

RESOLUTION NO. 2018-38

**RESOLUTION DELEGATING RESPONSIBILITY TO THE CITY CLERK TO IMPLEMENT THE REQUIREMENTS OF CHAPTER 22, IOWA'S PUBLIC RECORDS STATUTE, AND ADOPTING A PUBLIC RECORDS POLICY**

WHEREAS, Iowa Code § 22.1(2) provides that each governmental body shall delegate to particular officials and employees the responsibility for implementing the requirements of Chapter 22 and that the governmental body shall publicly announce the particular officials or employees to whom responsibility to implement the requirements of Chapter 22 has been delegated; and

WHEREAS, Iowa Code § 22 1(2) defines public records" as "all records, documents, tape, or other information stored or preserved in any medium, or belonging" to the City of Jesup; and

WHEREAS, Iowa Code § 22.3 allows the lawful custodian of the records to adopt and enforce reasonable rules regarding the work and the protections of the records against damage or disorganization; and

WHEREAS, Iowa Code § 22.3 provides that all expenses can be assessed to the person desiring to copy or examine the records, that the City may charge a reasonable fee for supervising the examination of the records and the cost of the photocopying; and

WHEREAS, Iowa Code § 22.3A allows the public certain access to data stored electronically; and

WHEREAS, it is in the best interest of the public and City staff to have a single, uniform policy applicable to all City offices and departments; and

WHEREAS, said policy needs to provide for a fee for the City Attorney to review documents in the event that the request is not sufficiently definite to determine whether it includes confidential records; and

WHEREAS, the City Council finds that the Public Records Policy of the City of Jesup, which is attached and incorporated herein, is reasonable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JESUP, IOWA:

The attached Public Records Policy of the City of Jesup is adopted as the policy of the City of Jesup for the examination and copying of public records.

The City Clerk is hereby delegated with the responsibility for implementing the requirements of Chapter 22 with respect to records maintained by the City of Jesup.

Passed and approved this 6th day of February, 2018.

\_\_\_\_\_  
Larry Thompson, Mayor

Attest: \_\_\_\_\_  
Koley Mead, City Clerk

## PUBLIC RECORDS POLICY OF THE CITY OF JESUP, IOWA

1. Statement of Policy. The purpose of this policy is to facilitate broad access to public records. The City is committed to the policies set forth in Iowa Code Chapter 22, as amended. City staff shall cooperate with members of the public in implementing the provisions of that chapter.
2. Custodian. For purposes of this policy, "Custodian" means the person lawfully delegated by the City to act for the City in implementing Iowa Code Chapter 22. As designated in Resolution No. 2018-38 the Custodian is the City Clerk.
3. Location of Record. A request for access to a record shall be directed to the City Clerk.
4. Office Hours. Requests for access to public records may be made in writing, in person, by e-mail, by fax, or by telephone. The request should identify the particular records by name or description to facilitate the location of the record. To facilitate a reply, mail or telephone requests should include the name, address, and telephone number of the person requesting the information. A person shall not be required to explain why the record is being requested.
5. Response. Access to a public record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. Absent unusual circumstances, access shall be provided within ten (10) working days from the date the request is received by the Custodian. If the size or nature of the request for access to a record requires time for compliance, the Custodian shall comply with the request as soon as feasible. Access to a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4), as amended. The Custodian shall promptly give notice to the requestor of the reason for any delay in access to a public record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requestor in writing.
6. Denial. The Custodian may deny access to the record only on the grounds it is a confidential record, or that its disclosure is prohibited by a court order, or other applicable law.
7. Security of record. No person may, without permission from the Custodian, search or remove any record from the City's files. Examination of City records shall be supervised by the Custodian or a designee of the Custodian. Records shall be protected from damage and disorganization.
8. Fees.  
Reproduction. The charge for copies of records and documents shall be the actual cost of such copies.

Postage. When the mailing of copies is requested, the actual cost of such mailing may be charged to the requestor.

Fax. When facsimile transmission is requested, the charge shall be the actual cost of such transmission.

Search and Retrieval. No charge will be made for the first fifteen (15) minutes for the services of staff in research and retrieval of records. Retrievals of more than fifteen (15) minutes will be assessed in quarter-hour intervals at the rate of \$5.00 per quarter hour.

