



## City of Henderson Public Records Policy

### I. Policy

It is the policy of the City of Henderson, Nevada to operate an effective and efficient records management program that: 1) Encourages transparency and public participation in government; 2) Complies with all applicable state and federal laws; 3) Includes processes and procedures that protect confidential records from disclosure; and 4) Promotes innovation and collaboration.

In accordance with the policy, the City is committed in responding to requests to inspect or receive copies of public records maintained by the City in an orderly, consistent and lawful manner

### II. Purpose

The City of Henderson recognizes that Nevada Public Records Law (NRS 239.001 -239.330) gives members of the public, including the media the right to inspect and copy certain public records maintained by the City. The purpose of this Public Records Policy is **(a)** to establish an orderly and consistent procedure for receiving and responding to public records requests from the public and media; **(b)** to establish the basis for a fee schedule designed to reimburse the City for the actual costs incurred in responding to public records requests; and **(c)** to inform citizens and members of the media of the procedures and guidelines that apply to public records requests.

### III. Records Requests by general public

Public records requests may be made via [Contact Henderson from the City of Henderson webpage \(www.cityofhenderson.com\)](http://www.cityofhenderson.com), over the telephone, in person, or through written correspondence. Public records requests by a member of the media will be handled by the City of Henderson Public Affairs Office (702) 267-2054. Additionally, public records request may be made by contacting the City Clerk's Office at (702) 267-1419.

A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of the City who has legal custody or control of a public record shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

Upon receipt of a public records request, Staff shall determine resources required to provide all requested records and prepare an estimate of fees if applicable. Staff shall contact the requestor through the Contact Henderson system prior to five (5) business days. If applicable, the estimate of fees must be provided to the requestor at this time. Depending on the scope and magnitude of the records request, a fifty (50) percent deposit of fees prior to the start of research may be required. If a deposit is required or an estimate of fees is provided, staff shall wait for requestor approval of the fee estimate prior to continuing work. The remainder of fees must be paid before records are delivered.

If staff are unable to provide the records within five business days, staff shall provide the requestor, in writing, with notice of one of the following:

- 1) If the department does not have legal custody or control of the requested record, staff shall communicate to the requestor the name and address of the governmental entity that has legal custody or control of the record, if known.
- 2) If the record has been destroyed, staff shall communicate so to the requestor and cite approved records retention schedule.
- 3) If the department is unable to make the record available by the end of the fifth business day after receiving the request, staff shall specify to the requestor a date and time the record will be available.
- 4) If the record or any portion thereof is confidential, and access is denied, staff shall communicate this to the requestor and cite the specific statute or other legal authority that declares the record and/or any portion of the record to be confidential.

Some public records requests are requests for information that would actually require the creation of a new public record. Public bodies are not obligated under Nevada's Public Records Law to create new public records where none exists in order to respond to requests for information.

Nonrecord materials are not considered official public records and are not subject to disclosure under the Nevada Public Records law. Nonrecord materials are published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity. (NAC 239.051)

#### IV. Public Records Exempt from Disclosure.

Public records that are deemed confidential by law are exempt from disclosure. The most common public records that are deemed confidential are as follows:

- A. **Personal Identifying Information – NRS 239B.030(5)(a).** Each governmental agency shall ensure that any personal information contained in a document that has been recorded, filed or otherwise submitted to the governmental agency, which the governmental agency continues to hold, is maintained in a confidential manner if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.
- B. **Bids and Proposals under Negotiation or Evaluation – NRS 332.061(2).** Bids which contain a provision that requires negotiation or evaluation may not be disclosed until the bid is recommended for award of a contract. Upon award of the contract, all of the bids, successful or not, with the exception of proprietary/confidential information, are public record and copies shall be made available upon request.
- C. **Bids and Proposals Containing Proprietary Information – NRS 332.061(1).** Proprietary information does not constitute public information and is confidential.

