

PUBLIC RECORDS POLICY AND PROCEDURES

Adopted by BCC on March 25, 2003

Section 1. Purpose This resolution sets forth the general policy and procedures for providing consistent, prompt, and equitable service to persons requesting access to the public books and public records of Washoe County governmental entities in accordance with the requirements of Chapter 239 of the Nevada Revised Statutes. Citizens have a right to know how government operates and spends taxpayer dollars, and public books and public records contain vital information about the operations and activities of government. It is the intent of the Board of County Commissioners to ensure public books and public records are open and accessible to citizens so as to promote an informed and involved citizenry. Of equal importance to ensuring an open and accessible government, is for government to ensure confidentiality of certain information whether based upon state or federal law, including relevant court decisions and Nevada Attorney General opinions recognizing privacy interests of individuals, other competing interests, privileges or other applicable considerations. Where the law is unclear, the Nevada Supreme Court has allowed for use of a balancing of interests test to weigh the interests of nondisclosure against the general policy in favor of open government. It is, therefore, the purpose of this policy to establish reasonable and consistent procedures to be followed in considering public records requests.

A further purpose of these guidelines is to establish reasonable and consistent fees for providing copies of public records and ensuring the public is informed of applicable fees as provided for by Chapter 239 of the Nevada Revised Statutes.

Section 2. Policy All public books and public records of Washoe County governmental entities, not otherwise declared by law or deemed by application of appropriate legal standards to be confidential, will be available at all times during office hours to inspection by any person, and may be fully copied. It is further the policy of Washoe County to follow both state and federal law in the interpretation and application of these issues.

Section 3. Scope and Applicability These policies and procedures refer to “Washoe County governmental entities” which covers all departments of Washoe County government unless otherwise superseded by state or federal law, rules, or regulations.

Section 4. Definitions For purposes of this resolution, the following terms have the following meaning:

Actual cost, means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

Extraordinary use of personnel, if it takes longer than 30 minutes to format, retrieve, compile, and copy a request for a public record, the request shall constitute extraordinary use of personnel.

Extraordinary use of technology, if a public record readily available in electronic form requires computer programming or data analysis and manipulation by software to retrieve the requested record, the request shall constitute extraordinary use of technology.

Geographic information system, means a system of hardware, software and data files on which spatially oriented geographical information is digitally collected, stored, managed, manipulated, analyzed and displayed.

Readily available medium, means the form the public record is produced or stored, i.e., paper, video, audio, computer storage, etc.

Section 5. Requests for Public Records A request for access to or copies of a public record may be made orally, or in writing. A public records request form has been developed to facilitate a clear understanding of the nature and scope of the request. The request form need not be used for requests a department can easily respond to because the document is a known public record and immediately available. However, departments shall use the Request for Public Records form for requests that cannot be filled immediately to help ensure accuracy, timeliness, and documentation of the request. The requester should be asked to complete the form, but a requester is not required to complete the form. In cases when the requester is not present, an employee should complete the form taking the information from the requester. In the event the request was placed by telephone, letter, or through email, the employee should ask the requester to sign the form at the time the requester picks up the request, however, the requester is not required to sign the form. The more information the requester provides the easier and faster the request can be filled. However, a request may not be denied for a lack of specificity, and the requester and County officer or employee to whom the request is made should engage in a dialogue to clarify the request. Where clarification is not possible, the County officer or employee should fill the request to the best of his or her ability.

Section 6. Timeframe for Responding to a Request Requests for public records should be responded to as soon as possible within the conduct of regular work duties but no later than 2 working days after the request has been made unless extraordinary use of personnel or technology will be needed to provide a copy of a public record, or except as otherwise provided herein. If a request cannot be responded to within 2 working days the requester shall be notified at the time the request is made or as soon as it is known the request cannot be timely filled. The department shall inform the requester of the date when the request will be filled. If the request to a department involves public records maintained by another department, the requester should be directed to that department in an attempt to ensure the appropriate record is provided. If another department generated the record and the department from which the record is requested used it in the course of conducting its public business, the record must be made available by the department receiving the request.

Section 7. Determining Status and Access As Nevada state statutes do not provide a definition of “public books” or “public record”, the status of any given record may not be readily ascertainable. If the public or confidential status of a requested record is not known, the employee should consult his or her supervisor. If the status is still not determined, the department shall seek the counsel of the District Attorney’s Office. If the determination by the District Attorney’s Office will require more than the 2 working days to answer, the department shall notify the requester that a review of the request is being done and when the expected completion date will be. Reviews by the District Attorney’s Office shall be done within 7 working days. If the review cannot be done within that timeframe the department shall notify the requester.

When the public or confidential status of a requested record is not known by the Department and has to be referred to the District Attorney, the department should complete the records request form. On the form it should be noted what document was requested, the determination by the District Attorney's Office, and any reasons specified by the District Attorney and department for denying or granting access to the record. The records form should be used for future reference.

