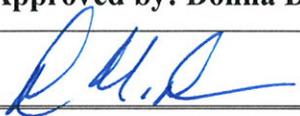


<b><u>MANAGEMENT POLICIES AND PROCEDURES</u></b>	
<b>Public Records Requests</b>	<b>Number 206</b>
<b>Approved by: Donna Dreska, City Manager</b>	<b>Effective Date: December 15, 2004</b> <b>Revised: July 1, 2009</b>
	<b>Page 1 of 9 and forms</b>

**I. PURPOSE**

The purpose of this policy is to facilitate and foster democratic principles and ensure the accountability of the government to the public by facilitating public access to vital information about governmental activities to the extent permitted by Chapter 239 of the Nevada Revised Statutes and other applicable law. People have a right to know how government operates and spends taxpayer dollars. Public books and public records contain vital information about the operations and activities of government. It is the intent of the City to ensure public books and public records are open and accessible to the public so as to promote an informed and involved citizenry. Of equal importance to ensuring an open and accessible government is for government to ensure confidentiality of certain information whether based upon state or federal law, including relevant court decisions and Nevada Attorney General Opinions which recognize privacy interests of individuals, other competing interests and privileges, or other applicable considerations. Where the law is unclear, the Nevada Supreme Court expressed the need for balancing of interests in nondisclosure against the general policy in favor of open government. It is, therefore, the purpose of this policy to establish reasonable and consistent procedures to be followed in considering public records requests.

A further purpose of these guidelines is to establish reasonable and consistent fees for providing copies of public records and ensuring the public is informed of applicable fees as provided for by Chapter 239 of the Nevada Revised Statutes. NRS 239.001

**II. REVISION**

12.15.2004 Adopted  
06.01.2009 Revised

**III. REFERENCES**

Nevada Revised Statutes, Chapter 239; *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990); *DR Partners v. Board of County Commissioners of Clark County*, 116 Nev. 616, 6 P.3d 465 (2000); *City of Reno v. Reno Gazette-Journal*, 119 Nev. 55, 63 P.3d 1147 (2003); Nevada Administrative Code, Chapter 239; Nevada AGO Opinions.

**IV. PERSONS AFFECTED**

All City Employees

## V. POLICY

1. **General Policy.** All public books and public records of the City of Reno, not otherwise declared by law or deemed by application of appropriate legal standards to be confidential, will be available at all times during office hours for inspection by any person and may be fully copied. It is further the policy of the City of Reno to follow both state and federal law in the interpretation and application of these issues. This policy does not create rights in the public beyond those that would exist in the absence of this policy.
2. **Scope and Applicability.** These policies and procedures cover all departments of the City of Reno government unless otherwise superseded by state or federal law, rules or regulations.
3. **Definitions.** For purposes of this policy, the following terms have the following meaning:

*Actual cost* – The direct cost of the reproduction of a public record is the actual cost. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record. NRS 239.005(1).

*City* – means the City of Reno.

*City record* – means information that is created or received pursuant to a law or ordinance, or in connection with the transaction of the official business of any office or department of the City, or which evidences the organization, operation, policy or activity of the City including, without limitation, all documents, papers, letters, unpublished books, maps, charts, blueprints, drawings, photographs, films, computer printouts, artifacts entered as exhibits in any proceeding in any court, information stored on a magnetic tape, computer, laser disc or optical disc, or on material which is capable of being read by a machine, including microforms and audio and visual materials, and any other evidence, including all copies thereof. The term does not include nonrecords. NRS 239.080; NAC 239.101<sup>1</sup>.

*Duplicate* – means any accurate and unabridged copy of a record or series of records which is not an original. NAC 239.031.

*Extraordinary use of personnel* – means time in excess of 30 minutes per involved employee reasonably and necessarily required to provide cost estimates; locate, format, retrieve, compile, review for confidentiality, research, redact, and copy requested documents, and to provide required notices.

*Electronic record* – means a representation of a record of a local governmental entity in electronic format containing information, knowledge, facts, concepts or

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<sup>1</sup> References to NAC are by way of analogy and have not been held binding on municipalities.

instructions which is being prepared or has been formally prepared and is intended to be processed, is being processed or has been processed in a system or network. NAC 239.035.

*Extraordinary use of technology* – If a public record readily available in electronic form requires accessing outside equipment, computer programming, data analysis or manipulation by software to retrieve the requested record, the request shall constitute extraordinary use of technology.

