

STAFF REPORT

For Meeting of December 11, 2017

MAYOR AND MEMBERS OF THE CITY COUNCIL

SUBJECT:
Resolution 2083
Public Records Fee
Amendment

Subject

This resolution updates the general city Fee Resolution to reflect changes in fees charged for furnishing copies and public records requests, specifically relating to changes made by SB 481 which amends ORS 192.410 to 192.440, the State's Public Records Law.

Summary and Background

In July 2017, the Oregon Legislature passed Senate Bill 481, which will take effect January 1st, 2018. This bill amends ORS 192.410 to 192.440, the state's Public Records Law. The main areas of change involve responses to requests and adhering to new timeframes required under the law.

Under SB 481, the City must, after initial receipt of the written public records request:

- I. Respond to requests, within at least 5 business days, with 1 of 3 specific statement responses; and
2. As soon as reasonably possible, but no later than 10 business days after acknowledgement of receipt of the request, the City must:
 - a. Fulfill the request, in its entirety; or
 - b. Issue a written response with an estimated date of completion, based on certain exemptions of the 10 day rule.

In studying SB 481 and its exemption, City staff began reviewing the current fee schedule resolution, established in 2003, that only allows the City to charge \$0.25 per page for public records requests of less than 10 pages, and \$0.10 per page for any additional pages. The current fee schedule does not take into account new technologies which don't translate to a per-page charge (electronic documents), but require substantial staff-time to compile, and/or the need for other materials, other than paper, such as CD's, DVD's, and USB's.

Currently, the Police Department process's roughly 170 records requests per month. A typical (but uninterrupted) request takes about 15 mins of staff time to process, these requests are about 10 pages long with an additional 5 pages worth of color photos. Currently, there are about 2 video requests per month. These requests take between 2 to 4 hours of staff time to process due to legal requirement to redact certain things, such as faces, from body-camera footage. In best case scenarios, requests are filled within 2 to 10 business days.

The City's Municipal Court processes approximately 15 records requests per month. A typical request is 10-20 pages long and usually requires less than 15 mins of staff time to process and is given to the requester that same day, if, the requested record is in electronic form. Older public records requests, that have yet to be scanned, can take up to 48 hours to locate and fulfill.

The volume of other City public records requests are minor, both in quantity and in time to fulfill the requests.

But, with the passage of SB 481, public records requests throughout the City have the potential to drastically change as undesired and frivolous requests may come in in larger quantities in order for the requester(s) to financially benefit from the possibility that the City may not acknowledge or fulfill the public records request(s) in the time frame established by the new law. The recommended changes, to include staff processing time, should be viewed as a protection against these types of requests.

ORS 192.440 allows public body's to recoup the "actual costs" of fulfilling public records requests. Therefore, City staff proposes updating the fee schedule to account for staff processing time, the technology used/needed to fulfill public records requests, and to be consistent with other department fees as follows:

Paper Copies (per page, per side)		Electronic Formats	
\$0.25	black & white- up to 11x17	\$5.00	DVD, CD, or USB
\$1.00	color & photos- up to 11x17	\$35.00	Minimum Charge for copy of Audio & Video Recording, in addition to other fees. ("Lengthy Requests" fee waived for 1 st hour of processing.)
\$2.00	18 x 24 black & white		
\$3.00	24 x 36 black & white		
\$4.00	36 x 40 black & white		
\$20.00 Flat Fee	Police & Municipal Court Report, including discovery, except court appointments (regardless of page count or electronic format)	Processing Fees	
Actual Cost	Maps Nonstandard Documents Colored documents larger than 11x17	Actual Cost	Attorney fees
		\$35.00/hr	*"Lengthy requests" (requests over 15 mins to complete), in addition to other fees. *Fee's charged at 15 min increments. *Requests less than 15 mins to process may be waived, excluding serial requests.

