

RESOLUTION NO. 3964

A RESOLUTION OF THE CITY OF SIDNEY, MONTANA, MODIFYING THE FEE SCHEDULE FOR COPIES AND RESEARCH OF PUBLIC INFORMATION AND/OR RECORDS, REAFFIRMING THE REQUIREMENTS OF INFORMATION TO RETAIN, ESTABLISHING PROCEDURES FOR REQUESTING PUBLIC INFORMATION AND/OR RECORDS, AND FOR IMPLEMENTATION AND COLLECTION OF THE FEE SCHEDULE.

WHEREAS, under Mont. Const. Art. II, Sec. 2, the right to know is a fundamental right; and

WHEREAS, consistent application of the right to know is in the public interest; and

WHEREAS, access to public information is essential to participation in the activities government; and

WHEREAS, inconsistency and unpredictability lead to uncertainty on the part of individuals seeking access to public information; and

WHEREAS, such uncertainty may discourage people from exercising the right to know; and

WHEREAS, providing consistent standards for handling public information requests setting reasonable limits on the fees charged to individuals requesting public information ensure people will know what to expect; and

WHEREAS, the purpose of implementing a “public information request” policy is to: facilitate public access to City information and official records; protect individual privacy, confidentiality, business secrets, and copyrighted material; protect public records from damage or disorganization; prevent excessive interference with other essential function of the City; and develop a consistent and fair method of responding to requests for public information and records; and

WHEREAS, §2-6-1003, Montana Code Annotated (MCA) states every person has a right to examine and obtain a copy of any public information of this state with certain limitations; and

WHEREAS, §2-6-1006(1)(a), MCA, states, “a person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons;” and

WHEREAS, §2-6-1006(2), MCA, states, “[u]pon receiving a request for public information, a public agency that is not an executive branch agency shall respond in a timely manner to the requesting person by making the public information available for inspection and copying or providing the requesting person with an estimate of the time it will take to full fill the request if the information cannot be readily identified and gathered as well as any fees that may be charged;” and

WHEREAS, HB 100 (69th Leg. 2025), codified in §2-6-1006(5), MCA, allows for a public agency to charge fees for making public information available for inspection and copying, for a single, specific, clearly identifiable, and readily available public record, and for information that is not a request for a single, specific, clearly identifiable, and readily available public record; and

WHEREAS, HB 100 (69th Leg. 2025), codified in §2-6-1006(5), MCA, further allows for a local government to charge a filing fee and an hourly fee after the first hour of service, the actual cost to fulfill the request, the cost of providing the public information to the requester, a convenience fee as provided in §2-17-1102, MCA; and agency that denies an information request to release information or records shall provide a written explanation for the denial.

WHEREAS, §2-6-1009(1), MCA, requires that a public agency that denies an information request to release information or records shall provide a written explanation for the denial; and

WHEREAS, the City makes reasonable accommodations for persons with disabilities in compliance with established policies and as required by law.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Sidney, Montana, that the following policy and procedures shall be adopted and shall be followed in responding to requests for public information and/or records and that the fee schedule listed herein is hereby

SECTION 1: DEFINITIONS:

The following definitions apply to Sections 3, 4, and 5 of this Resolution:

1. Routine Public Records:
 - A. Material that is prepared for the public and made available to them on a regular basis. This information is often prepared for promotional or advisory reasons and prepared for general distribution. No request form is required for these materials.
 - B. Examples: City Ordinance, Resolutions, Minutes, City Commission Agendas, Meeting Packets, Board and Commission Agendas, Neighborhood Council Agendas, Brochures, Pamphlets, Applications, and Blank Bid Packets.
 - C. Many of the routine public information items can be found on the City website: www.cityofsidneymt.com
2. Non-Routine Public Records:
 - A. Material prepared in the regular course of City business (i.e. regular departmental business records) that document regular business transactions by each department but are not prepared for mass distribution. **The request form must be completed.**
 - B. If a department has received a ruling from the City Attorney's Office regarding a type of record or information created and maintained by the department, the department shall continue to use that directive until notified otherwise.
 - C. Each department will create categories for Routine and Non-Routine Public records.
3. All other definitions per §[2-6-1002, MCA](#) are hereby incorporated and adopted by this resolution.