*Geographic Information System* – The system of hardware, software and data files on which spatially oriented geographical information is digitally collected, stored, managed, manipulated, analyzed, and displayed.

*Legal custody* – means all rights and responsibilities relating to the maintenance of and access to a record or series of records are vested in an office or department of a local governmental entity and the official or head of the department is charged with the care, custody and control of that record or series of records. The term does not include the ownership of the record. NAC 239.041.

*Nonrecord* – means documents which are not public records, and also includes published books and pamphlets, books and pamphlets printed by a governmental printer, worksheets used to collect or compile data after it has been included in a record, answer pads for a telephone or other informal notes, unused forms except ballots, brochures, newsletters, magazines, newspapers or parts of newspapers retained as evidence of publication, scrapbooks, and property left or deposited with an office or department which would otherwise be defined as a record except that the ownership of that property does not reside with the City. NAC 239.051.

*Processing employee* – The City officer or employee who is primarily responsible for processing a records request, regardless of who first receives the request.

*Public record* – means a City record that is created, received or kept in the performance of a duty and paid for with public money. NAC 239.091.

*Readily available medium* – The form in which the public record is produced or stored, i.e., paper, video, audio, computer storage, etc.

4. **Requests for Public Records.** Except as otherwise provided in Section 5, all public books and public records of the City, the contents of which are not otherwise declared by law or deemed by application of appropriate legal standards to be restricted, privileged or confidential, must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public.

This policy does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted. NRS 239.010; *see Section III REFERENCES*.

5. **Redaction of Confidential Information.** A request to inspect or copy a public book or public record shall not be denied on the basis that the requested public book or public record contains information that is confidential if the processing employee can redact, delete, conceal or separate the confidential information from the information included in the public book or public record that is not otherwise confidential. NRS 239.010(3).
6. **Request Form.** A request for access to or copies of a public record may be made orally or in writing. A Public Records Request Form has been developed to facilitate a clear understanding of the nature and scope of the request and to track the processing of the request. This form need not be used for requests which a department can easily respond to if the document is a known public record and immediately available.

Departments should use this form for requests that cannot be filled immediately to help ensure accuracy, timeliness and documentation of the request. The requester is not required to complete the form, but should be requested to do so. If the requester does not make the request in person, an employee should complete the form taking the information from the requester. The employee should ask the requester to sign the form at the time the requester picks up the copies; however, the requester is not required to sign the form. The more information the requester provides the easier and faster the request can be filled; however, a request may not be denied *solely* for a lack of specificity *on the form* and the requester and City officer or employee to whom the request is made should engage in a dialogue to clarify the request. Where clarification is not possible, the processing employee should fill the request to the best of his or her ability, or provide written notice to the requestor why the request cannot be completed.

7. **Timeframe and Manner for Responding to a Request.** Not later than the end of the fifth (5<sup>th</sup>) business day after the date on which the department receives a [~~request~~] *written memorandum, letter, email or request form* from a person to inspect or copy the public book or record, the processing employee shall do one of the following, as applicable:
  - a. Allow the person to inspect or copy the public book or record;
  - b. If the department does not have legal custody or control of the public book or record, provide to the person, in writing:
    - i. Notice of that fact; and

- ii. The name and address of the department or governmental entity that has legal custody or control of the public book or record, if known;
- c. Except as otherwise provided in paragraph (d), if the department is unable to make the public book or record available by the end of the fifth (5<sup>th</sup>) business day after the date on which the person who has legal custody or control of the public book or record received the request, provide to the person, in writing:
  - i. Notice of that fact; and
  - ii. A date and time after which the public book or record will be available for the person to inspect or copy. If the public book or record is not available to the person to inspect or copy by that date and time, the person may inquire regarding the status of the request; or
- d. If the city must deny the person's request to inspect or copy the public book or record because the public book or record, or a part thereof, is confidential, provide to the person, in writing:
  - i. Notice of that fact; and
  - ii. A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential. NRS 239.0107

Requests for public records should be responded to as soon as possible within the scope of regular work duties and demands. If the requester presents a compelling need for immediate production of the document, the department should balance the City's interests against the interests of the requester and the public and respond within a reasonable time under all the circumstances. *The City should aspire to comply with this Section on an oral public records request, however, the requirements of this Section are not mandatory.*

