



Roll Call Number

Agenda Item Number

41

Date June 27, 2022

RATIFYING DES MOINES ADMINISTRATIVE POLICY 1.06 TO ALIGN WITH IOWA CODE CHAPTER 22

WHEREAS, on July 1, 2022, amendments to Iowa Code Section 22.3 will be effective; and

WHEREAS, such amendments include adjustments to fees for public records requests as further identified in the applicable Council Communication; and

WHEREAS, pursuant to his general authority under Iowa Code Section 372.1 and Municipal Code Section 2-201, the City Manager has issued administrative policies including Administrative Policy 1.06 pertaining to requests for public records; and

WHEREAS, Policy 1.06 has been amended to align with Iowa Code Chapter 22 and makes references to the collection of reasonable fees as allowed by Iowa Code Section 22.3; and

WHEREAS, it is within the authority of the City Council and in the best interests of the City of Des Moines to approve the collection of reasonable fees as allowed by law as referenced within amended Administrative Policy 1.06.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the amendment to Administrative Policy 1.06 (also referred to as 1.6) entitled Payment of Expenses for Records Search and/or Copies as appended hereto is hereby ratified as approved and adopted by the Des Moines City Manager.

MOVED BY _____ TO ADOPT.

(Council Communication No. 22-319)

Seconded by _____.

Approved as to form:

Carol J. Moser, Deputy City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL.

MOTION CARRIED APPROVED Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, Acting City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Acting City Clerk

Policy 1.6 **Payment of Expenses for Records Search and/or Copies**

Issue Date: August 15, 1973
Effective Date: August 15, 1973
Issued By: ~~Richard A. Clark~~ Scott E. Sanders, City Manager
Revised: February 5, 1996; February 28, 2014; May 30, 2014; July 1, 2022

Purpose *The purpose of this directive is to set forth procedures for the collection of expense payments for a search for records which are not immediately accessible and for copies of City records or reports.*

Applicability This directive is applicable to all departments operating under appropriations approved by the City Council. All requests for information shall be forwarded to the ~~City Department Director~~ City's Open Records Coordinator who oversees the documents requested, unless the request can be fulfilled in under 30 minutes and at no charge to the requestor. He/She will work with the Legal Department and other appropriate departments as necessary. ~~Charges set forth herein shall not apply if the fees and charges for the search and copies of specified records are incorporated in the schedule of fees established by the City Council. For types of requests not covered by this policy, the City Manager will have discretion on appropriate fees.~~

In General Chapter 22, Examination of Public Records, *Code of Iowa*, gives every citizen the express right to examine all public records and to receive a copy those records, unless their access is expressly prohibited. In furtherance of such rights granted under Chapter 22, this policy establishes reasonable rules regarding the examination and copying of public records of the City. Code of Iowa, §22.3 authorizes the City to charge for the reproduction of records deemed to be "public records". While the City supports transparency and open access to public records, providing records for free would place a financial burden on taxpayers that the City must avoid by charging these statutorily-authorized fees for the reimbursement of costs incurred. This policy is intended to recover a portion of the actual costs incurred by the City to search for and provide copies of public records.

City staff should not be expected to abandon or neglect their regular public duties to comply with an open records request, and thus need sufficient time to make and deliver requested copies. City staff will, however, make efforts to respond to an open records request within a reasonable time period.

~~In light of the extremely high volume of requests—and due to current budget constraints—, a standardized policy regarding the processing of public records and the related statutory expenses is necessary. Outlined below is the City policy for providing copies of public records to the public or the media.~~

Typically, public records fall into two categories-- hard copy documents and electronically-stored information. If a request includes a combination of both hard-copy and electronic records, the processing expense will include both

components unless all of the requested records can be provided electronically. The requester will be made aware of the reasonable anticipated expenses associated with record retrieval and/or copying. The requester must agree to the estimate and authorize the City to proceed with record retrieval before retrieval or reproduction will begin. Once record retrieval is complete, an invoice a final payment due notice will be provided to the requester reflecting the final expense. The requester must provide payment at the time they wish to ~~pick up~~ receive copies of the requested records, or to review records if more than ~~45~~30 minutes of staff time was required to search and assemble the records. Notwithstanding the above, the City shall have no obligation to create a record in response to a request.

Charges for Search and Copies

Should the request involve more than ~~45~~30 minutes of employee time, however, the requestor will be charged in 15-minute increments for all employee time in excess of the first ~~45~~30 minutes at the hourly rate of compensation for each employee involved. An estimate may be provided initially, but final expenses may exceed the estimate as actual time required is entirely dependent upon the complexity of the request and the technology involved to retrieve the record.

A payment of \$1.00 for the first page and 25¢ for each additional page will be collected for non-color 8-1/2" x 11" photocopying of City documents in addition to the expense identified above for employee searches. Requests for color and/or oversized (i.e., anything larger than 11" x 17") photocopies will be charged at a rate of \$1.75 per square foot of paper or as established by the City Manager. For example, a common poster size (24" x 35") on a 36" plotter would be \$10.50. Because electronic information may reside in a variety of applications and systems, the records requested may need to be exported to a report or other usable format by the appropriate City staff. All electronic copies shall be provided upon payment of the expenses of the search plus actual costs of the media (CD, DVD or any other media) in which the material is provided. Records will generally be provided in PDF or hard copy format.

Records may also require review for exposure of protected information; therefore, there may be additional staff time required for review and redaction of records per the Iowa Code. This staff time will be charged according to this policy.