SECTION 2: REAFFIRMATION OF RETENTION SCHEDULES

The City of Sidney maintains information and records in accordance with the adopted records retention schedules adopted, approved, and updated by the Local Government Records Committee defined by §[2-6-1201, et seq, MCA](#).

SECTION 3: PROCEDURES

1. All requests for public information must be subject to this Resolution.
2. The City Clerk must develop information request forms used in processing requests for non-routine public records.
3. For all non-routine public information, the person or entity requesting such record must complete the form and submit it to the City Clerks' Office for distribution to the appropriate department, agency, committee, or board prior to review or copying. This form serves six functions:

- A. To give the City a comprehensive understanding of the specific information being requested;
 - B. To allow the City Attorney, if necessary, to review the request pursuant to this Resolution and law;
 - C. To facilitate making documents repeatedly requested available on the internet or to add the requested documents to a list of routine public records requests for which fees are not charged;
 - D. To facilitate communication with the requester;
 - E. To provide a receipt for monies collected; and
 - F. To allow for regular data collection and reporting.
- 4. The City Clerk's Office must be the custodian for all completed request forms.
 - 5. An individual or entity requesting public records, or a City department receiving a request for non-routine public information must submit the request to the City Clerks' Office.
 - 6. When fulfilling a request for public records the following procedures apply:
 - A. Upon a request for a public information, the City Clerk will forward the request to the proper City department, agency, committee, or board.
 - I. If upon review by the proper City department, agency, committee, or board it is determined that the request cannot be fulfilled as originally received, the City Clerks' Office may request additional information from the requestor. In these instances, the timelines may vary as determined by the City Clerks' Office.
 - II. If a requestor fails to respond to a request for additional information, the City Clerks' Office may close the original request due to non-responsiveness.
 - B. The department, agency, committee, or board will process the request and forward the compiled information and completed form to the City Clerk's Office and City Attorney's Office for review.
 - C. Upon Request of the City Clerk, Mayor or other Department Head the City Attorney's Office will review the response to determine whether the information contained in the compiled response can be released. The City Attorney must consider whether the responsive materials contain information related to a matter of individual privacy, confidential business or trade secrets, copyrighted material, proprietary financial information, important security information, or other information that would prohibit disclosure of such information to the requestor. If releasable, the City Attorney's Office must notify the department of any adjustments or required redactions to the public information prior to their release.
 - D. If adjustments or redactions to the information is required prior to release, the City Attorney's Office will notify the City Clerks' Office of the status of the fulfilled request and forward the request form with the information in releasable form to the City Clerks' Office.
 - E. The City Clerks' Office will notify the requestor of the required payment due.
 - I. Non-routine public information may not be released by the City until the requestor pays all required fees.
 - II. Payment may be made in a form as determined by the City Clerks' Office.
 - III. If the requestor fails to pay within 30 calendar days, the City Clerks' Office may close the request due to non-payment.

- F. The City Clerk must track all requests for non-routine public records.
7. Once a request for information has been received, a response will be made within a reasonable amount of time. The following exceptions may apply:
 - A. a record does not exist, or the information cannot be found;
 - B. if a record is in use or unusual circumstances have delayed handling the request, the requester must be informed of the reason for the delay and of a reasonable time frame for response; or,
 - C. the request is denied, and the requester will be informed of the reason for the denial.
 8. Request forms must be available on the "Forms" page on the city website www.cityofsidneymt.com for citizens seeking non-routine public information. Physical forms can be requested directly from the City Clerks' Office.
 9. A Digital File Use Agreement may be required for requests for proprietary electronic public information requests.
 10. No new document or record will be created to respond to a request. Applicable records may be made available for requester to compile their own data subject to law, including the legal restrictions regarding creation of mailing lists from public records. See [Sect. 2-6-1017](#), MCA.
 11. Any request, which does not refer to an "identifiable" public record or information, shall not be processed until the requester provides further information. The applicable City department, agency, committee, or board receiving the request must notify the requester that further information is required before the request can be processed.
 12. The City must notify the requester that an hourly rate will be charged per the fee schedule before proceeding with processing the request, provide an estimate of the total fee for compiling the requested information, thereby allowing requester the right to modify or cancel the request.
 13. The City makes reasonable accommodations for persons with disabilities in compliance with established policies and as required by law.
 14. This Resolution does not supersede any rules of evidence or rules governing the production of information or documentation in the course of litigation.

