



**CITY OF ROSEMEAD**  
*Administrative Policy Manual*

Policy Number: 10-18

Date Established: December 17, 2015

Date Revised: \_\_\_\_\_

City Manager Approval: *[Signature]*

SUBJECT: PUBLIC RECORDS POLICY

PURPOSE: TO PROVIDE GUIDANCE TO ALL TEAM MEMBERS TO ENSURE A PROMPT AND APPROPRIATE RESPONSE TO ALL PUBLIC RECORDS REQUESTS IN ACCORDANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT (GOVT. CODE 6250 – 6276.48).

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**PURPOSE**

All public requests for official City records fall under the authority of the California Public Records Act found at Government Code §6250 et seq. (the Act) and must be disclosed unless the record is specifically identified by the Act as exempt or determined to be exempt by the City Attorney.

Public records of the City of Rosemead are open for inspection during regular business hours to the extent required by law, and except as otherwise provided herein. "Public records" are all records of the City retained in the ordinary course of City business and in accordance with the City's Retention Schedule,<sup>1</sup> as may be amended from time to time, and which is incorporated herein by reference (Administrative Policy 10-03). "Public records" include all records of the City, except those which are exempt from disclosure by the Act.

Team Members will make every effort to make routine records available at the time of a request. The City may not charge an inspection fee. Requestors are not required to purchase copies after inspection. Requested copies must be made available as soon as reasonably possible, but not later than 10 days after the request. Under unusual circumstances, the time to respond may be extended for 14 additional days. The City may charge a copying fee of \$0.20 per page (City Council Resolution No. 2015-19).

Request for specific records should be in writing and directed to and received by the City Clerk's office, who will review the request and provide it to the appropriate department(s) for response.

**DEFINITIONS**

- A. The term "public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City regardless of physical form or characteristics. (Government Code §6252(e))

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<sup>1</sup> Records that could be destroyed under the Retention Schedule, but have not been, are still a responsive record.

- B. The term "writing" means handwritten, typewritten, printed, photostatted, photographed, electronic mail, facsimile, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punch cards, discs, drums, and other documents. (Government Code §6252(g))
- C. "Unusual circumstances" means the need to search for and collect requested records from field facilities or other locations separate from the office processing the request; or the need to search for, collect, and examine a voluminous amount of records to comply with the request; or the need for consultation with the City Attorney or another agency having a substantial interest in the determination of the request; or the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data. (Government Code §6253(c))

### **IN GENERAL**

The Act provides that all records of the City are subject to public disclosure unless a specific exemption applies to permit nondisclosure. The Act also includes a balancing test to determine whether a document is exempt. Under this test, the City must determine on a case-by-case basis whether the public interest in disclosure is outweighed by the public interest in nondisclosure. The use of the balancing test to support a decision of nondisclosure should be reviewed by the City Clerk and/or the City Attorney.

Examples of records that may be exempt from disclosure include but are not limited to: attorney-client privileged communications; attorney work product; closed session meeting materials; pending litigation records; eminent domain proceedings; employee personnel and medical files; signed petitions; social security numbers; and worker's compensation information.

If there are any questions concerning whether a record is exempt or should be exempt from disclosure, the Department Head or City Clerk may seek the advice of the City Attorney's Office. The City Attorney's Office will make the determination as to what records may be exempt from disclosure.

If a record contains both exempt and nonexempt information, the nonexempt information that can be reasonably segregated from the exempt information must be disclosed. This can be accomplished by redaction. Redaction is a method of concealing or "covering" certain information so that only the public information is visible to the requester. The City Attorney's Office will make the determination as to what information may be redacted.

### **RECOMMENDED PROCEDURES**

- A. Although a written request is not required, it is helpful in identifying the specific records to be inspected. Any person desiring to inspect any public record should identify the specific

records desired to be inspected, to the extent reasonably possible. Please keep in mind that the requester may have some difficulty in this regard, because they likely are not as familiar with the records as our team members. Team members should, in accordance with Government code Section 6253.1, assist the requester in making a focused and effective request that reasonably describes an identifiable record or records to the extent reasonable.