The new fee schedule will also more accurately compare with other cities throughout the state, as shown below: **(Please Note: Standard Copy Fee Schedule is highlighted in black below.)**

City	Population	Fees
North Plains	2,100	Standard Copy Fees plus actual employee hourly rate.
Cottage Grove	9,890	
Troutdale	16,631	
Sherwood	19,283	
Milwaukie	20,830	
Pendleton	16,881	Actual employee hourly rate, after 15 mins, plus copy fees below. \$0.10/side, black & white, after the first 10 \$0.25/side, color, after the first 4 (letter or legal size) \$0.50/side, color, after the first 2 (11x17) Larger paper size same as "Standard Copy Fee Schedule" highlighted in black. \$10.00, audio recordings
St. Helens	13,158	Standard Copy Fees plus actual employee hourly rate, after 15 mins. \$20.00 each DVD, CD, USB Police Department \$20.00/case up to 30 pages.
Newberg	22,780	Standard Copy Fees, plus \$60.00/hr, under 15 mins can be waived. Standard Copy Fees, plus \$20.00/15 mins. DVD, CD \$19.00, USB \$13.00
Lake Oswego	38,496	
Albany	52,175	Standard Copy Fees

		Up to 30 mins- copying costs plus \$10.00 30 mins to 2 hours- \$25.00/hr plus copying costs Over 2 hrs- actual per hour staff costs (wages plus benefits) plus copying costs
Sutherlin	7,912	Standard Copy Fees Up to 30 mins- copying costs only 30 mins to 2 hours- \$25.00/hr plus copying costs Over 2 hrs- actual per hour staff costs \$15.00 each DVD or CD Police Reports -\$8.00 1-5 pages,\$15.00 6+ pages
Central Point	17,995	Police Dept. -\$5.00 for first page, \$1.00 every additional page
Harrisburg	3,704	\$30.00/hr with a minimum of ½ hour increments. Documents provided in their original electronic format, within 15 minutes, are generally free.

STANDARD COPY FEE SCHEDULE			
Paper Copies (per page, per side)		Electronic Formats	
\$0.25	black & white- up to 8.5x14	\$5.00	DVD, CD, or USB
\$0.50	color- up to 8.5x14 black & white- 11x17	\$ 100.00 (1 hour min)	Electronic Searches (includes email searches)
\$1.00	color - up to 11x17		
\$2.00	18 x 24		
\$3.00	24 x 36		
\$4.00	36 x 40		
Varies	Police & Municipal Court Report		
Actual Cost	Photo Paper & Color Photos Maps & Nonstandard Document Attorney & Administrative Review		

The \$35.00 per hour processing fee rate was established by averaging the full cost to the city (salary & benefits) of the clerical pool from City Hall, the Court, and the Police Department. Requesters will receive an estimated cost to fulfill their request and the requester will be required to pre-pay the estimated cost before the request is filled, with any over-payment refunded upon completion of the request.

As a reminder, in 2012, the City received a legitimate records request from an attorney in dispute with the City where the requestor asked for all emails from all City employees. This was eventually pared-down to only include emails from the City Councilors, and three staff members which included certain key words. The smaller request still yielded several hundred emails which had to be reviewed by the City Attorney to redact certain information. The estimated cost to fulfill this request was more than \$2,000 in staff time. Because the City's fee resolution did not have any reference to staff time, the requestor did not pay anything for the records, which he received electronically.

Fiscal Information

Currently, City staff dedicate over 50 hours each month to public records requests, costing residents well over \$21,000.00/ year in staff time alone. This amount does not include paper products, ink, and electronic items such as DVD's or USB's that the City must purchase in order to fulfill these requests. With the current fee schedule, City residents are footing the bill for public records requests that do not benefit the general public. Therefore, it is in the City's and residents best interest for the Council to approve the recommended fees.

There will also be some staff time required to train staff on the new law and changes in forms and internal procedures.

Alternatives and Recommendation

Alternatives

1. Amend Resolution No. 2083
2. Deny Resolution No. 2083

Recommendation

Approve Resolution No. 2083 incorporating the new fee schedule.

Requested Action/Motion

Approve Resolution No. 2083

Reviewed by:
Department Head



City Manager Approval



RESOLUTION NO. 2083

A RESOLUTION ADOPTING A SCHEDULE OF FEES AND CHARGES FOR VARIOUS SERVICES, LICENSES, AND PERMITS, AND SUPERCEDING RESOLUTION NO. 1985.

WHEREAS, The City Council has adopted the City of Hermiston Code of Ordinances and that Code permits the City Council of the City of Hermiston to adopt by resolution a schedule of fees and charges for various services, licenses and permits.

THE CITY OF HERMISTON RESOLVES AS FOLLOWS:

1. The attached schedule of fees shall be adopted as the Fee Schedule for the City of Hermiston beginning January 1st, 2018 and continuing indefinitely unless amended, superceded or repealed.
2. Resolution No. 1985 is hereby superceded.
3. This resolution shall become effective immediately upon its passage as of the date and year set out below.

