

RESOLUTION NO. 1060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANBY, OREGON, ADOPTING REASONABLE MEASURES TO ENSURE THE INTEGRITY OF ITS RECORDS AND EFFECTIVENESS OF ITS OFFICE OPERATIONS AND REPEALING RESOLUTION 686.

WHEREAS, according to ORS 192.420, every person has the right to inspect any nonexempt public record of the City of Canby subject to reasonable procedures; and

WHEREAS, the City of Canby recognizes and respects the public's right to public documents and the importance of maintaining orderly files to facilitate public access in an efficient and cost-effective manner; and

WHEREAS, the State Attorney General suggests that public bodies establish protective measures to maintain the integrity of public records or to prevent interference with the duties of the records custodians; and

WHEREAS, the State Attorney General recommends there be a process in which the public has an opportunity to comment on these measures;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Canby, Oregon, that:

Section 1: City Council Resolution 686 is repealed.

Section 2: The City shall provide proper and reasonable opportunities for inspection and examination of the records during usual business hours if such request does not interfere with the regular discharge of duties.

Section 3: All requests to inspect a public record shall be in writing when practicable with the date, name, address, and signature of the person making the request or sufficient e-mail metadata for the City to make an appropriate response.

Section 4: The request must contain, if known, a statement of sufficient specificity to determine the nature, content, and probable department in which the record is located.

Section 5: The City shall respond to a person who makes a written request for a public record as soon as practicable and without unreasonable delay. The response will acknowledge receipt of the request and include one of the following:

- a. A statement the City does not possess, or is not the custodian of the public record;
- b. A statement from the City that it needs clarification of the request;
- c. Copies of all requested public records for which the City does not claim an exemption from disclosure under ORS 192.410 to 192.505;

- d. A statement that the City is the custodian of at least some of the requested public records, the amount of time the City needs before the records will be available to the requestor, and a cost estimate for providing the records;
- e. A statement that the City is uncertain if it is in possession of the records and the amount of time the City needs to search for the records; or
- f. A statement that the public records are exempted from public disclosure under state and federal law.

Section 6: The City shall not create any new documents or customize any existing documents in response to a records request.

Section 7: If the public record is maintained in a machine readable or electronic form, the City shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the City shall make the public records available in the form in which it is maintained.

Section 8: A person making a public record request may personally inspect the requested document during normal business hours. A City staff member shall be present while any original public records are being inspected to insure protection of the documents.

Section 9: Providing nonexempt public records is a governmental activity covered by the Americans with Disabilities Act (ADA). The City will provide an opportunity for individuals with disabilities to request an alternative form.

Section 10: A staff member must review the requested document to make certain the record does not contain any exempt information before releasing the public record for inspection. If a document does contain exempt information, a copy, in lieu of the original will be provided for inspection with the exempt portion redacted. The cost of having legal assistance to redact material can be included in the fee charged.

Section 11: Original public documents may not be taken out of the City's custody.

Section 12: City records shall be released only under the conditions that the records are public and not exempt from disclosure under ORS 192.410 – 192.505.

Section 13: Fees

- a. The City will establish a fee in its annual fee resolution that is reasonably calculated to reimburse the City for the actual cost of making public records available, including locating the requested records, reviewing the records to delete exempt material, supervising a person's inspection of original documents to protect the integrity of the records, summarizing, compiling, or tailoring a record, either in organization or media, to meet the person's request. A request that is extraordinary and would significantly disrupt

the regular discharge of duties will be charged whether copies are provided or not. The City may charge for search time even if it fails to locate any records responsive to the request or even if the records located are subsequently determined to be exempt from disclosure. Copies of documents provided by a routine file search will be charged at a copy rate established in the annual fee resolution.

- b. The City may include a fee established to reimburse for the costs of time spent by the city attorney in reviewing the public records, redacting materials from the public record into exempt and nonexempt records. The City fee may also include the cost of time spent by an attorney for the City in determining the application of the provisions of ORS 192.410 - 192.505.
- c. The City may not establish a fee greater than \$25 unless the requestor is provided with written notification of the estimated amount of the fee and the requestor confirms that he/she wants the City to proceed with making the records available.
- d. Prepayment shall be required if the amount of the request is greater than \$25. If the actual charges are less than the prepayment, any overpayment shall be promptly refunded.

Section 14: Fee Waivers or Reductions

- a. Copies of public records may be furnished without cost or at a substantial reduction if the City Recorder determines the waiver is in the public interest because making the record available primarily benefits the general public.
- b. The department head will review the waiver or reduction request while also considering the requestor's ability to pay and any financial hardship on the City that might arise from granting the waiver. A three-part analysis will be used to evaluate fee waiver or reduction requests to determine (a) whether a waiver or reduction is prohibited by law, (b) whether the waiver meets the public interest test because making the record available primarily benefits the general public, and (c) whether to grant a fee waiver or reduction.
- c. Copies of routine materials personal to a requestor will be furnished without charge except for police reports. Any non-routine materials requested will be charged at the fee set by City Council resolution.
- d. Copies of routine materials requested by any Canby elected official or appointed advisory board will be furnished without charge if the request relates to information needed to act in one's official capacity. Any other materials requested will be charged at the fee set by City Council resolution.
- e. Routine materials are defined as those items already regularly produced.
- f. A person who believes there has been an unreasonable denial of a fee waiver or fee reduction may petition the district attorney.

- g. The City shall annually review and make available to the public a written procedure for making public records requests that includes:
 - i. A person and address to which public record requests may be sent;
 - ii. The amounts of and the manner of calculating fees that the City of Canby charges for responding to requests for public records; and
 - iii. Any other information that will assist a person seeking public records of the City of Canby.

Section 14: The City will annually review and make available to the public a written procedure for making public records requests that includes:

- a. A person and address to which public records requests may be sent;
- b. The amounts and the manner of calculating fees that the City charges for responding to requests; and
- c. Any other information that will assist a person seeking public records of the City.

Section 15: This resolution shall take effect on May 19, 2010.

ADOPTED this 19th day of May 2010 by the Canby City Council.



Melody Thompson
Mayor

ATTEST:



Kimberly Scheafer, CMC
City Recorder