- B. Upon any request for a copy of public records which reasonably describes an identifiable record or information produced therefrom and which is not otherwise exempt from disclosure, the team member will make the records promptly available to any person upon payment of fees covering the direct costs of duplication.
- C. If the record is not specifically available or is impracticable to provide at the time of the request, the requester should be referred to the City Clerk's office, to complete a Public Records Request form for the City Clerk's office.
- D. The City Clerk's office will distribute the request to the appropriate department(s) to search their files and report back to the City Clerk as to whether the department has the records, and, if so, forward all records back to the City Clerk's office by the specified date.
- E. The City Clerk or designee will respond in writing within 10 days to the requester concerning the availability of the documents, and whether disclosure of any of the documents is exempt under the provisions of the Public Records Act.
- F. If necessary, the City Attorney will review said records to determine if the records are confidential, exempt from disclosure, and/or redaction is necessary. A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, must be in writing.
- G. In unusual circumstances, the City Clerk may, by written notice to the requester, extend the response time by a period not to exceed an additional fourteen (14) calendar days, to comply with the request.
- H. Actual disclosure of the records may depend on when the records may be assembled and whether it requires further review from various departments. If the request is particularly voluminous, the City may provide such records in batches, based on reasonable processing times and available staff resources.
- I. After receipt of a written request for inspection of documents, or in the case of multiple requests that may disrupt City processes, the City will coordinate a time and location that is acceptable to both the City and the requester. Such appointment will be as soon as reasonably practicable, in light of the City's resources such as physical space for the inspection and available staff needed to monitor the inspection.
- J. The requester must comply with all reasonable city rules concerning inspection of records. For example, the requester may not remove the documents from the public counter or other space made available by City staff for inspection. In addition, the

requester may not mark, tear, or otherwise mutilate existing records. The requester may not move documents out of place, or otherwise shuffle the records. Requestor may be required to bring their own office supplies, such as post-it notes, as such supplies may not be provided by the City. Furthermore, only authorized City staff may scan or otherwise reproduce the records.

- K. The person requesting the copies must pay the per page charge for copying as set forth by resolution of the City Council for all copies requested. If copies are to be mailed to the requester, the City Clerk's office should make the charges known to the requester and request a check in advance for the total costs of copies, plus postage. The copies should not be released until the full cost of copying and postage is paid to the City.
- L. The City will provide electronic copies of existing electronic records that are not exempt from disclosure in the format requested, if it is a format in which the City keeps the records or transmits them to other agencies. The City cannot be required to produce requested electronic records that require data compilation, extraction or programming. However, if the City agrees to do so, then the requester will be required to pay the cost of the required data compilation, extraction or programming, and the City will require a deposit prior to incurring such costs.
- M. In order to efficiently manage and process records requests, the City Clerk may keep a file of all requests processed under the California Public Records Act. This file may include, but is not limited to, responses, a general description of the records provided, an accounting of the time spent gathering, duplicating and making the information available, and the number of pages duplicated for each request, and a copy of the records disclosed in response to each request.

### **Requests for E-mails**

E-mails sent to or received from public and elected officials concerning City business are subject to the Public Records Act, if the email was sent from or received by city-owned computers using the City's e-mail account.

### **Copies Requested Pursuant to the Political Reform Act of 1974**

- A. Notwithstanding the other provisions of the City's Public Records Policy, public records requested pursuant to the Political Reform Act of 1974 (Gov. Code § 81000 et seq.), will be open for public inspection and reproduction during regular business hours, and not later than the second business day following the day on which such document was received from a public officeholder or other person subject to the Political Reform Act.
- B. No conditions whatsoever should be placed on those persons desiring to inspect or reproduce reports or statements filed pursuant to the Political Reform Act, nor should any information or identification be required from such persons.
- C. Copies may be provided at a cost of ten cents (\$0.10) per page, and the filing officer of the City may charge a retrieval fee not to exceed five dollars (\$5.00) per request for

copies of reports and statements which are five (5) or more years old. A request for more than one (1) report or statement or report and statement at the same time will be considered as a single request. (Gov. Code § 81008).

### **Items Exempt from Disclosure**

Some exemptions from disclosure that apply to public agency records and that are contained or recognized in the Public Records Act include:

- Signed referendum, initiative and recall petitions (Gov. Code § 6253.5)
- Drafts not retained in the ordinary course of business (Gov. Code § 6254 (a))
- Pending litigation information (Gov. Code § 6254(b))
- Personnel, medical and similar information that if disclosed would invade the personal privacy (Gov. Code § 6254(c))
- Law enforcement information (except specified information that must be disclosed) (Gov. Code § 6254(f))
- Real estate appraisals for public property acquisition and engineering estimates for public construction (Gov. Code § 6254(h))
- Records exempt or prohibited from being disclosed under other laws (Gov. Code § 6254(k))
- Attorney-client privileged communications (Gov. Code § 6254(k), Evid. Code § 1040)
- Attorney work product (Gov. Code § 6254(k), Civ. Proc. Code § 2018.030)
- Official information privileged records (Gov. Code § 6254(k), Evid. Code § 1040)
- Pre-decisional communications protected by the deliberative process privilege (Gov. Code § 6255); and
- Information regarding which, based on the particular facts, the public interest in non-disclosure clearly outweighs the public interest in disclosure (Gov. Code § 6255).

This list does not include all potential exemptions. As stated above, please consult with the City Attorney's office if you have any concerns about whether an exemption may apply, so they may review and confirm that the scope of that exemption and its application to the records.