A minimum financial deposit to cover estimated copy charges and estimated fees for supervising the examination or compiling may be required; and, if required, no work will begin on a request until a minimum of 50% of the estimated deposit is received. All fees must be paid in full before any information will be released.

~~Records retrieval and copying expenses shall generally be paid in the originating department. Receipts will be provided. It is the responsibility of the originating department to deliver all revenue and reconcile receipts to the City Treasurer in accordance with generally acceptable accounting standards.~~

Electronic Information Requests

Exporting data from City of Des Moines software applications/operating systems/databases:

A great deal of data resides in a variety of software applications and operating systems that require training to use. In order to provide such data for requests, it must be exported by appropriate staff using prescribed, specific parameters in coordination with the department/division that maintains the data. When such

data is exported from an application, there is a possibility that the data may be inadvertently manipulated by converting it to a new format. Therefore, following the export of the data by appropriate staff, the information must be reviewed for accuracy by the department/division that maintains that data.

Emails:

Emails to and from City officials and employees concerning public business are considered public records. Individual employees may not be able to conduct searches within their own email accounts to accurately and completely comply with requests. Therefore, to ensure a complete and accurate response to public records requests for emails, requests for email records shall be recovered by appropriate staff. The exception to this is if the email account holder can attest to the satisfaction of the City Manager that all e-mails responsive to the request are available to him or her and such documents can be reproduced by the account holder without the assistance of appropriate staff.

When requesting that staff retrieve information from the email system, the requester should specify if the search is related to key word or date periods. If requesting a key word search, the requester should provide the key words. ~~If the response to the request results in a large quantity of emails, files may be saved to a CD/DVD to avoid unnecessary paper usage. However, e-mails may also be provided in hard copy format with photocopy charges as outlined in this policy.~~

All Department personnel must use the The City of Des Moines Records Request Form is (attached as Exhibit A ~~and B~~). All fees associated with this policy are outlined on attachment Exhibit B and may be amended from time to time at the discretion of the City Manager.

Courtesy Copies

One courtesy copy of roll calls and supporting documents presented prior to City Council, Board, or Commission action may, upon request, be given free of charge. City Council, Board, or Commission meeting documents requested following City Council, Board, or Commission action, will be charged as outlined in this policy.

Reference: RC95-636, 2/20/95; RC96-496, 2/5/96

City of Des Moines, Iowa Records Request Form

(Exhibit A)

REQUESTOR'S INFORMATION (please print)

1. Name: _____
2. Company Name (if applicable): _____
3. Mailing Address: _____
4. Daytime Phone Number: _____
5. Alternate Phone Number: _____
6. Fax Number: _____
7. Email Address: _____

REQUEST (Please be as detailed as possible; include names, dates, subjects, meeting dates, resolution and ordinance numbers, project names, key words, etc.)

Iowa Code Chapter 22 gives every citizen the right to examine public records and to copy those records unless their access is expressly prohibited. The City of Des Moines staff should not be expected to abandon or neglect their regular public duties to comply with record requests and thus need sufficient time to make and deliver any requested information. If the requested material potentially contains confidential information or is otherwise exempt from disclosure, additional time may be required for review and possible redacting of the material. All requests will be processed in accordance with applicable procedures and rules. **Note: If a deposit is required, no work will begin on the request until a minimum of 50% of the estimated deposit is received.**

Signature and Printed Name of Requestor

Date of Request

Details of Request (for office use only)

1. Request Received via: Email Fax Mail In Person / Verbal
2. Requesting: Paper Copies In-Person Examination CD/DVD Other _____
3. Request Submitted on: _____ (include date and time)
4. Department/Employee Receiving Request: _____
5. Date on Which Department Director Reviewed Request: _____
6. Date on Which City Attorney's Opinion Sought (if applicable): _____ Attorney Name _____

(Exhibit B)

Fees (for office use only)

- Copy Charges: _____ B/W pages \$1.00 for the first page + \$0.25 for add'l pages = \$ _____
 _____ Color pages \$1.00 for the first page + \$0.34 for add'l pages = \$ _____
 oversize pages (to be determined case by case) = \$ _____
- Fax Charges -- 10 page maximum: _____ pages x \$0.50/page = \$ _____
- Documents Scanned to Email: _____ pages x \$0.10/page = \$ _____
- Electronic Files Burned to CD, \$5 per CD \$ _____
- Postage Charges -- Certified Mail, Regular Mail: _____ actual cost = \$ _____
- Other (please specify): _____ actual cost = \$ _____
- Other (please specify): _____ actual cost = \$ _____
- Staff Services: (~~first 15~~³⁰ minutes free per request) specify redacting time, search time, supervision of records examination, copying time, etc.

Name of Employee(s) Performing These Services: _____
(Department Staff, IT Staff, Finance Department Staff, etc.)

_____ hours (¼ hour increments) x \$ _____ employee hourly rate = \$ _____
 _____ hours (¼ hour increments) x \$ _____ employee hourly rate = \$ _____

TOTAL OF ALL FEES \$ _____
 less deposit received (if any) -\$ _____
 balance owed at pickup to be refunded \$ _____

Deposit Received on: _____ (date and time)

in the amount of \$ _____ by _____ (employee)

Final Payment Received on _____ by _____ (employee)

Dept. _____ Revenue Code _____ Date Taken to Treasurer _____