If access to a record is denied, the requester should be provided with a written basis for the denial. Provisions of federal or state law may make a document confidential. It is the responsibility of each County department to know the law in the area in which each department operates. For example, there are many provisions of federal and state law governing the field of public health that make certain documents confidential, the same is true of child protective services, and service areas affecting other departments of Washoe County. Each department head should identify one or more persons in their respective departments to become familiar with the laws governing the specific fields of work who can serve as contacts when requests for public records are made.

Section 8. Protection of Original Documents At no time should any person inspecting public records be allowed to remove records from the premises or location stored. Reasonable steps shall be taken to ensure the protection of public records while being inspected including but not limited to supervision, viewing areas, and sign-in sign-out requirements. Members of the public are not allowed to take possession of a public record in any medium and reproduce the record.

Section 9. Fees for Copies of Public Records on Letter Size or Legal Size Paper No fee will be charged to provide one copy of a public record on standard letter size or legal size paper unless extraordinary use of personnel or technology is necessary to fill the request. A copy of a public record refers to the document, not the number of pages. For example, if a person requests a copy of 10-page county report, that would be a request for a single copy of a record containing 10 pages. If additional copies of a record are requested the requester shall be referred to procure the copy services of a private business.

Section 10. Fees for Reproducing Public Records Requiring Extraordinary Use of Personnel or Technology Pursuant to the authority granted in NRS 239.055, if extraordinary use of personnel or technology is required to retrieve and copy the public record, the requester shall be charged a fee equal to the actual hourly wage or portions thereof of the individual responsible for preparing the information. The statute also provides in part: "The fee charged by the governmental entity must be reasonable and must be based on the cost that the governmental entity actually incurs for the extraordinary use of its personnel or technological resources."

Requests taking longer than 30 minutes to fill constitute an extraordinary use of personnel. In such cases, the charge will be based upon the time elapsed in excess of the first 30 minutes spent in formatting, retrieving, compiling and copying the record. The lowest compensated individual reasonably available and qualified to respond to the request should prepare the requested information. The extraordinary use of personnel charge only includes the costs for the actual hourly wage in excess of the first 30 minutes; costs for paper are not included.

Should extraordinary use of technology be needed to provide the information requested, the requester shall be charged the actual cost for the use of the technology exclusive of overhead.

Upon receiving a request requiring extraordinary use of personnel or technology, the requester shall be informed of the actual charge before preparing the requested information. Fees shall be collected before providing the copy of the public record. The County will not charge an additional fee as provided herein if subsequent requests for the same documents do not require the extraordinary use of County personnel or technological resources to fulfill the additional or subsequent requests.

Section 11. Fees for Copies of Public Records in Other Mediums State law provides that “an officer, employee or agent of a governmental entity who has custody of a public record shall not refuse to provide a copy of that public record in a readily available medium because he has already prepared or would prefer to provide the copy in a different medium.” In the event a request is made for a public record maintained in a readily available medium other than letter size or legal size paper or the readily available medium of the public record cannot be accurately reproduced on a standard copier to letter size or legal size paper, the requester shall be charged the actual cost for reproducing the record. For example, if a county department records public meetings on audiotape and a request for an audiotape of a meeting is received, the county department would charge the cost of the audiotape used to reproduce the public record. County departments shall post the costs for such copies where the copy costs are known in advance, or where costs for mediums other than letter size and legal size paper are not known in advance, the department is responsible for determining the actual costs for copying the record and advising the requester before providing the information and within two working days of the request being made what the amount of the fee will be and when the copy will be available.

Section 12. Posting of Fees and Lists of Fees Departments and Divisions shall post a sign in a place of clear public view listing the fees charged for a copy of a public record. All departments and divisions shall forward a copy of their list of fees to the County Manager’s office. The County Manager shall maintain the list and make such list available for public inspection and copying.

Section 13. Applicability of Fees Where the law sets a fee that must be charged for a copy, that fee will be charged. The following list is not inclusive of all statutes where fees are set:

NRS 3.370- Official Court Transcripts, fee varies according timeframe of fulfilling the request;

NRS 4.060- Justice Courts 30 cents per page for preparing any copy of any record, proceeding, or paper;

NRS 19.013- County Clerk \$1 per page for preparing any copy of any record, proceeding, or paper;

NRS 244.116- County Code copies of County Code may be sold at any price established by resolution of the Board, and Washoe County Code Chapter 2 addresses costs.

NRS 247.305- County Recorder \$1 per page for copying any record;

NRS 248.275- Sheriff’s Office \$3 per page for a copy of any writ, process or other paper, when demanded or required by law; and

NRS 258.125- Constables \$3 per page for a copy of any writ, process or other paper, when demanded or required by law.

NRS 293.440- Registrar of Voters- 1¢ per name for a list of persons registered to vote in a precinct.

NRS 440.700 Vital Statistics \$11 for a certified copy of a record of birth and \$8 for certified copy of a record of death.