## 8. Reasons for Non-Disclosure. o

- a. **General Rule: Public Records must be Produced.** The general rule is that non-confidential public books and public records must be produced. Reasons for non-disclosure are set forth below. The processing employee should consult with his or her supervisor or the City Attorney's Office when in doubt.
- b. **Reasons for Non-Disclosure.**
  - i. **Nonrecord.** Nonrecords do not need to be produced.
  - ii. **Confidential.** Confidential documents or information shall not be disclosed. Sources of confidentiality include, but are not limited to:
    - a) **Statute, Regulation or Order.** If a statute, regulation, or court order expressly makes the public record or information in the record restricted, privileged or confidential, it shall not be produced. If reasonably feasible, confidential information should be redacted (removed or hidden) and the public record produced. The requester must be provided with a citation to the legal authority for confidentiality.
    - b) **Balancing Test.** A public record or information therein may be withheld from disclosure where there is a strong public or private need for confidentiality, provided the demonstrated need for confidentiality

significantly outweighs the public interest in open government and the requester's need for the information (balancing of interests). This exception is narrowly applied and the City has the burden of proof. This exception should have prior approval by the City Attorney's Office and the Notice to the requestor should cite *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990).

**c) Deliberative Process Privilege.** Pre-decision documents which reflect the opinions, recommendations, advice or thought processes of City officers or employees to any decision making official making decisions may not be produced unless the requester can show his or her need is stronger than the public policy interests in nondisclosure. This exception should have prior approval by the City Attorney's Office and the Notice to the requestor should cite *DR Partners v. Board of County Commissioners of Clark County*, 116 Nev. 616, 6 P.3d 465 (2000).

- c. **Processing.** It is the responsibility of each city department and division to know the law in the area in which it operates. Each department head should identify one or more persons in their respective divisions to become familiar with this policy and the laws of confidentiality in their field of work who can serve as knowledgeable contacts when requests for public records are made and to review the records for confidentiality and/or redaction.

When a request is referred to the City Attorney's Office for clarification, the assigned Deputy City Attorney should provide the processing employee with a date when the review will be completed. The processing employee shall then provide the requestor with written notice of the date when the document will be available to inspect or copy. The processing employee should note relevant events and communications on the Records Request form and keep copies of written notices sent to the requestor.

Pursuant to Section 6(d), if a requested record will not be produced, or is redacted, the processing employee, with any necessary assistance from the City Attorney's Office, shall provide the requesting party with written notice of the legal authority justifying the action, and shall retain a copy of the notice. Any potential need for a "Vaughn List," or any objection to the notice raised by the requestor, should be discussed with the City Attorney's Office.

Some requests involve multiple records which may be in the custody of numerous departments and persons, and may require considerable legal analysis. Accordingly, staff shall provide prompt and diligent assistance to the processing employee, consistent with their other important duties. The processing employee should document efforts to comply with such requests, retain notices to the requestor, and retain a copy of the final production, as redacted.

Unless the City Attorney's Office is the custodian of requested records, the City Attorney's Office shall not charge for review of records for confidentiality unless

it can articulate a significant need for legal review based upon potential exposure to the City, complexity of issues or other significant factors.

9. **Protection of Original Documents.** At no time should any person inspecting public records be allowed to remove records from the premises or location stored. Reasonable steps shall be taken to ensure the protection of public records while being inspected such as supervision, viewing areas, and sign-in/sign-out requirements. Members of the public are not allowed to take unsupervised possession of an original public record, regardless of the medium it appears in.
10. **Fees for Copies of Public Records on Letter Size or Legal Size Paper.** Actual cost shall be charged. In the absence of specific information showing actual cost, the following fees shall apply. Five cents (\$.05) per page after the first five (5) pages will be charged for a copy of a public record on standard letter size or legal size paper. Copies of color photographs shall be charged ten cents (\$.10) per page. This copy fee is separate and in addition to any fee to be charged for extraordinary use of personnel or technology. Copies of current agendas or staff reports shall be free. Only one copy of a public record need be provided. NRS 239.052.
11. **Fees for Requests Requiring Extraordinary Use of Personnel or Technology.** If extraordinary use of personnel (see definition in Section 3) is required to comply with a public books or records request, the requester shall be charged a reasonable fee for the extraordinary use of personnel. The rate shall be at the gross hourly wage, or portion thereof, of the lowest compensated individual reasonably available and qualified to respond to the request. The time shall be either the actual time required, or the time it should reasonably have taken to respond to the request, whichever is shorter. The extraordinary use of personnel fee shall not include the first 30 minutes of any employee's time.

Should extraordinary use of technology be required to comply with a public books or records request, the requester shall be charged the actual cost for the use of the technology, exclusive of overhead.