Supervisory Fee. An hourly fee will be charged for actual City expenses in supervising the examination and copying of requested records when the supervision time required is in excess of fifteen (15) minutes. Supervision of more than fifteen (15) minutes will be assessed in quarter-hour intervals at the rate of \$5.00 per quarter-hour.

City Attorney Review Fee. To determine whether confidential documents are included in the request, a fee will be assessed in quarter-hour intervals based on the hourly rate not including benefits of the reviewing attorney.

Advance Deposits. When the estimated total fee chargeable under this policy exceeds \$25, the Custodian may require advance payment of the full amount of any estimated fee before the Custodian processes a request.

Certified Copies. Certified copies of public documents in the City Clerk's office may be made only at the time the photocopy is made by the City Clerk.

Electronic Data. The City is not required under Chapter 22 to provide the public with access to City software but must allow access to records that are combined with its data processing software. If it is necessary to separate the record from the software to provide access, the City shall bear the cost of the separation. After the record has been separated, any additional fees (e.g., photocopying) shall be as provided above. If the person requests that the record be specially processed, the fee for doing so shall be assessed in quarter-hour intervals at the rate of \$11.00 per quarter-hour.

## 9 Confidential Records.

- a. Basis. The Custodian may treat a record as a confidential record and withhold it from examination only to the extent that the Custodian is authorized by Iowa Code section 22.7, as amended, another applicable provision of law, or court order to refuse to disclose that record to members of the public. In the event that the request is not sufficiently definite to determine whether confidential documents are included, the City Attorney,

or designee, will need to review the documents, and the fee for said review is listed in Paragraph 8 above.

- b. Access to Confidential Records. Under Iowa Code section 22.7, as amended, or other applicable provision of law, the Custodian may disclose certain confidential records to one or more members of the public. In requesting the Custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for request for access to records provided above.
  - 1) Proof of identity. The Custodian may require the person requesting the confidential record to provide proof of identity or authority to secure access to the record.
  - 2) Requests. The Custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof deemed necessary by the Custodian to establish relevant facts.
- c. Request denied. When the Custodian denies a request for access to a confidential record, the Custodian shall promptly notify the requestor. If the requestor indicates to the Custodian that a written notification of the denial is desired, the Custodian shall promptly provide such a notification that is signed by the Custodian and that includes:
  - 1) The name and title or position of the Custodian responsible for the denial; and
  - 2) A citation to the provision of the law vesting authority in the Custodian to deny disclosure of the record and a brief statement of the reason for the denial to the requestor.
- d. Request granted. When the Custodian grants a request for access to a confidential record to a particular person the Custodian shall state any lawful restrictions imposed by the Custodian on that person's examination and copying of the record.
- e. Request that record be treated as confidential record. A request that a record be treated as a confidential record and withheld from public inspection shall be in writing if the Custodian so requests. The request shall set forth the legal and factual basis justifying the request and the name, address, and telephone number of a person authorized to respond to any inquiry or action of the Custodian concerning the request. Failure to make such a request does not preclude the Custodian from treating it as a confidential record. If the request is denied, the Custodian shall notify the

requestor of the determination and the reasons therefore. On application by the requestor, the Custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requestor may seek injunctive relief under Iowa Code section 22.8, as amended, or other applicable law. The Custodian shall notify requestor in writing of the time period allowed to seek injunctive relief.

- f. Third Party. A person who is the subject of a confidential record may request that the record be disclosed to a third party. Said request must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed. Such request does not require the disclosure of the record by the Custodian. Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the City to disclose records about that person to the person's attorney.
10. Redaction of a Record. The Custodian may redact from a record any information that is confidential under state or federal law, such as a Social Security Number.
  11. Creation of a Record. If the Custodian determines that it may be more feasible, economical, or otherwise reasonable that a response to a request may be better met by the creation of a record, such as a report or a document that does not presently exist, and that would be produced as a result of research or analysis, the Custodian may, but will not be required, to notify the requestor of that determination. The Custodian may advise the requestor of the actual cost of creating and providing such document that does not currently exist. The Custodian and the requestor may in such instance, but will not be required to, agree to approve such document in exchange for the actual cost in lieu of providing access to the records originally requested. In absence of such agreement, records will be made available as provided in this policy.

RECORDS REQUESTED:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Clerk/Deputy Clerk

\_\_\_\_\_  
Date