



## ADMINISTRATIVE DIRECTIVE

Title: Public Records Request Procedures
Issuing Department: Town Clerk's Office
Effective Date: October 12, 2018
Approved: Jamsheed Mehta, Town Manager
Type of Action: Revision

### 1.0 PURPOSE

The purpose of this directive is to establish procedures for staff to process public records requests accurately and promptly. The ability to fulfill public records requests efficiently strengthens the public's trust in government, ensures continued transparency of government operations, and protects the Town from liability for failing to comply with public records law.

### 2.0 DEPARTMENTS AFFECTED

All Town of Marana departments and employees

### 3.0 REFERENCES

3.1 A.R.S. §§ 39-121 *et seq.*: Public records law

3.2 A.R.S. §§ 41-151.14 -- 41-151.18: State and local public records management

### 4.0 DEFINITIONS

4.1 Public record: Any document or piece of information, regardless of its physical or digital format, created or received by the Town in the course of normal business operations. Public records provide evidence of organizational processes, policies, functions, decisions, or any other government activity that uses public funds. Public records may include, but are not limited to, paper records, email correspondence, and entries made in any town database program.

4.2 Public records request: A request to view or obtain copies of public records in the custody of the Town of Marana.

4.3 Public records request form: An internally created document, available in paper and online form, which may be used to request public records.

4.4 Owner authorization form: An internally created document that provides notification of a public records request for copyrighted building plans to either the plan copyright owner or the current property owner prior to release of the plans.

- 4.5 Copyright acknowledgement form: An internally created form used prior to release of copyrighted public records, in lieu of the owner authorization form, if the owner is unavailable or the owner authorization form does not apply. The copyright acknowledgement form requires the requestor to acknowledge United States copyright laws and indemnifies the Town if the requestor uses the information provided pursuant to the public records request to violate copyright laws.

## 5.0 POLICIES AND PROCEDURES

- 5.1 Form of Public Records Requests. To avoid confusion regarding the records being requested, all public records requests must be in writing. Staff shall direct any person making a verbal public records request to submit the request in writing. Use of the public records request form is not required. Any written request for public records is appropriate for processing. If the requestor is unwilling to make a written request, the staff member taking the request should contact the Legal Department.
- 5.2 Legal Review of Requests and Records. Arizona public records case law requires the Town to engage in a balancing test on a case-by-case basis to determine whether the public policy of disclosure of public records is outweighed by the countervailing interests of privacy, confidentiality or concern about disclosures being detrimental to the best interests of the Town. In order to ensure compliance with the law, Town staff processing public records requests shall request that the Legal Department review requests and records whenever there is any concern or question regarding whether a record should be released pursuant to a request.
- 5.3 Town Clerk's Office Procedures. Most public records requests will originate in or be referred to the Town Clerk's Office. The Town Clerk or designee will perform the following tasks to fulfill a request.
- 5.3.1 Log the request into the public records request log noting the date, requestor name, type of record requested, applicable fees, and other necessary tracking data.
- 5.3.2 Contact the requestor by email indicating that the Town is processing the request and will notify the requestor once the information is ready for release.
- 5.3.3 Identify the department(s) that possess the requested records and distribute the request to key staff to gather the requested information. If the request is sensitive in nature or if there is a legal question related to release of the record, the Town Clerk shall include the appropriate Legal Department staff in the internal distribution list.
- 5.3.4 When the records are located, department staff will provide the records to the Town Clerk's Office for release. The Town Clerk will determine the appropriate fee for the records using the current approved Town of Marana comprehensive fee schedule, collect payment of the applicable fees, and distribute the information to the requestor.
- 5.4 Police Department and Marana Municipal Court Procedures. The Police Department and the Marana Municipal Court follow internal protocols established by their respective Department Heads, in accordance with applicable laws, to process public records requests related to case information.