SECTION 4: FEES/CHARGES FOR PUBLIC RECORDS:

1. No fee will be charged for requests of records deemed by the City to be routine public records as defined under Section 4 of this Resolution.
2. Charges for paper copies of non-routine public information shall be charged at the rate of \$0.25/page for material that can be found and copied in 60 minutes or less. Items that take over 60 minutes to locate and copy shall be charged \$25 per hour, as allowed by statute. ([§2-6-1006\(5\), MCA.](#))
3. Requests that are subject to the "per hour rate" shall also be charged at the rate of \$0.25/page for costs associated with copying materials.
4. Fees for published and/or documents prepared by commercial print shops will be based on an established "document charge."
5. A City department, board, committee, or agency may establish fees for specific records contained in their departments, such as maps, plats, etc. Such fee schedule shall be approved

- by the Mayor and posted in each department. For records not specific to a department, the departmental fee schedules should not conflict with the specific charges listed in this section.
6. Copies of electronically stored records provided in electronic format will be charged as follows ([§2-6-1006\(5\), MCA](#)):
 - A. the City's actual cost per unit of the electronic media used to provide the public record. For security purposes, the City will provide all blank media;
 - B. expenses incurred by the City as a result of computer processing charges;
 - C. expenses incurred by the City for providing on-line computer access;
 - D. out-of-pocket expenses directly associated with the request; and
 - E. the hourly rate as provided in Section 3.3 of this Resolution.
 7. Information or records provided to other governmental agencies may be provided on a "reciprocal" basis at the discretion of the department director responsible for the information or record.
 8. Payment for charges must be received before delivery of the records to the requester. A department director may make accommodations for payment by entities frequently requesting records.
 9. To the extent possible, departments are encouraged to provide on the City's external web site or on the City's document center records citizens request most frequently.
 10. The City will determine on a case-by-case basis whether an employee must be present to observe and supervise the examination of documents and whether documents can be removed from their official storage location. Where it is necessary to maintain the integrity and security of City records, a fee as determined by the hourly rate at the time of will be charged for the City's supervision of the search and examination and copying of public records.
 11. The Mayor may waive fees if the requestor demonstrates that payment of the fees required under this Resolution will result in undue hardship.

SECTION 5: EXEMPTIONS:

The following public records are exempt from public disclosure unless required by court order or dissemination is required pursuant specific statutory authorization:

1. Medical records
2. Personnel Records concerning a current or former employee or applicant for employment that would disclose the individual's home address, home telephone number, social security number, marital status, payroll deductions, insurance coverage, or other privacy information.
3. Performance evaluations
4. Certain donor records including financial or physical donations where the donor requests to remain anonymous.
5. Ownership or pledge of public obligations. ([§17-5-1106, MCA](#))
6. Criminal justice records or Municipal Court Records ([§44-5-301](#), et seq. MCA)
7. Vehicle accident reports. ([§61-7-114, MCA](#));

8. Insurance information (§[50-63-403](#), MCA);
9. Any other records held or maintained by the City made confidential by law.

PASSED, ADOPTED, and APPROVED by the City Commission of the City of Sidney, Montana, on this 17th day of November 2025.

Mayor

ATTEST:

Clerk of the City of Sidney