- D. **Recreation Program Registration – NRS 239.0105.** Records of recreational facility/activity registration where the name, address, and telephone number of the applicant are collected are confidential.
- E. **Emergency Action Plans and Infrastructure Records – NRS 239C.** Records detailing the City’s Emergency Response Plans and critical infrastructure are restricted and may be confidential under state law.
- F. **Personnel Records** –All employee personnel records are confidential.
- G. **Databases Containing Electronic Mail Addresses or Telephone Numbers – NRS 239B.040.** Electronic mail addresses and/or telephone numbers collected for the purpose of or in the course of communicating with the city may be maintained in a database. This database is confidential in its entirety, is not public record, and it must not be disclosed in its entirety as a single unit; however, the individual electronic mail address or telephone number of a person is not confidential and may be disclosed individually.
- H. **Protected Medical Records – HIPAA 45 CFR Part 160 and Part 164.** Medical records collected during medical transports may only be disclosed to the patient or as authorized by the patient. Medical records related to the City of Henderson Self-Funded Health Insurance Plan are also confidential.
- I. **Attorney/Client Privileged Records – NRS 49-095.** A lawyer shall not reveal information relating to representation of a client. Please Note: In order to prevent inadvertent or unauthorized disclosure or access to privileged information, City staff will not disclose any records marked as privileged without first contacting and getting express approval from the City Attorney’s office.
- J. **Restricted Documents – NRS 239C.220.** Blueprints or plans of schools, places of worship, airports other than an international airport, gaming establishments, governmental buildings or any other building or facility which is likely to be targeted for a terrorist attack, including plans detailing the location and design of city information technology, water and sewer infrastructure are considered “Restricted Documents.” These plans can only be inspected after supplying: (a) name; (b) a copy of a driver’s license or other photographic identification that is issued by a governmental entity; (c) the name of employer, if any; (d) citizenship; and (e) a statement of the purpose for the inspection.
- K. **Records Detailing Investigations or Relating to Litigation or Potential Litigation.** Records involving criminal investigations, litigation or potential litigation are considered confidential.
- L. **Local Ethics Committee Opinions – NRS 281A.350(4).** Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:
  - a. The public officer or employee acts in contravention of the opinion; or
  - b. The requester discloses the content of the opinion.
- M. **Economic Development Initial Contact and Research Records (NRS 268.910).** An organization for economic development formed by one or more cities shall, at the request of a client, keep

confidential any record or other document in its possession concerning the initial contact with and research and planning for that client. If such a request is made, the executive head of the organization shall attach to the file containing the record or document a certificate signed by the executive head stating that a request for confidentiality was made by the client and showing the date of the request.

- N. Copyright Protected Material. If the City maintains public records containing copyright protected material, the City will permit the person making the request to inspect the copyrighted material, and may allow limited copying of such material if allowed under Federal copyright law. The City may require written consent from the copyright holder or an opinion from the person's legal counsel before allowing copying of such materials.

V. Fees

NRS 239.052 authorizes the City to charge a fee for providing a copy of a public record. The city-wide fee schedule for public records and document services are approved and updated by the records committee. The city-wide fee schedule for public records and document services shall be posted on the city website and in all other locations required by NRS chapter 239.

In order to foster democratic principles by providing all members of the public with access to inspect and copy public books and record permitted by law, the city will provide the first ten (10) hours of staff time to search for, compile, segregate, redact, remove, scan or reproduce the records requested. After the first ten hours, all applicable fees listed on the city-wide fee schedule shall apply.

The current fee schedule is located on the City's website at <https://cityofhenderson.com/docs/default-source/city-clerk-docs/city-wide-public-records-and-document-services-fee-table-may-2019-final.pdf?sfvrsn=2>. Any Department Director may approve the waiver of fees.

Staff will prepare an estimate of the charges that will be incurred to respond to a public records request. Prepayment of the estimated charges or a fifty (50) percent deposit may be required. Unless otherwise prohibited by law, the City may, at the City's discretion, furnish copies of requested records without charge or at a reduced fee if the City determines that the waiver or reduction of fees is in the public interest.