

NOTICE OF PROPOSED NEW RATES OR FEES

**RELATED TO PUBLIC RECORDS REQUESTS FOR POLICE BODY CAMERA VIDEOS
PURSUANT TO A.R.S. § 39-129.**

Pursuant to A.R.S. § 9-499.15, the City of Flagstaff hereby gives notice it proposes to amend the City Code to adopt new rates or fees related to Public Records requests for Police Body Camera videos pursuant to A.R.S. § 39-129.

The City Council will consider whether to amend the City Code to adopt new rates or fees at a public meeting, to be held:

**Tuesday, January 2, 2024 at 3:00 p.m.
City Council Chambers
211 W. Aspen Avenue
Flagstaff, Arizona 86001**

A first reading of an ordinance to approve the changes may occur on this date. A second reading of an ordinance to approve the changes may occur at the next public meeting of the City Council on Tuesday, January 16, 2023 at 3:00 p.m. in City Council Chambers.

The City Council may approve, disapprove, or modify the proposed rates or fees at that time. A schedule of the proposed new rates or fees is set forth below:

A fee of \$46.00 per video hour reviewed and redacted.

A fee of \$30.00 for digital media storage to include CDs, thumb drives, or other digital storage media that may become available in the future.

A written report that supports the new rates or fees is attached below.

Please contact Rick Tadder, Management Services Director (928) 213-2205 if you have any questions.

Submitted by: Rick Tadder

This notice is posted on the homepage of the City Website and distributed through social media this 20th day of October 2023.

Posted by: Sarah Langley

Report to follow below.

Report Regarding proposed fees for Public Records requests for reviewing and redacting police body camera footage.

The Arizona State Legislature adopted a new law, A.R.S. § 39-129 that goes into effect on October 30, 2023. This new law allows Cities to impose a fee for the reviewing and redacting of body camera videos when the footage is requested under a public records law.

Prior to the enactment of § 39-129, local law enforcement agencies were prohibited from charging fees for the reviewing and redacting of body camera footage when requests were made under public records law. The new statute sets the maximum amount for the hourly fee at \$46.00 per hour. See the language of the statute below:

39-129, Local law enforcement; video recordings; fee

Except when it is free for victims pursuant to A.R.S. § 13-127, a county, city, town or any political subdivision of this state may establish a onetime fee per copy, not to exceed \$46 per video-hour reviewed, that is charged to a person who submits a public records request to a local law enforcement agency for a copy of a video recording. A county, a city, a town or any political subdivision of this state may take into consideration the following information when determining the amount of the onetime fee per copy:

- The reasonable cost of reviewing, transmitting, making a copy of and, as necessary, redacting the video recording.
- Any other relevant information.

Time Spent on Requests

In the last fiscal year from July 2022 to June 2023, the Flagstaff Police Department received approximately 136 public records requests involving body camera videos. The number of videos can vary per each request. Each officer involved in an incident usually is recording, therefore the more officers who are present the more videos there are to review. Some reports can contain one video, and some can contain 10 or more videos. The length of the videos can also vary from 10 to 30 minutes to up to over an hour of footage. One request can take 30 minutes to an hour to review while others can take over 10 hours to review. Of those 136 requests the time it took just to review to the videos to determine what should be redacted took over 200 hours (this is just reviewing time and does not including the time it takes to redact and download the videos).

Process for Reviewing and Redacting Videos

A request is made by the public either online or in person at the records counter for video connected to a particular report, investigation or contact with law enforcement. The request may sometimes ask for all reports and videos involving certain people as well.

That request is processed by the records department and then forwarded to the legal advisor for initial review of the videos.

Legal does the initial review as the decision on what can legally be redacted is based upon public records law, including statutes and case law that needs to be interpreted and applied to each individual case. If there is a challenge to what has been redacted the requestor can file an action in court against the City claiming the City improperly withheld public information. Once the initial review is conducted then a list of legally defensible and necessary redactions is provided to the Records Supervisor to redact from the videos prior to their being released to the requestor.

The redactions are usually done by the records manager or the records lead technician. The time it takes to make redactions depends on how many are necessary on a given video. The more redactions that are needed results in more time taken to redact the videos. The employees making the redactions will take the list and review the portions of the video before and after the necessary redactions to ensure all the information that should be legally redacted is removed. Redactions can include removing audio from the videos as well as blurring or blacking out the picture. (we blur or black out images that show deceased or injured individuals, juveniles or where protected information can be seen)

It is estimated it takes about 75% of the length of the video to complete the redactions. For example, it will take approximately 45 minutes to redact a video that is an hour long. Once redactions are made then the redacted videos are downloaded and placed on CD's or a thumb drive depending on the length and number of videos. It takes considerably longer to download and burn a video to a CD. For an hour-long video, it takes approximately 20 minutes to download to a CD whereas it takes about 3 minutes to transfer downloads to a thumb drive. Both the Records Supervisor and Lead Records technician have had their disc drives replaced in their computers due to overuse.

The approximate labor cost of the Police Department's Records Lead is \$37.06/hour, the Records Supervisor approximate labor cost is \$42.53/hour, and the Legal Advisor's approximate labor cost is \$118.53/hr. The total approximate hourly cost of reviewing, redacting, and copying body-camera videos is between 155.59/hour to \$161.06/hour. This does not include any other costs related to the use of equipment or digital media. Therefore, setting the fee at the maximum allowed under the law at \$46.00 per hour which is reasonable as is required under the statute.

Conclusion

The fee for the reviewing, redacting and copying of body camera videos will be set at the maximum allowed under the law of \$46.00 per hour of body camera video. Further the current fee of \$30.00 for cassette tapes that is in the City Ordinance will be revised to be \$30.00 for digital media to include CDs, thumb drives, or other digital storage media that may become available in the future.