

Presented by: The Manager
Introduced: 06/26/2017
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-17(b)

An Ordinance Amending the General Provisions Code to Add a New Chapter Relating to Public Records.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Title. Title 1 General Provisions, is amended by adding a new chapter to read:

Chapter 01.70 PUBLIC RECORDS

01.70.010 Purpose.

The purpose of this chapter is to establish uniform procedures to ensure that requests for disclosure of public records are handled in a timely, reasonable, and responsive manner. All disclosable public records shall be made available upon request and upon compliance with the requirements of AS 40.25.110 - AS 40.25.220 and this chapter.

01.70.020 Form of requests.

This section applies to all requests except for routine requests processed under CBJ 01.70.030. Requests for the inspection or copying of records shall be made in writing addressed to the municipal clerk. The municipal clerk shall maintain a log of all requests for the disclosure of public records that shall include the date and time of the request and fee charged, if any. If a requester is unable to write a request due to a physical or mental disability, the municipal clerk shall either assist the requester in preparing a written request or treat the requester's oral request as a written request.

01.70.030 Routine Requests.

Routine requests for inspection or copying of records may be processed by the director of the department in which the records are located. For purposes of this section, a routine request is a request for records that are clearly to be made available to the public and that can be responded to quickly with a minimal amount of effort or time by staff. Routine requests may be submitted orally

or in writing. Routine requests do not include requests for records that might be exempt from disclosure, requests that will or might be denied for any reason, requests that will take more than one person-hour of staff time to respond to, or requests from a person involved in litigation with the City and Borough. If it is determined that a request being processed under this section is not a routine request, the request shall be transmitted to the municipal clerk for processing under CBJ 01.70.060.

01.70.040 Description of records requested.

(a) A request for records must describe the records sought in sufficient detail to enable staff to locate and identify the records. If the records are described by the requestor in general terms, the municipal clerk shall attempt to communicate with the requestor to identify the records requested and lessen the administrative burden of processing an overly broad request.

(b) If it is determined that the description of records sought is not sufficient to allow staff to identify the requested records, the requestor shall be notified promptly that the request cannot be approved or processed until a sufficient description of the records is received.

(c) A requester may not be asked to provide a justification or explanation of need or intended use, but the municipal clerk may inquire whether the person making the request is a party, or represents a party, involved in litigation, including any judicial or administrative proceeding, arbitration, or mediation, with the City and Borough to which the requested record is relevant or could be relevant. If so, the requester shall be informed to make the request in accordance with applicable court rules.

01.70.050 Access to records, format.

(a) The City and Borough shall not be required to manipulate data to create new records in response to a request for public records, nor is it required to compile or summarize records in response to a request for information.

(b) Except as provided by law, if the request is for a public record that contains confidential information, the confidential information shall be masked or deleted before the record is provided.

(c) Records will be made available in the format in which the City and Borough maintains or disseminates records. Exact reproduction shall not be required, but any alteration of the form or medium of the record must not change the substantive content of the information.

01.70.060 Response to requests for public records.

(a) All municipal officers and employees shall, consistent with the orderly conduct of municipal business, make a good faith and diligent effort to provide a prompt response to requests for inspection or copying of records.

(b) Requests will be responded to as staff time allows without interrupting the orderly conduct of City and Borough business. The municipal clerk will make a good faith effort to keep the requester apprised of the estimated time in which the response will be made.

(c) As soon as practicable and upon payment of any fee established under this chapter, the municipal clerk shall furnish all requested records that are disclosable. If any of the records are not disclosable, the requester shall be provided a written denial in accordance with CBJ 01.70.090.

01.70.070 Fees for copying, production, and review.

(a) *Copying fee.* The fee for copying public records may not exceed the applicable standard unit cost established by the City and Borough of Juneau print shop. "Copying" includes paper copies as well as the production of scanned PDF pages and the actual cost of paper, tapes, microfiche, disks or other media used.

