assistance." The City is charged by statute with adopting rules which provide how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the City, "provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The Public Records Officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

B) Response. Within five (5) business days of receipt of the request, the Public Records Officer will do one or more of the following:

1) Notify the requestor that the records are available for inspection or copying; or

2) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor; or

3) Acknowledge that the City has received the request and provide a reasonable estimate of the time the City will require to respond to the request;

4) If the request is unclear or does not sufficiently identify the requested records, acknowledge that the City has received the request, and request clarification from the requester. The Public Records Officer shall also provide, to the greatest extent possible, a reasonable estimate of the time the City will require to respond to the request if it is not clarified. Such clarification

may be requested and provided by telephone. The Public Records Officer or designee may revise the estimate of when records will be available; or

5) Deny the request. The City may deny a request for all or substantially all records of an agency not regarding a particular topic or meaningful keyword or name. The City may also deny automatically generated ("bot") requests received from the same requestor within a 24-hour period if the requests would cause excessive interference with the other essential City functions.

C) Consequences of failure to respond. If the City does not respond in writing within five (5) business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for the failure to respond.

D) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

E) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. The City need not make available for inspection and copying public records exempt from public inspection and copying under Chapter 42.56 RCW and other records exempt from public inspection and copying under State or Federal statute or regulation, including but not limited to:

- 1) Records that are protected by trade secrets law;
- 2) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- 3) Personal information in files maintained for board members and City employees to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security numbers,

voluntary deductions, marriage status, number of dependents, and any garnishment deductions;

4) Preliminary drafts, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the board in connection with any board action;

5) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

6) The residential addresses and telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers; or

7) Lists of individuals requested for commercial purposes;

8) Any record which is exempt from disclosure under State or Federal law.

F) Privilege Log. If the City determines that a record is exempt and should be withheld, the City will maintain a privilege log of those withheld records. The privilege log will identify:

1) Type of record withheld.

2) Date of record.

3) Number of pages.

4) Author or recipient.

5) The exemption invoked.

6) A brief explanation describing how the exemption applies.

A copy of the privilege log will be produced to the records requestor.

G) Inspection of records.

1) Consistent with other demands, the City shall promptly provide a location to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any documents. No fee shall be charged for the inspection of public records. The requestor shall indicate which documents, if any, he or she wishes the City to copy.

2) The requestor must claim or review the assembled records within thirty (30) days of the City's notification to him or her that the records are available for inspection or copying. The City will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the City to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty (30) day period or make other arrangements, the City may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

H) Providing copies of records. After inspection is complete, the Public Records Officer or designee shall provide any requested copies or arrange for copying in accordance of Section 5 of this policy.

I) Providing records in installments. When the request is for a large number of records, the Public Records Officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the Public Records Officer or designee may deem the request abandoned, stop fulfilling the remainder of the request, and close the request. The City may fulfill smaller requests received after a large request prior to fulfilling the large request.

J) Reference to Website. The City may fulfill requests by providing a link to the records published on the City's public website.

K) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer or designee will indicate that the City has completed a diligent search for the requested records and has made any located nonexempt records available for inspection, and will notify the requestor that the request is now closed.

L) Unclear Requests. If any portion of a public record request is vague or otherwise unclear, the City shall request clarification from the requestor for any portion that is unclear, in accordance with Section 3(B)(4) above. If the requestor fails to clarify the request within thirty (30) days, the City may deem the unclear portion of the request as having been abandoned, but shall continue to prepare a response to any clear portions of the request in accordance with Chapter 42.56 RCW.

M) Closing withdrawn or abandoned request. When the requestor (1) withdraws the request, (2) fails to respond within thirty (30) days to the City's request to clarify an entirely unclear request, or (3) fails to fulfill his or her obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the Public Records Officer will close the request and, unless

the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the City has closed the request.

N) Later discovered documents. If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Section 4. REQUEST TRACKING.

