Request for Reproduction of Copyrighted Materials

NOTE: THIS FORM MUST BE PROPERLY COMPLETED FOR THE CITY OF PORTLAND TO ACCEPT YOUR COPY REQUEST

Name _____

Mailing Address _____

City_____ State_____ Zip Code_____

Day Phone_____FAX_____email_____

I hereby request copies of the following material including drawings; specifications; calculations; details and notes dated:_____
(date(s) on drawings, etc.)

for the project:_____
(name of project)

and/or located at: _____
(street address)

Please check all that apply:

- ❑ I have been granted copying privileges by the copyright owner or architect see Attachment A;
- ❑ I am not required to obtain a copyright release from the copyright owner or architect because:
  - ❑ I intend to use the copies made for "…purposes such as criticism, comment, news reporting, teaching, scholarship, or research…" as allowed by fair use doctrine. I understand I cannot use these copies for commercial gain.
  - ❑ The materials were created prior to March 1, 1989 and there is no copyright notice on the plans.
  - ❑ The materials were created prior to 1923 and therefore in the public domain.
- ❑ None of the above apply because my request does not contain any materials protected by copyright law

I agree to defend, indemnify and hold harmless the City of Portland, its officers, employees and agents from any and all claims, actions, damages and liabilities arising or related to any copyright violation claim(s) made against the City as a result of the reproduction of any materials identified in this copy request. _____
(initial)

By signing below, I verify that I have read and understand all terms set forth herein:

Signature_____ Date_____

Frequently Asked Questions on BDS Copyright Release Forms

BDS maintains a microfiche record of approved architectural drawings as a reference. The architectural drawings are available for review; however copyright law protects the duplication of these drawings without the owner's consent.

Q: What is a copyright?

A: A copyright is the exclusive right of the copyright holder to copy, reproduce or make derivative works of their copyrighted material, such as architectural plans and drawings.

Q: Why is the City treating architectural works (plans and drawings) differently than other types of documentation?

A: While many types of work may be eligible for copyright protection, architectural works are given specific protection under U.S. Copyright law. (An architectural work is "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.")

Q: Why is the City saying architectural plans are copyrighted if I don't see the © symbol on it?

A: There are a few reasons. On and after March 1, 1989, it was no longer necessary for copyright holders to place the symbol on a work for it to have copyright protection. Also, architectural works are given specific protection under U.S. Copyright law.

Q: Doesn't Oregon Public Records Law mean the City has to give copies to the public?

A: No. Federal copyright law supersedes Oregon Public Records law. Requestors still do have the right to view copyrighted material under the Public Records law, but may not make copies of the material without the copyright owner's consent.

Q: Who is the "owner" of a copyright?

A: The "owner" is the party that holds the copyright and has the exclusive right to allow copies of the work. For architectural works such as plans and drawings, this may be either the architectural firm that drew the plans, or the party that hired the architectural firm as "work for hire," such as a builder or individual homeowner.

Q: How can a customer determine who holds the copyright on plans or drawings?

A: The customer may view the plans/drawings and investigate who owns the plans/drawings by contacting the architect or owner represented on the plans. The City accepts that the customer has done their due diligence in investigating ownership and obtaining the proper release or making a determination that their use qualifies as "fair use."

Q: How do I know if I'm qualified to copy under fair use?

A: This is not an easy question to answer, but in general, it is acceptable to copy if it is for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. It is also generally acceptable to copy small portions of a plan for limited, non-commercial use, such as a copy of a particular section in order to locate electrical or a support wall etc. It is not acceptable to copy a full set of plans or drawings to avoid having to pay the owner for copies of those plans. It is not fair use if the purpose is to gain commercial advantage.

Q: Are site plans copyrighted?

A: No.

Q: Can someone get a copy of plans or drawings for a replacement set, for deferred submittal or revisions without a copyright release?

A: No. They need a release signed by the copyright owner.

Q: What do we do with the copyright release forms?

A: Give them to the Resource Records Section Manager.

Q: What if the owner of the plans is deceased or unavailable to fill out this form?

A: Copyright exists for the life of the owner plus 70 years, so death does not automatically extinguish copyright.

Q: Who can answer questions about this procedure?

A: Staff in the Resource Records or Permitting Services Sections.