PASSED by the Common Council this 11th day of December, 2017.

SIGNED by the Mayor this 11th day of December, 2017.

MAYOR

ATTEST:

CITY RECORDER

**Fee Schedule for Resolution No.
Effective January 1, 2018**

Code Section	Subject	Fees
§33.39	Jurors' fees	Each juror shall be entitled to an attendance fee of \$10.00 for each day's required attendance.
§52.07(A)	Utility deposit interest rate	The interest rate shall be 5% per annum with the interest to be credited on the first day of January succeeding the deposit and the first day of January thereafter.
§52.08(A)(1)& §52.09(B)	Water service disconnect and reconnect fees	When water service has been terminated for any cause other than temporary discontinuance, the consumer shall be charged \$10.00 to cover the cost of shutting off such water service and in the event the service is reinstated, shall be charged an additional \$10.00 to cover the cost of reinstalling the service.
§52.08(A)(2)	Water meter inspection fees	If a consumer requests inspection and testing of a meter, the sum of \$15.00 as a testing fee shall be paid.
§52.28(E)	Water shortage emergency - penalties and discontinuance of service related to failure to comply with regulations	If water is disconnected for failure to comply with regulations, the consumer shall be charged \$10.00 to cover the cost of shutting off such water service. Service shall be restored only upon payment of an additional \$10.00 to cover the turn-on cost, plus any other costs incurred by the City and any fines imposed.
§70.07(B)(2)	Vehicle impound and storage fees	Prior to reclaiming an impounded vehicle, the owner or the owner's authorized agent must pay a towing bill not to exceed \$100.00, an impound fee of \$50.00 and storage fees of \$10.00 per day commencing on the date of impoundment.
§90.16(B)	Dog impound and boarding fees	The impoundment fee for a spayed female dog or neutered male dog is \$25.00; the impoundment fee for an unaltered dog is \$75.00. The boarding fee is \$5.00 per day excluding the first day.
§92.12(B)	Performance bond amount pertaining to controlling blowing dust	A performance bond for controlling dust, not to exceed fifteen cents per square foot of the area to be disturbed, may be required.
§92.12(F)	Establish fees for use of City water truck and personnel if utilized for dust abatement at private development projects	The charge for the use of a City water truck and operator for the purpose of dust abatement within permitted projects will be \$200.00 per hour. A minimum of four hours will be charged if the City is asked to respond to a complaint of blowing dust.
§93.04(N)	Park reservation fees	A fee of \$25.00 shall be charged for each reservation of any park facility or entire park. This fee may be waived by the City Manager or his or her designee if the reservation is in

		conjunction with a community-wide event.
§94.37(A)	Excavation permit fees	The excavation permit fee is \$25.00 and shall be doubled if the start of construction occurs prior to application of the permit.
§95.04(A)	Burglar, robbery or fire alarm system permit fees	The permit fee is \$60.00 per year or part thereof; residential users over the age of 65 will not be required to pay the \$60.00 but will be required to obtain a permit.
§95.07	False alarm service fees	The fifth false alarm within the one-year period from July 1 through June 30 shall be subject to a service charge of \$20.00 charged to the user of the alarm system. Any additional false alarms within the same one-year period shall be subject to additional fees of \$20.00.
§114.03	Solicitors' license fees	Solicitors' license fees are: \$10.00 for three months, \$15.00 for six months and \$25.00 for the year with a minimum license fee of \$10.00. The fee for each additional solicitor in excess of one employed by any firm is \$10.00 per year or fraction thereof.
§152.26	Fees for moving buildings	A permit fee of \$10.00 shall be paid at the time of the application for each permit to move a building.
§155.25	Sign permit fees	A fee of \$27.50 shall be charged for regulated wall-mounted and building-mounted signs. Free-standing signs are subject to Uniform Building Code requirements with varying fees.
§170.08.030	Telecommunication carriers' registration fee	The registration fee for telecommunication carriers shall be \$50.00.
§170.12.060	Construction permit fee	Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit for construction within the public right-of-way, the applicant must pay a permit fee equal to \$500.00 or 1/4 of one percent (.25%) of the estimated cost of constructing the telecommunications facilities, whichever is greater.
§170.12.070	Permit to utilize City right-of-way	(Diminished Pavement Life Fee) For any construction requiring pavement cuts or excavation within a public right-of-way, the franchise applicant shall acquire a City of Hermiston permit {§94.37(A)} to utilize City right-of-way and meet all fee and construction standards as specified.
§170.20.030	Application and review fee	Unless otherwise provided in a franchise agreement, the applicant must pay a review fee of \$350.00.
§170.24.060	Franchise fee	A telecommunications grantee must pay a franchise fee to the City, through the duration of its franchise, as follows: A. For all grantees except as provided in paragraphs B and C, a fee of 5 percent of gross revenues paid quarterly.

