

ADMINISTRATIVE PROCEDURES



Procedure Number: 4-4

Effective Date: 09/23/1997

Revision Date: 01/26/2012

C. Dubulbaun
County Administrator

SUBJECT: **COST RECOVERY FOR RELEASE OF PUBLIC DATA**

DEPARTMENT RESPONSIBLE: **The Clerk of the Board of Supervisors
County Attorney**

I. PURPOSE

This Administrative Procedure sets forth guidelines for responding to public information requests, defines commercial requests and provides for cost recovery to the County. County employees responsible for maintaining official records are required to comply with this policy and Arizona law to protect the public's right to information.

II. DEFINITION

A. Commercial Purpose: The use of public records for the purpose of:

1. sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale, or
2. obtaining of names and addresses from such public records for the purpose of solicitation, or
3. monetary gain from the direct or indirect use of the public record.

Commercial purpose does not include use of public records as evidence or research in a judicial or quasi-judicial action in Arizona, or the publication of all or a portion of a public record in a newspaper for its news value.

B. Officer: Any person elected or appointed to hold any elective or appointive County office and any chief administrative officer, head, director, superintendent or chairman of any County office.

C. Person: Includes corporations, associations, societies, organizations and individuals.

D. Other Matters: Includes any written records kept by an officer in the course of official business whether or not the records are required by law or are otherwise considered to be public records.

E. Public Record: All books, papers, maps, photos and documentary materials produced or kept by a public officer in pursuance of a duty or to document the activities of a public body.

III. PROCESS

- A. Public records and other matters in County offices are presumed to be open for public inspection and shall be open to inspection at all times during office hours with the following exceptions:
1. Release of information is not required where prohibited by Arizona law or court order.
 2. Release of information is not required where individual privacy rights apply, e.g. home address, telephone number, age and background information.
 3. Release of information may not be required where the information is otherwise confidential.
 4. Release of information may not be required where release would not be in the best interest of the County, e.g. materials related to an ongoing investigation where disclosure of the materials would harm the investigation.
- B. Any person may request to examine or be furnished copies of any public record during regular office hours.
1. Requests made for a commercial purpose must be in writing (see Section IV.B). A department receiving a request for a public record held by the department, for a non-commercial purpose, may ask, but not require, that the request be in writing.
 2. In response to the public records request, the County will provide data that is maintained in the format in which it is kept. The County is not required to create a record to meet a public record request nor is it required to obtain new data, perform research or create new report formats.
 3. The County is not required to provide copies of information that is available on the County's website.
- C. Requests for electronic access to a County database shall be denied unless the County Administrator or the Board of Supervisors directs otherwise. When a database is placed on an Internet site the responsible department shall notify the County Administrator.
- D. Release of copies of a County database requires the approval of the department head.
- E. Departments shall bring all questions or concerns related to a request for inspection of records to the Civil Division of the County Attorney's Office.

IV. COST RECOVERY

- A. Non-commercial public record requests are made in writing either through the use of a Public Records Request Non-Commercial Purpose (Attachment A) or otherwise. County officials responding to a non-commercial public record request may allow oral requests where appropriate. Unless otherwise provided by statute, the County may recover the cost of reproduction which includes:

1. cost of materials (paper, diskette, CDS, etc.),
 2. cost of the machinery to do the reproduction,
 3. cost of labor to make copies (hardcopy or scan), and
 4. cost of postage.
- B. Commercial public record requests are made in writing through the use of a Public Records Request Statement of Commercial Purpose (Attachment B). The County shall recover the following costs, in addition to those set forth above:
1. a portion of the cost of obtaining, including searching for, the original or copies of the document, and
 2. the value of the reproduction on the commercial market as determined by the department responding to the request.
- C. No County employee can demand or receive a fee or compensation for issuing certified copies of public records or for making a search for them, when they are to be used in connection with a claim for pension, allotment, allowance, compensation, insurance or other benefits which are to be presented to the United States or a bureau or department thereof. The County may not charge crime victims for copies of Sheriff's reports pursuant to A.R.S. §39-127.

V. **FORMS**

The attached forms are to be used when making public record requests:

- Public Records Request, Non-Commercial Purpose
- Public Records Request, Statement of Commercial Purpose

VI. **DEPARTMENTAL RESPONSIBILITY**

Each department is responsible for establishing a Release of Public Records process consistent with this policy. The process shall provide for maintaining and releasing public records and for the method of determining the cost of producing records in response to a request. The standard reproduction charge for County departments shall be \$0.35 per page or, if the records are provided electronically, \$5.00 per disk.

VII. **EXEMPTIONS**

This Administrative Procedure does not apply to the Superior Court, Justice Courts, the Offices of the Pima County Assessor and the Pima County Recorder.

Revisions: 7/1/2003
1/26/2012



ATTACHMENT A

**PIMA COUNTY
PUBLIC RECORDS REQUEST
NON-COMMERCIAL PURPOSE**

I request the following records (please **describe the records, with as much detail as possible**):

Caution: A.R.S. §39-121.03C provides:

"A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records."

STATEMENT:

I affirm that the public records I have requested and as described below, are not for a "commercial purpose" as defined by A.R.S. §39-121.03C. I also affirm that the public records will not be transmitted or sold to any other person for a commercial purpose.

Signature

Date Signed

Name (please print)

Mailing Address

City/State/Zip

Phone number



ATTACHMENT B

PIMA COUNTY
PUBLIC RECORDS REQUEST
STATEMENT OF COMMERCIAL PURPOSE

Caution: A.R.S. §39-121.03C provides:

"A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records."

A commercial purpose is defined by Arizona Statute as the use of a public record for the purpose of:

- the sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale, or
• obtaining of names and addresses from such public records for the purpose of solicitation, or
• for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record.

STATEMENT:

Pursuant to A.R.S. § 39-121.03(A), I hereby certify that the public records I have requested and as described below, are for the commercial purpose described below and for which I can reasonably anticipate will result in the monthly dollar amount listed below from the direct or indirect use of these records.

Anticipated Monthly Amount \$ _____

Description of Public Records Requested (please describe the records, with as much detail as possible):

Three horizontal lines for describing public records requested.

Description of the Use of Public Record Requested:

Three horizontal lines for describing the use of public records requested.

Signature _____

Date Signed _____

Name and Title (please print) _____

Phone number _____

Company Name (If applicable) _____

Business Description _____

Mailing Address _____

City/State/Zip _____