

**CITY OF SEDONA
PUBLIC RECORDS POLICY/PROCEDURES**

I. General Policy Statement

As a political subdivision of the State of Arizona, the City of Sedona is obligated to comply with state laws governing disclosure of public records. Public records are generally presumed to be open for public inspection during regular office hours. A.R.S. § 39-121 to 161. A “record” means all books, papers, maps photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in transaction of public business. A public record would include documents concerning City business in possession of third parties that an employee could request or retrieve.

Examples of public records include, but are not limited to: memos, reports, maps, photographs, email, permits, licenses, applications, agendas, minutes, budgets, phone bills, etc. Examples of items that are not public records include, but are not limited to: extra copies, multiples of blank forms, post-it notes, commercially available software, private papers including purely personal email, and articles or periodicals that are needed only for reference.

II. Procedure for Responding to a Public Records Request

A. Receiving a Request: To help members of the public in making public records requests, the City provides a “Public Records Production Request Form”. This form will be available on the City’s website and can be downloaded, filled in and forwarded to the City Clerk’s Office, which will act as a central contact for public record requests. It is recommended that members of the public use this form in order to facilitate the orderly compliance with public records requests, but any request, whether written or made orally must be honored. If a member of the public wishes to make an oral request, a city employee receiving the request should fill out the attached form to the best of their ability in order to memorialize what and when the request was made, and to provide contact information so that the member of the public can be notified when the public records or copies thereof are made available.

B. Determination of Commercial or Non-Commercial Purpose of the Request: It is important that the employee receiving the request determine whether or not the request is being made for a commercial purpose. A commercial purpose includes, but is not limited to, using the requested information for any of the following:

1. Sale or resale or for the purpose of producing a document containing all or part of the copy printout or photograph for sale.
2. Obtaining names and addresses for such public records for the purpose of solicitation, or
3. Monetary gain from direct or indirect use of the public record.

A commercial purpose does not include use of the public record as evidence or research, or for publication of all or part of the public record in a newspaper for its news value.

If a record is being requested for a commercial purpose, this fact should be noted on the Public Records Production Request Form, so that the appropriate charge can be made.

C. Collection and Compilation of Documents in Response to the Request: After the request is received, it should be forwarded by the City Clerk to all departments and relevant employees that may have possession and control over the requested documents. In addition, a copy of the request should be forwarded to the City Attorney’s Office for review. After review, the City Attorney’s Office will return the documents to the originating department for inspection by the requesting party and/or copying. The originating department will then be responsible for making any requested copies.

Employees asked to respond to a public records request should make every attempt to respond to such requests on a timely basis. State law requires that documents be “promptly furnished”. A.R.S. § 39-121.01. If response will take more than 48 hours, the responding departments will contact the City Clerk with an explanation that will be forwarded to the requesting party with an estimate of the time it will take to complete the compilation. In complying with the request, documents that may be considered of a confidential nature should be segregated for

review by the City Attorney's Office before being copied. Such documents include but are not limited to:

1. Attorney-client privileged documents, i.e., documents that contain opinions, analysis, work product from any attorney representing the City,
2. Documents that relate to an ongoing investigation including personnel actions, criminal investigations, etc.,
3. Documents that are or were discussed in an executive session of the City Council or a City commission or committee.
4. Documents containing "personal identifying information" that may be required to be redacted.

After all of the above documents are compiled, they should be submitted to the City Attorney's Office for review before being made available for inspection.

The Police Department has a separate established policy and procedure for public records requests such as accident reports or documents that have been compiled in an ongoing criminal case or investigation. Those policies and procedures take precedence over the procedures described herein.

D. Assessment of Charges in Connection with Public Documents: Upon receiving a public records request, where copies of documents are requested, the receiving department should make a good faith attempt to estimate the number of pages of documents being requested. If the number exceeds 50 pages, the requesting party should be notified of the estimate and instructed that payment of this estimated amount is required before the City will begin to comply with the request. Standard charges for copies are as follows:

1. **Paper Copies: \$0.25 per page.**
2. **Charges for electronic copies provided on CD: \$15.00 per CD.**
3. **Charges for printing/assembly/legal review: \$25.00 per hour.**
4. **Maps: Refer to price listings offered by the G.I.S. Department.**
5. **Non-standard size documents or voluminous numbers of documents will be assessed a charge that is incurred for outside copying services utilized for making the copies.**

Upon completing the making of copies, a final tally of all copy review costs shall be made and presented to the requesting party in the form of a bill. If this tally is less than the estimated cost already paid by the requestor, then he/she shall be reimbursed for the difference. If the tally is greater than the prepaid estimate, the remaining balance should be collected before copies are released.

Staff time cannot be charged for locating or retrieving the documents, but it can be for compiling the information, copying, converting the original format (such as Word documents to PDF), or preparing a special report (such as all email with associated attachments in a chronological order). Each staff member is responsible for recording their time.

The preferred method of responding to public records requests is by electronic format (email, electronic version of documents, website) rather than printing.

There are many public record documents already on the City's website, such as City codes, ordinances, materials attached to Council communications in completed meetings, agendas, notices, and planning materials, or additional documents posted by the City departments. When such documents are requested, notify the requesting party of their location.

E. Related Considerations: Public records and their release are the subject of recent legal scrutiny by court decisions, legislative amendments, and Attorney General opinions. These issues concern metadata of documents, expanded redaction of personal or entity information, requests demanding continuing disclosures of emails and their attachments, records created on private computers or email accounts, postings by employees on social websites, and documents that are submitted to the City as part of a permit process that may have proprietary or trade secret information. Staff is asked not to offer advice about the types of public records that may be available when a request is made, even informally, and instead simply complete the request form and forward it to the City Clerk for distribution and review by the staff and City Attorney. Also, except for commercial requests, the requesting party does not have to state a reason for wanting to review or copy public records.

Requesting Public Documents for a Commercial Purpose

Pursuant to A.R.S. § 39-121.03, when a person requests copies, printouts, or photographs of public records for a commercial purpose, the person shall provide a statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the statement, the custodian of such records may furnish reproductions, the charge for which shall include the following:

1. A portion of the cost to the public body for obtaining the original or copies of the documents, printouts, or photographs.
2. A reasonable fee for the cost of time, materials, equipment, and personnel in producing such reproduction.
3. The value of the reproduction on the commercial market as best determined by the public body.

A commercial purpose includes but is not limited to using the requested information for any of the following:

1. Sale or resale or for the purpose of producing a document containing all or part of the copy printout or photograph for sale.
2. Obtaining names and addresses for such public records for the purpose of solicitation, or
3. Monetary gain from direct or indirect use of the public record.

A commercial purpose does not include use of the public record as evidence or research, or for publication of all or part of the public record in a newspaper for its news value.

A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose shall in addition to other penalties be liable to the City of Sedona for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney fees or shall be liable to the City of Sedona for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.

A.R.S. § 39-121.03.C.

Return of Form

Completed forms may be submitted as follows:

Email to - CityClerksDept@sedonaaz.gov

Mail to - City Clerk's Office
102 Roadrunner Drive
Sedona, AZ 86336-3710