- A) The City shall log the following for all public records requests:
- 1) Identity of requestor, if provided.
 - 2) Date and text of request.
 - 3) Description of records produced in response to request.
 - 4) Description of records redacted or withheld and the reasons for redaction and/or withholding.
 - 5) Date of final disposition of the request.

Section 5. COSTS OF PROVIDING COPIES OF PUBLIC RECORDS.

- A) No costs for inspecting. There is no fee for inspecting public records, including inspecting records published on the City's website.
- B) Actual costs. Except for the costs of specialized services described in Section 5(D), the City finds that calculating actual costs for providing copies of public records for every public records request would be unduly burdensome. Tracking the actual costs or separating the actual costs of providing copies of public records from the costs associated with other City operations would prove difficult to accomplish or would interfere with City operations.
- C) Costs for paper copies. A requestor may obtain standard (8 ½ x 11) black and white and colored copies for fifteen cents (15¢) per page.

Before beginning to make the copies, the Public Records Officer or designee may require a deposit of up to ten (10) percent of the estimated cost of copying all the records selected by the requestor. The Public Records Officer or designee may also require the payment of the remainder of the copying cost before providing all the records, or the payment of the cost of copying an installment before providing that installment. The City will not charge sales tax when it makes copies of public records.

be: D) Costs for electronic records. The costs of electronic copies of records shall

- 1) Ten cents per page for public records scanned into an electronic format or for the use of City equipment to scan the records;
- 2) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery; and
- 3) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of City equipment to send the records electronically. The City shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations; and
- 4) The actual cost of any digital storage media or device provided by the agency.

E) Costs for specialized services. In the event the City is required due to the size of the request, or there is a need for specialized copying equipment (i.e., photographs, blueprints, taped or video recordings) to use the services of an outside source designated by the City, the requestor shall be required to pay the actual costs of such service, including delivery and return of public records for the purpose of copying.

F) Costs of mailing. The City may also charge actual costs of mailing (including the costs of the shipping container) and the actual costs of long distance facsimile transmission.

G) Payment. Payment may be made by cash, check, credit/debit card, or money order to the City. When necessary, payment should be made payable to the order of The City of Benton City.

Section 6. REVIEW OF DENIALS OF PUBLIC RECORDS.

A) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of, or reasonably identify, the written statement by the Public Records Officer or designee denying the request.

B) Consideration of petition for review. The Public Records Officer shall promptly provide the petition any other relevant information to the City Attorney. The City Attorney will immediately consider the petition and either affirm or reverse the denial within two (2) business days following the City's receipt of the petition, or within such other time as the City and the requester shall mutually agree. The comments

incorporated in Chapter 44-14 WAC may be relied upon as authority for determinations made by the City in applying or interpreting this Resolution.

C) Alternative Dispute Resolution. In the event of a dispute regarding the inspection or copying of public records, the parties shall first meet in a good-faith attempt to resolve the dispute by agreement of the parties or by mediation. In the event the dispute remains, the dispute shall be resolved by arbitration pursuant to Chapter 7.04A RCW, the Mandatory Rules of Arbitration, and venue being placed in Benton County, Washington.

D) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two (2) business days after the initial denial regardless of any internal administrative appeal.

Section 7. MAYOR'S POLICIES.

The Mayor is hereby authorized and directed to institute such administrative policies and practices as necessary and appropriate to fully affect this policy.

Section 8. REPEALER.

Resolution 2009-07 is hereby repealed.

PASSED by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 5 day of June, 2018.

Resolution 2018-11 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 5 day of June, 2018.



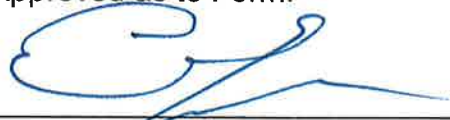
Linda Lehman, Mayor

Attest:



Stephanie Haug, MMC
City Clerk/Treasurer

Approved as to Form:



KERR LAW GROUP
City Attorney