(b) *Review and production fee.* Except as otherwise provided, if the review and production of records for one requestor in a calendar month exceeds five-person hours, the requestor must pay all costs associated with the review and production of the records. The review and production fee is the equivalent of the actual salary plus benefits for the time spent by City and Borough staff to search, review, and copy the records. A "search" of records shall include, but is not limited to, any computer programming work required to extract or copy electronically-stored records. A "review" of records shall include the time spent to examine the records for the purposes of determining whether the document is responsive to the request, and if so, whether the document will be disclosed or withheld based on privilege, exemption, or other exception. The production and review fee will be in addition to the copying fee.

(c) *Electronic services and products.* The fee for electronic services and products shall be based on recovery of the actual incremental costs of providing the electronic services and products, and a reasonable portion of the costs associated with building and maintaining the information system of the City and Borough.

(d) *Payment of applicable fees.*

(1) The requester shall pay all required fees before the records are disclosed, except the manager may waive this requirement in accordance with CBJ 01.70.080.

(2) The manager may require payment in advance of the review and production of records when the manager reasonably believes that the review and production will require more than five hours to complete and will generate a fee under this section that is not waivable under CBJ 01.70.080.

01.70.080 Waivers and reductions in fees.

- (a) The fees required by this chapter may be reduced or waived by the manager when
 - (1) The amount of the fee is \$5 or less;
 - (2) In the case of indigency; or
 - (3) If the manager finds the records or electronic services and products are to be used for a public purpose.

- (b) Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

- (c) *Fee reduction in the case of indigency.* If a person is unable to pay a fee and signs an affidavit on a form provided by the manager to that effect, the manager will waive all or part of the applicable fees in accordance with the table below. No waiver or reduction will be granted if the manager finds, based upon reliable information, that the affidavit of indigency was made fraudulently or in bad faith.

Annual gross income(from all sources in the prior year), as a percent of current Health and Human Services Poverty Guidelines for Alaska	Amount of Waiver
1 – 100%	100% waiver
101 – 149%	75%
150 – 174%	50%
175 – 199%	25%
200% plus	No waiver

- (d) *Public purpose waiver or reduction.* A waiver or reduction of fees may be granted if the requester certifies, and the manager finds, that
 - (1) The records are likely to contribute significantly to the public's understanding of the operations or activities of the municipality;
 - (2) The records are not sought primarily for a purpose that is commercial or financial;
 - (3) The records are not sought by or on behalf of a person involved in litigation, including any judicial or administrative proceeding, arbitration, or mediation, with the City and Borough in which the records are or could be relevant; and

(4) The combined amount of all fees, including the amount of any waiver or reduction granted to the requester or to any other requesters acting in concert with the requester in making requests for the same or related records, does not exceed \$500 during any period of 12 consecutive months.

01.70.090 Denial.

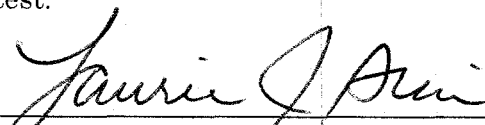
- (a) A request for a public record that complies with this chapter may be denied only if
- (1) The record is not known to exist after a diligent search is made for it;
 - (2) The record is not in the City and Borough's possession, and after a diligent search, where the record is to be found remains unknown or outside the City and Borough's control;
 - (3) The record has been destroyed in accordance with an applicable record-retention schedule; or
 - (4) Nondisclosure of the record is authorized by federal or state law or regulation.
- (b) A denial under this section is a final administrative order for purposes of appeal. The denial must be in writing, must specify the specific ordinance, statute, regulation, or court decision that is the basis for the denial, and must briefly state the reason for the denial. A denial must further state that, as provided by AS 40.25.124, the requester may obtain judicial review by appealing the denial to the superior court.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 31st day of July, 2017.


Kendell D. Koelsch, Mayor

Attest:


Laurie J. Sica, Municipal Clerk