		<p>Gross revenue is defined in Section 170.04.050 of the Hermiston Municipal Code.</p> <p>B. The franchise fee for a telecommunication utility shall equal 5% of its gross revenue on exchange access services earned within the boundaries of the City.</p> <p>C. For limited use telecommunications grantees, a minimum annual fee, payable in advance, of \$1,000.00 or \$1.00 per linear foot of right-of-way used, whichever sum is greater. This fee will increase annually in July of each year, by multiplying the fee by a fraction, the numerator of which is the CPI Index Figure for the month of March preceding the July in which the fee is to be increased and the denominator of which is the Base CPI Index Figure. As used in this section, "Index" refers to the All Urban Consumers (CPI-U), U.S. City Average, CPI Index published by the Bureau of Labor Statistics of the United States Department of Labor. "Base CPI Index Figure" will refer to the Index number indicated for the month of March, 1998, and the "CPI Index Figure" for any other month will refer to the Index number for that month.</p> <p><i>Beginning July 1, 2001, the fee will be \$1.00 per linear foot. This fee will increase annually by the CPI Index as set forth above. The base CPI will be January of 2001. A limited use telecommunication grantee is defined as one whose franchise limits the amount of linear feet the grantee may occupy, or one who has a franchise as of October, 1998, for the purpose of long-distance telecommunications.</i></p>																											
<p>ORS 192.440(3) RES. 2083 Adopted 01/2018</p>	<p>City wide copy fees Copies of public records</p>	<table border="1"> <tr> <td colspan="3">Print Fees (per page per side)</td> </tr> <tr> <td colspan="3">Does not include other fees</td> </tr> <tr> <td>A</td> <td>Up to 11x17 black & white</td> <td>\$0.25</td> </tr> <tr> <td>B</td> <td>Up to 11x17 color & photos</td> <td>\$1.00</td> </tr> <tr> <td>C</td> <td>18 x 24 black & white</td> <td>\$2.00</td> </tr> <tr> <td>D</td> <td>24 x 36 black & white</td> <td>\$3.00</td> </tr> <tr> <td>E</td> <td>36 x 40 black & white</td> <td>\$4.00</td> </tr> <tr> <td>F</td> <td>Maps, Nonstandard Documents, colored documents larger than 11x17</td> <td>Actual Cost</td> </tr> <tr> <td>G</td> <td>Police & Municipal Court Report, including discovery, except court appointments (regardless of page count or electronic format)</td> <td>\$20.00 Flat Fee</td> </tr> </table>	Print Fees (per page per side)			Does not include other fees			A	Up to 11x17 black & white	\$0.25	B	Up to 11x17 color & photos	\$1.00	C	18 x 24 black & white	\$2.00	D	24 x 36 black & white	\$3.00	E	36 x 40 black & white	\$4.00	F	Maps, Nonstandard Documents, colored documents larger than 11x17	Actual Cost	G	Police & Municipal Court Report, including discovery, except court appointments (regardless of page count or electronic format)	\$20.00 Flat Fee
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OAR160-100-0400	Notary fees	<p>For taking an acknowledgment, a verification upon an oath or affirmation, and witnessing or attesting a signature: \$2.00 per notarized signature on a document.</p> <p>For certifying a copy of a document: \$2.00</p> <p>For administering an oath or affirmation without a signature, for taking a deposition (each page), and for all other notarial acts not specified in this rule: \$1.00</p>																					
ORD. #2230	Taxicab Company Certificate Fee	A Taxicab Company Certificate fee of \$50 shall be charged at the time of application for a certificate.																					
ORD. #2230	Taxicab Driver Permit Fee	A Taxicab Driver Permit fee of \$25 per driver to be permitted shall be charged at the time of application for a permit.																					