The fees for copying public records set by this resolution do not apply to copies made of books, circulations, periodicals, other library holdings, and personal documents copied for the convenience of the public on copy machines maintained by the Washoe County Library and Law Library.

Section 14. Fees for Records from Geographic Information Systems A fee for public information maintained and retrieved from a geographic information system may be charged in accordance with the provisions of Nevada Revised Statute 239.054. This fee may include the reasonable costs related to:

The gathering and entry of data into the system; Maintenance and updating of the database of the system; Hardware; Software; Quality control; Consultation with personnel of the governmental entity.

Before providing information requested from a geographic information system, the requester shall be informed of the fee to be charged.

Section 15. Public Meetings: Providing copies of agenda and supporting material upon request Under NRS 241.020(4), upon any request, a public body shall provide at no charge, at least one copy of:

- An agenda for a public meeting;
- A proposed ordinance or regulation which will be discussed at the public meeting; and
- Any other supporting material provided to the members of the body except materials:
 - Submitted to the public body pursuant to a nondisclosure or confidentiality agreement;
 - Pertaining to the closed portion of such a meeting of the public body; or
 - Declared confidential by law.

Section 16. Certification of Public Records Pursuant to NRS 239.030 each county department having custody of a public record shall certify, upon request and for no charge unless a fee is otherwise established in state or federal law, on a form the same or similar to the form attached hereto, that the copy provided is a full, true and correct copy of the record(s) on file in the office as of the date provided.

Section 17. Departments' Responsibility for Public Records Request Each department is responsible for ensuring a timely and coordinated response to requests for its public records. To facilitate a timely response to requests, departments should make clear to the appropriate employees their responsibilities for responding to requests.

Section 18. Training Responding to a request for a public record is a part of the fundamental role of being a public employee and serving the public. All departments must ensure appropriate employees are adequately trained to respond to requests in a timely, courteous, and professional manner. Employees should be annually informed of applicable laws, regulations, and policies and procedures.

Section 19. Retention Period for Public Records Public records shall be retained in accordance with the County's Record Retention Schedule.

[Business Impact Note: The Board of County Commissioners hereby finds that this resolution does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

WASHOE COUNTY
CERTIFICATION OF PUBLIC RECORDS FORM
(Pursuant to Nevada Revised Statute 239.030)



This form should be completed upon request of any person seeking copies of a public record and provided at no charge unless a fee is otherwise provided for in state law.

I hereby certify that the public record(s) listed below provided to

_____ are a full, true, correct copy of the record on file in the office
of _____, on this _____ day of
20_____.

Records provided:

1. _____
2. _____
3. _____
4. _____
5. _____

Signed: _____

Title: _____

Date: _____

WASHOE COUNTY PUBLIC RECORDS REQUEST FORM



All requests for public records will be responded to in accordance with the provisions of Chapter 239 of Nevada Revised Statutes and Washoe County Resolution Adopting Public Records Policies and Procedures. Our policy is to fill a request within 2 working days or less, unless extraordinary use of personnel or technology is necessary.

This section should be completed by the Requester (optional)			
Date of Request:			
Name of Requester (Optional):			
Address:			
Telephone:			
Documents Requested (Please be as specific as possible and include names and dates of the documents if you know them. This will help us respond to your request as fast as possible.)			
1.			6.
2.			7.
3.			8.
4.			9.
5.			10.
Date Documents Needed By:	AM _____ PM _____	Signature: (Optional)	
Copy Needed:	Yes: No:	Certified Copy:	Yes: No:

This section to be completed by the Department			
Department Receiving the Request:			
Actual Charge (if extraordinary use):			
Date Request Filled:		Employee Initials:	

Determination of Access if Document is not a known public record			
District Attorney Referral		Access Granted (circle one)	
Date Sent:	Date Returned:	Yes	No
Reason for Denial (addendum if necessary):			

A copy of the form should be given to requester and Copy retained in department records.



Fees for Copies of Public Records



Pursuant to Nevada Revised Statutes Chapter 239 and the Board’s Resolution Adopting Public Records Policies and Procedures for Washoe County, the following is Washoe County’s fee schedule for copies of public records, where the fee is not otherwise set by state or federal law or regulation.

Copies on Letter Size or ⇒ Legal Size Paper	You will not be charged unless the request takes longer than 30 minutes to fill or requires the extraordinary use of technology to fill. If the request takes longer than 30 minutes to fill, you will be charged a fee equal to the average hourly wage of the lowest compensated employee available to fill the request times the amount of time greater than the first 30 minutes. You will be charged the actual cost for the extraordinary use of technology.
Copies of Public Records in Other ⇒ Mediums (tapes, CDs, VCR, etc)	You will be charged our actual cost to reproduce the public record.
Geographic Information System ⇒ Records	The fee will be charged in accordance with NRS 239.054

WE WILL TELL YOU THE COST TO FILL A PUBLIC RECORD REQUEST BEFORE YOUR REQUEST IS FILLED AND ANY CHARGE IS ASSESSED