- 5.4.1 The Town Clerk's Office will process all public records requests regarding information related to the Police Department's administrative records with the oversight of the Legal Department.
- 5.4.2 Any administrative records maintained by the Court fall within the custodial authority of the Court as defined by the Arizona Supreme Court and the Arizona Administrative Office of the Court.
- 5.5 Other Town Department Procedures. Some public records requests will originate in a department other than the Town Clerk's Office, the Police Department, or the Marana Municipal Court. In most cases, the department receiving the request should refer the request to the Town Clerk's Office for processing. However, in some instances, it may be preferable for the department receiving the request to process it as follows.
- 5.5.1 *In Person Request*. The department staff member will have the requestor submit the request in writing by either completing the paper public records request form or submitting the request in another written format. The staff member will also have the requestor complete any required supplemental forms, *i.e.*, owner authorization form or copyright acknowledgement form, if applicable.
- 5.5.1.1 If the department can immediately provide the records, staff will determine the appropriate fee for the records using the current approved fee schedule, collect payment of the applicable fees, and distribute the information to the requestor.
- 5.5.1.2 If the department cannot immediately fulfill the request in person, staff will advise the requestor that once the information is ready, the requestor will receive notification, including any possible associated fees.
- 5.5.1.2.1 Staff will continue to search for and locate the requested information.
- 5.5.1.2.2 Once the information is located, the department may finish fulfilling the request by determining any appropriate fees for the request, collecting payment, and distributing the information to the requestor.
- 5.5.1.2.3 Alternatively, the department can provide the requested information and any other applicable paperwork to the Town Clerk's Office to finish fulfilling the request.
- 5.5.1.3 Upon fulfillment of the request, the department shall forward the request, a copy of the paid invoice, and any other supplemental paperwork to the Town Clerk's Office for tracking purposes and retention.
- 5.5.2 *Email Request*. If the department receiving the email request holds the requested records, department staff may fulfill the request via email by attaching the requested records. If the receiving department does not hold the requested records, the department shall forward the request to the Town Clerk's Office for processing as set forth in section 5.3, above.
- 5.5.2.1 If the department responds to the request via email, the department shall include the Town Clerk's Office in the email response.
- 5.5.2.2 The department shall forward any other supplemental paperwork to the Town Clerk's Office for tracking purposes and retention.

- 5.5.2.3 If the electronic record copies exceed attachment capacity, the receiving department may forward the information to the Town Clerk's Office for release.
- 5.5.2.4 When electronic records are redacted, it may be necessary to remove metadata associated with the redacted information from the records. Employees with questions regarding electronic records and metadata should contact the Technology Services Department.
- 5.6 View-Only Requests. Pursuant to the public records law, a requestor may request to view public records rather than obtaining copies. When a view-only request is received, the request shall be processed in the same manner as a request for copies of public records, except that when the requested records have been gathered and are ready for viewing, the requestor shall be notified of a date and time for viewing.
  - 5.6.1 A Town staff member shall remain with the requestor at all times during the viewing of the records to ensure the security of the records.
  - 5.6.2 If the requestor does not request any paper copies of the records, there will be no fees assessed.
- 5.7 Media Requests
  - 5.7.1 All public records requests from the media, except for requests for Police Department records or Marana Municipal Court records, shall be forwarded to the Town Clerk's Office for processing and response.
  - 5.7.2 The Town Clerk's Office shall notify the Communications Manager of all public records requests from the media, except for those involving routine Police Department matters or business.

## 6.0 RESPONSIBILITIES

- 6.1 All Town employees are responsible for compliance with the Arizona public records law and this directive.
- 6.2 Upon request by the Legal Department or the Town Clerk's Office, Town employees involved in gathering information for a public records request may be required to document what records they searched, whether they located records or not, and what records they provided pursuant to the request.
- 6.3 The Town Clerk's Office is responsible for maintaining a public records request log, which documents general administrative records requests, and is a subsidiary function of the records management program. Except for police reports and court case records, the Town Clerk's staff is responsible for fulfilling and tracking all public records requests.
- 6.4 Departments are the custodians of the records they create during the course of normal business operations. Any department staff member with sufficient knowledge of where the requested documents may be located can fulfill a request forwarded by the Town Clerk's Office or received by the department.
  - 6.4.1 Department staff should follow their own internal policies for release of records, or seek approval from the Department Head if no policy exists, prior to release of records.

- 6.4.2 Staff tasked with providing the requested information should search all storage sources available, including physical files and department database systems. Staff must provide the requested information promptly.
- 6.5 The Police Records Unit is responsible for maintaining its own records. The Police Records Unit processes public records requests related to police reports and other investigative matters with operational oversight by the Police Records Supervisor and Police Command Staff.
- 6.6 The Marana Municipal Court is the custodian of its own records. Court clerks process public records requests and disclose records according to Arizona Supreme Court administrative orders. The Court Administrator provides operational oversight for fulfilling public records requests.
- 6.7 The Legal Department reviews public records requests at the request of the Town Clerk's Office, the Police Department, or another department. When requested, the Legal Department determines whether requested records fall within the public records law. The Legal Department reviews and redacts records that may fall within exceptions to the disclosure requirements under the public records law.

## 7.0 ATTACHMENTS

- 7.1 Public Records Request Form
- 7.2 Owner Authorization Form
- 7.3 Copyright Acknowledgement Form
- 7.4 Police Case Report Records Request Form
- 7.5 Court Case Records Request Form

**REVISION HISTORY**

	<i>DESCRIPTION OF CHANGE</i>	<i>DATE</i>
<b>OR</b>	Original Release	6/1/2015
<b>REV</b>	Revision	10/12/2018

**Caution:** A copy of this Administrative Directive is an uncontrolled document. It is your responsibility to ensure you are using the current version. The electronic version is the only acceptable and controlled Administrative Directive.