Prior to preparing information which requires extraordinary use of personnel or technology, the processing employee shall obtain estimates of the time required to comply and shall inform the requester of the actual charge based upon those estimates. The fees shall be collected before providing the information or copy of the public record. If the requester objects to the prior payment of the estimate, the City Attorney's Office should be consulted. If the actual expense is less than the estimate, the balance shall be returned to the requester. The City will not charge an additional fee as provided herein if subsequent requests for the same documents do not require the extraordinary use of City personnel or technological resources to fulfill the additional or subsequent requests. These fees are in addition to any fee authorized by other provisions of this policy. NRS 239.055.

12. **Fees for Copies of Public Records in Other Media.** A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has custody of a public record shall not refuse to provide a copy of that public record in a readily available medium because he has already prepared or would prefer to provide the copy in a different medium. In the event a request is made for a public record maintained in a readily available medium other than letter size or legal size paper or the readily available medium of the public record cannot be accurately reproduced on a standard copier to letter size or legal size paper, the requester shall be charged the actual cost for reproducing the record. For example: If a department records public meetings on audiotape and a request for a copy of an audiotape is received, the department would charge the cost of the audiotape. The department is responsible for determining the actual costs for copying the record and obtaining payment of this fee before or upon delivery. NRS 239.010(4).
13. **Posting of Fees and Lists of Fees.** Departments and divisions shall post a sign in a place of clear public view listing the fees charged for a copy of a public record. All departments and divisions shall forward a copy of their list of fees to the City Manager's Office of Organizational Effectiveness. The Office of Organizational Effectiveness shall review and maintain a master compilation of the lists and provide a copy to the City Clerk to be made available for public inspection and copying. NRS 239.052.
14. **Applicability of Fees.** Where the law sets a fee that must be charged for a copy, that fee will be charged. The following list is not inclusive of all statutes where fees are set:
- NRS 3.370 Official Court Transcripts
    - fee varies according to the timeframe of fulfilling the request;
  - NRS 5.073 Municipal Courts
    - 30 cents per page for preparing any copy of any record, proceeding, or paper;
  - NRS 268.014 Code
    - copies of the City code may be sold at any price established by resolution of the City Council.
  - NRS 239.053 Transcripts of Administrative Proceedings.
  - NRS 239.020 Dept. of Veteran Affairs Free in certain instances.
15. **Fees for Records from Geographic Information Systems.** A fee for public information maintained and retrieved from a geographic information system may include the reasonable costs related to:
- a. The gathering and entry of data into the system;
  - b. Maintenance and updating of the database of the system;
  - c. Hardware;
  - d. Software;
  - e. Quality Control;
  - f. Consultation with personnel of the governmental entity.

Prior to retrieving the record from the geographic information system, the processing employee shall obtain estimates of the costs required to comply and shall inform the requester of the estimated fee. The estimated fee shall be collected before obtaining a copy of the public record. If the actual cost is less than the estimate, the balance shall be returned to the requester. NRS 239.054.

16. **Public Meetings; Providing Copies of Agenda and Supporting Material.** Upon any request, a public body shall provide at no charge at least one copy of:
- An agenda for a public meeting;
  - A proposed ordinance or regulation which will be discussed at the public meeting; and
  - Any other supporting material provided to the members of the body except materials:
    - Submitted to the public body pursuant to a nondisclosure or confidentiality agreement;
    - Pertaining to the closed portion of such a meeting of the public body; or
    - Declared confidential by law or by application of appropriate legal standards.

If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the processing employee shall, if feasible, provide the information and material by electronic mail. NRS 241.020(5)&(6).

17. **Certification of Public Records.** Upon request, each city department having custody of a public record shall certify that the copies provided are correct copies of the records on file in the office as of the date provided. The record may be certified using any legally recognized form of certification, including the form attached hereto. NRS 240.100 authorizes notary fees of \$2.50 for certification of copies. No additional fee for certification will be required, unless otherwise established in state or federal law. NRS 239.030.
18. **Training.** Responding to a request for a public record is a part of the fundamental role of being a public employee and serving the public. All departments must ensure appropriate employees are adequately trained to respond to requests in a timely, courteous, and professional manner. Appropriate employees should be periodically informed of applicable laws, regulations, policies and procedures. Human Resources will coordinate training with department heads to applicable employees.
19. **Retention Period for Public Records.** Public record requests, 5 working day notices, and responses shall be retained by the processing employee's department in accordance with the City's Record Retention Schedule Policy and applicable law (generally for 3 years). See City Manager Policy No. 207.

