

ORDINANCE NO. 6170

**AN ORDINANCE TO REPEAL AND REENACT FAIRBANKS GENERAL
CODE CHAPTER 2, ARTICLE VI. PUBLIC RECORDS**

WHEREAS, Fairbanks General Code Chapter 2, Article IV Public Records sets forth the City's policy and procedure for the inspection and copying of public records; and

WHEREAS, FGC Chapter 2, Article VI has not been thoroughly reviewed or amended for over 20 years, with the exception of a minor amendment in 2008 to move the fees into the City's Schedule of Fees and Charges for Services; and

WHEREAS, the City aims to fulfill public records requests thoroughly and efficiently to promote transparency and accountability; and

WHEREAS, the City Clerk's Office is the clearinghouse for all record requests made to the City, and the City Clerk has identified some areas in FGC Chapter 2, Article VI where additional guidance as to procedure is needed.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. That Fairbanks General Code Chapter 2, Article VI Public Records is hereby repealed and reenacted as follows:

Sec. 2-771. Public records.

(a) Unless exempted by state or federal law or by a provision of this code, the records of every office, department, and agency of the city are public records and are open to inspection by the public under reasonable rules and during regular office hours.

(b) This article only applies to existing records or existing compilations of information. The city is not required to expend time and effort to create a record or to compile information that is not already created or compiled.

(c) Each department director is responsible for the preservation of all public records under their jurisdiction. No public record of any department may be destroyed or removed permanently from the files without the knowledge and approval of the city clerk and according to the provisions of a record retention schedule approved by the city council.

Sec. 2-772. Inspection of city records; copies.

(a) All requests to inspect or obtain copies of public records must be made in writing to the city clerk's office on a form provided by the city clerk.

(b) Inspection and copies of public records are available upon payment of the fees specified in the City of Fairbanks Schedule of Fees and Charges for Services.

(c) If the production of records for one requester in a calendar month exceeds five person-hours, the requester must pay the personnel costs required during the month, as specified in the City of Fairbanks Schedule of Fees and Charges for Services. The requester must pay the fee before the records are produced, and the city clerk may require that the requestor pay the fee in advance of the search.

(d) Prior to inspecting or receiving copies of records, the requestor must sign a certificate of non-litigation affiliation, which is included on the public records request form. If the requestor is in litigation with the state or city in a judicial or administrative forum or is acting on behalf of or representing any person who is involved in litigation with the state or city, disclosure of any city records relevant to that litigation or reasonably likely to lead to the discovery of relevant evidence is governed by the rules or orders of that forum and not by this article.

Sec. 2-773. - Response to requests for public records.

(a) The city clerk shall make a good faith and diligent effort to provide a response to requests for inspection or copying of records made pursuant to this article as soon as practicable, but not later than 10 business days after the date the request is received by the city clerk's office. If a full response cannot be made within 10 business days, the city clerk may extend the time period for a period not to exceed an additional 10 business days. The requestor must be notified of the extension and the reason for the extension.

(b) If the information requested is not produced or made available for inspection, the officer or employee in charge of the records shall provide the requester with the reason for the denial in writing, to include the following information:

1. The record requested;
2. The specific reason the record is being withheld from the response, including a citation to the specific state or federal law or city ordinance; and
3. The title, along with the signature, of the person issuing the denial.

(c) In cases where additional information, clarification, or payment is needed from the requestor, the city clerk will place the request on hold until the additional information, clarification, or payment is received. It is the policy of the city to close

a request if the requestor does not respond to an inquiry from the city clerk within 30 days.

(d) A requestor may appeal a denial of a request for information or inspection of public records to the mayor by filing a written request with the city clerk within 60 working days of the denial. A written decision on the appeal must be issued by the mayor within seven working days of receipt of the appeal by the city clerk. A requestor not satisfied with the decision of the mayor may appeal the decision to the superior court pursuant to the Alaska Rules of Appellate Procedure.

Sec. 2-774. Exemptions.

The following records and documents are not subject to disclosure under this section or under section 13.3 of the City Charter:

- (1) Records exempted from disclosure by state or federal law or by a provision of the Fairbanks General Code.
- (2) Communications between any city agency, department, or employee and the city attorney's office concerning actual or potential litigation.
- (3) Personnel records, including employment applications and examinations and other assessment materials, except an employee's:
 - a. name and position title;
 - b. prior positions held;
 - c. date of appointment and separation; and
 - d. compensation.
- (4) The name, address, telephone number, or other identifying information about complainants in actions to enforce building codes or other city ordinances or regulations.
 - a. This subsection does not prohibit disclosure of the contents of the complaint, so long as the complainant is not identifiable.
 - b. This subsection does not prohibit disclosure of the name of the complainant when such disclosure becomes necessary to fair and just disposition of the charge or complaint in enforcement proceedings.
- (5) Records of engineering or other technical data, which, if released, would provide a competitive advantage to another person or corporation engaged in similar or related activities or adversely affect the city's competitive bid process.
- (6) Proprietary information which a manufacturer, consultant, or provider reasonably requires to be kept privileged or confidential to protect the property interests of the entity providing the information or data.

- (7) Information which the city considers to be privileged or confidential for purposes of successful collective bargaining.
- (8) Information obtained by and in the custody of city risk management or the city's insurance carriers, attorneys, and agents acting for or insuring the city regarding possible and pending claims against the city.
- (9) Personal information.
- (10) Copyrighted material is only required to be released in its copyrighted form. Any proprietary information may be withheld until the copyrighted form is published.
- (11) Records or information compiled for law enforcement purposes, but only to the extent that the production:
 - a. could reasonably be expected to interfere with enforcement proceedings;
 - b. would deprive a person of a right to a fair trial or an impartial adjudication;
 - c. could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;
 - d. could reasonably be expected to disclose the identity of a confidential source;
 - e. would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;
 - f. would disclose guidelines for law enforcement investigation or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or
 - g. could reasonably be expected to endanger the life or physical safety of an individual.
- (12) Blueprints and building plans required by city ordinance to be submitted to the building department or city engineer's office may be inspected by the public but may not be reproduced or released to the public.
- (13) Records which, if released, would constitute unwarranted invasion of the privacy of city customers or employees or the release of which could have an adverse effect on the finances of the city.
- (14) Records relevant to litigation and sought by a party to litigation or a person acting on their behalf, except in accordance with rules applicable in a court proceeding.

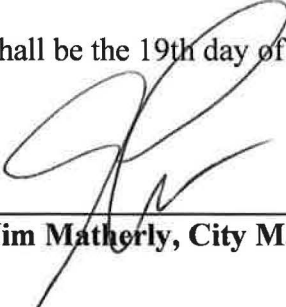
Sec. 2-775. Protecting confidential information.

City employees are prohibited from:

- (1) Disclosing information exempt from public disclosure, other than to authorized city employees, without prior approval of the department head or pursuant to a lawful subpoena.

- (2) Accessing, inspecting, or copying confidential information except in the course of their official duties.
- (3) Altering city files without proper authorization.
- (4) Using another's identification or password to access information.

Section 2. That the effective date of this Ordinance shall be the 19th day of June 2021.



Jim Matherly, City Mayor

AYES: Gibson, Kun, Marney, Clark, Therrien, Rogers
NAYS: None
ABSENT: None
ADOPTED: June 14, 2021

ATTEST:



D. Danyielle Snider, MMC, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney