City of Cedar Rapids Open Records Policy

Section 1. Definitions. As used in this policy:

"City" in these rules means the City of Cedar Rapids, Iowa.

"Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that would otherwise be open records but that the City is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record.

"Custodian" in these rules means the person lawfully delegated authority by the City to act for the City in implementing Iowa Code chapter 22. By adoption of this policy, each City Department Head or Director is designated to be the custodian of the records kept and maintained by that Department. The Cedar Rapids City Clerk is designated to be the custodian of the records of the Cedar Rapids City Council. Each member of the Cedar Rapids City Council shall be the custodian of the records kept and maintained that member's office.

"Open record" in these rules means a record other than a confidential record.

"Personally identifiable information" in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means and is not limited to all records, documents, tape, or other information, stored or preserved in any medium, of, or belonging to, the city and also includes all records relating to the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts.

Section 2. Statement of policy. The purpose of this policy is to facilitate broad public access to open records. It also facilitates determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The City is committed to the policies set forth in Iowa Code chapter 22; City staff shall cooperate with members of the public in implementing the provisions of that chapter.

Section 3. Requests for access to records.

3.3(1) *Location of record.* A request for access to a record should be directed to the Department Head or Director, or to the particular City office where the record is kept. If the location of the record is not known by the requestor, the request shall be directed to the Cedar Rapids City Clerk at 3rd Floor, City Hall, Cedar Rapids, Iowa 52401. In such case, or if a request for access to a record is misdirected, City personnel will promptly forward the request to the appropriate person within the City.

3.3(2) *Office hours.* Open records shall be made available during the normal work hours of the office where the record is kept, but not to extend earlier than 8:00 a.m. or later than 5:00 p.m., Monday through Friday, except for legal holidays, and also shall correspond with work times and scheduled breaks and other temporary absences of the custodian or designee responsible for the activities required by this policy.

3.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by e-mail, fax or by telephone. Requests shall identify the particular records sought by name or description to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record. The City shall make a Publication Information Request form available to assist requests. Use of such form will not be required.

3.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. Requests for access to open records will be given priority in a department's work activities. Absent unusual circumstances, access shall be provided within 5 working days from the date the request is received by the custodian. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the

request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requestor of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requestor in writing.

The custodian of a record may deny access to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order, or other applicable law.

3.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from the City's files. Examination of City records shall be supervised by the custodian or a designee of the custodian. Copying of city records shall be done by the custodian or designee. Records shall be protected from damage and disorganization.

3.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the City office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

3.3(7) *Fees.*

a. *When charged.* The City may charge fees in connection with the examination or copying of records only if the fees are authorized by law. A schedule of current fees will be established by separate resolution of the Cedar Rapids City Council and be kept and available at every department or other place where records are required.

b. *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the agency shall be available for examination in City offices. Copies of records may be made by or for members of the public on City photocopy machines or from electronic storage systems at cost as may be included in the schedule established the Cedar Rapids City Council. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requestor.

c. *Supervisory fee.* An hourly fee may be charged for actual City expenses in supervising the examination and copying of requested records when the supervision time required is in excess of fifteen minutes. The supervisory fee will be included in the schedule. The City may also charge fees for searching, processing, programming or analysis.

d. *Advance deposits.*

(1) When the estimated total fee chargeable under this policy exceeds $25, the custodian may require a requestor to make an advance payment to cover all or a part of the estimated fee.

(2) When a requestor has previously failed to pay a fee chargeable under this policy, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requestor.

e. *Fee Collection.* Each department is responsible for collecting any applicable fee and providing an appropriate receipt.

Section 4. Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in Section 3.

4.1 *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

4.2 *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

4.3 *Notice to subject of record and opportunity to obtain injunction.*

After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, or is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

4.4 *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requestor. If the requestor indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and
b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requestor.

4.5 *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

Section 5. Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

5.1 *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a confidential record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record,

may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

5.2 *Request.* A request that a record by treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the City by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential

5.3 *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

5.4 *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

5.5 *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

5.6 *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requestor in writing of that determination and the reasons therefor. On application by the requestor, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requestor may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requestor had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requestor in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requestor may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

Section 6. Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional

requirements may be necessary for special classes of records.) Appearance of counsel before the City on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the City to disclose records about that person to the person's attorney.

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RESOLUTION NO. 0729-07-09

WHEREAS, the Cedar Rapids City Council has previously established an Open Records Policy by virtue of City Council Resolution No. 0829-05-04 as amended by Resolution No. 1036-07-06; and

WHEREAS, the existing policy is reflective of the Commission form of government and needs to be updated with respect to the designated custodian for records maintained by the members of the City Council.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, as follows:

Each member of the Cedar Rapids City Council is hereby designated to be the custodian of the records maintained by such council member that are separate and apart from the records maintained by the Cedar Rapids City Clerk on behalf of the Council as a whole. Requests for examination and copying of public records maintained by individual council members may be directed to the Cedar Rapids City Clerk who will then forward those requests to the individual Council members.

Passed this 22nd day of July, 2009.

Voting: Council member Podzimek moved the adoption of the resolution; seconded by Council member Wieneke. Adopted, Ayes, Council members Fagan, Gulick, McGrane, Podzimek, Shey, Shields, Vernon, Wieneke and Mayor Halloran.

Kay Halloran, Mayor

Attest:

Ann Ollinger, City Clerk

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RESOLUTION NO. 1036-07-06

WHEREAS, state law now requires a city to have a formal policy restricting access to security or emergency preparedness information, and

WHEREAS, in the absence of such policy, any such information is a public record, and

WHEREAS, the restriction of access to this information is necessary to allow the City to protect the public and prepare for emergency response, and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA that the policy on restriction of security information, as detailed herein is hereby adopted. City staff will revise the City's open records policy accordingly. The following information shall be deemed confidential information:

1. Information which would allow public access to any building or facility of the City which is otherwise secured and not open to general public access, which includes but is not limited to key codes, combination codes, passwords, security cards, and the like.

2. Information used by the police department to prepare for or respond to emergencies, including but not limited to:

a. Emergency protocols

b. Assessments of the vulnerability of certain sites, including the ability or inability of the police to adequately respond to emergencies thereat.

3. Information used by the fire department to prepare for or respond to emergencies, including but not limited to:

a. Emergency protocols,

b. Assessments of the vulnerability of certain sites, including the ability or inability of the fire department to adequately respond to emergencies thereat.

4. Dispatch directives which detail how dispatchers will process emergency calls when such calls deal with life threatening events, or property damage of large magnitude.

5. Any City of Cedar Rapids emergency operations plan, used to direct and deploy staff during times of emergency. However, nothing in this policy shall be deemed to deny access to general, non-specific information in such plan.

6. This policy is intended to comply with Iowa Code Section 22.7 (52) (2006) and should be construed to that effect.

Passed, Approved, and Adopted this 26th day of July, 2006.

Voting: Council member Henderson moved the adoption of the resolution; seconded by Council member Podzimek. Adopted, Yeas, Council members Henderson, Podzimek, Shields, Shey and Swore.

Kay Halloran, Mayor

Attest:

Ann Allinger, City Clerk

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RESOLUTION NO. 0829-05-04

BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA as follows:

1. The Open Records Policy attached hereto is hereby adopted.

2. Each department head or director is hereby designated to be the custodian of the records maintained in such department. The Cedar Rapids City Clerk is designated to be the custodian of the records maintained in that office, and other documents of the Cedar Rapids City Council governmental body. Each Commissioner is designated to be the custodian of all documents kept or maintained in each Commissioner's respective office.

3. The schedule of fees that may be charged as provided for in the Policy is as follows:

a. The charge for providing copies of records will be 25 cents per page .

b. When the mailing of copies of records is requested, the actual cost of such mailing shall also be charged to the requestor.

c. If a request for a record is one which requires the programming of computers, or the processing of data, or some other method of extracting data to produce a report for which such methodology already exists, a charge of $1 per page will be made for each page of such report produced in meeting the request. If such methodology does not already exist, the actual costs of producing such report will be charged based upon the hourly rate for staff time necessary to comply with such request prorated to the nearest 15 minutes.

d. An hourly fee will be charged for the actual expenses in retrieving records, supervising the examination and copying of requested records, and for other necessary activities undertaken to make records available when such time exceeds 30 minutes. The hourly rate for such staff time will be charged the rate of $20 per hour pro-rated to the nearest 15 minutes.

e. If the request requires research, or if the record or records requested cannot reasonably be readily retrieved by the custodian, the requestor will be advised of this fact. An hourly fee for research or retrieval shall be charged as provided for in Subparagraph 3(d) herein.

f. Records requested to be certified will be provided upon the payment of a $10.00 per record fee plus the fees otherwise allowed by this schedule.

g. If a custodian determines that it may be more feasible, economical, or otherwise reasonable that a response to a request may be better met by the creation of a record, such as a report or document that does not presently exist, and that would be produced as a result of research or analysis, a custodian may, but will not be required to notify the requestor of that

determination. The custodian may advise the requestor of the actual cost of creating and providing such document that does not currently exist. The custodian and the requestor may in such instance, but will not be required to, agree to provide such document in exchange for the actual cost in lieu of providing access to the records originally requested. In absence of such agreements, records will be made available as provided in the Open Records Policy.

4. All city boards and commissions are encouraged to adopt similar open record policies.

Passed this 5th day of May, 2004.

Voting: Council member Hanson moved the adoption of the resolution; seconded by Council member Zahn. Adopted, Yeas, Council members Hanson, Zahn and Mayor Pate.

Paul Pate, Mayor

Attest:

Ann Ollinger, City Clerk