# Fees for Copies of Public Records

(NRS 239.030; City Manager Policy No. 206)

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Pursuant to Nevada Revised Statutes Chapter 239 and the City's Resolution Adopting Public Records Policies and Procedures for the City of Reno and Resolution Establishing Service Charges and Fees, the following is the City of Reno's fee schedule for copies for public records, where the fee is not otherwise set by state or federal law or regulation.

The first 5 pages and current staff reports and agendas are free. You will be charged 5 cents per page thereafter, unless the request takes longer than 30 minutes to fill or requires the extraordinary use of technology to fill. You will be charged \$1 per page for copies of color photographs. If the request takes longer than 30 minutes to fill, you will be charged a fee equal to the average hourly wage of the lowest compensated employee available to fill the request times the amount of time greater than the first 30 minutes. You will be charged the actual cost for the extraordinary use of technology.

Copies on Letter Size or Legal Size Paper: \$.05 after 5 pages.

Copies of Public Records in Other Mediums: You will be charged our actual cost to reproduce the public record mediums (tapes, CDs, VCR, etc).

Geographic Information System: The fee will be charged in accordance with NRS Records 239.054.

This is a summary of fees and is not binding on the City of Reno where any law, ordinance or resolution provides a different fee.

**WE WILL TELL YOU THE COST TO FILL A PUBLIC RECORD REQUEST BEFORE YOUR REQUEST IS FILLED AND ANY CHARGE IS ASSESSED.**

**CITY OF RENO – CERTIFICATION OF PUBLIC RECORDS: FORM A**  
(NRS 239.030; City Manager Policy No. 206)

*Upon request for a certified copy of a public record, this form should be completed by the custodian of records, signed by a notary public, and affixed to the records copy.*

I hereby certify the following:

1. That I am employed by the City of Reno, in the \_\_\_\_\_  
[*Department/Division*], as \_\_\_\_\_ [*title*];
2. That in this capacity, I am the custodian of records of the records attached hereto; and
3. That I have examined the original records and the attached are correct copies of original records on file as of this date [*optional: except for portions that have been redacted*].

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

Print name: \_\_\_\_\_

\* \* \* \*

State of Nevada     )  
County of Washoe    )

I hereby certify that \_\_\_\_\_ is employed by the City of Reno as  
\_\_\_\_\_ [*title*], and that his/her signature hereon is genuine.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Notary Public

Seal:

**CITY OF RENO – RECORDS REQUEST FORM AND CHECKLIST: FORM B**  
(NRS 239.030; City Manager Policy No. 206)

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*For handling large or complicated Public Records requests.*

1. Requestor's Name, Address, Phone: \_\_\_\_\_  
\_\_\_\_\_
2. Date of Request (Initial Response due in 5 working days): \_\_\_\_\_
3. Complete description of requested records. Dialogue if in doubt. Consider sending letter confirming understanding of public records sought.  
\_\_\_\_\_  
\_\_\_\_\_
4. Immediately communicate with all potential custodians of the requested records:
  - a. 5 day time limit for production or first response.
  - b. Obtain date copies WILL be provided.
  - c. Consider reasons not to provide document/information (Nonrecord, Confidential, Public Policy reasons).
  - d. If "Extraordinary Use of Personnel or Technology" (EUPT) is required, obtain:
    - 1) Estimate of time to locate and copy.
    - 2) Estimate of time to review for privileges and provide legal citation.
    - 3) Applicable rates to charge.
    - 4) Cost of Technology, if any.
  - e. Keep notes of efforts. Follow up to ensure timelines are kept.
5. **5 Working Day Notice:** Within 5 working days of the request, send written notice to requestor with:
  - a. Date by which the City will respond with requested documents or authority for nonproduction.
  - b. Amount of EUPT fee, if any. If a fee is to be charged, notify the response date will be extended by the amount of time it takes to receive the EUPT fee.
  - c. Retain copy of the notice, including date sent.
6. **Response:**
  - a. Retain a copy of the response, including all documents produced.
  - b. Ensure confidential documents are not produced. Redact, if feasible. Retain copy or record of confidential documents not produced.
  - c. Cite to legal authority for confidentiality claims.
  - d. Consider making "Vaughn List", list of documents not produced.
  - e. Keep notes of efforts. Follow up to ensure timelines are kept.

Reminder: This form is not a substitute for compliance with State Law and Policy 206.