

## **Public Records Requests**

### **1. Purpose.**

This policy sets forth the City's rules regarding the inspection of public records as permitted by Section 24-72-203, Colorado Revised Statutes. These rules are reasonably necessary for the protection of the public records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or the custodian's office. This policy is not applicable to criminal justice records. Those records are governed by separate statutes and policies.

The custodian will apply the provisions of the Colorado Open Records Act to determine what records are public and subject to public disclosure pursuant to a request. Not all records are subject to disclosure and the custodian will notify the requestor when and why requested records will not be disclosed.

### **2. Form of Requests.**

Except for requests for inspection of records that can be quickly identified and are readily available by the custodian for immediate inspection, all requests for inspection or copying of public records must be in writing and must specifically identify the records requested. Written requests may be made in email format.

### **3. Timeframe for Responding to Requests.**

Upon the payment of any applicable fees as described in section 4, below, the City will make public records available for inspection and copying within a reasonable time of the request. Unless the requesting party agrees to a longer time, a reasonable time will be considered to be within three working days of the written request or payment of the estimated fees if advance payment is required as specified below. Upon written notice to the requesting party within the initial three working days of the request, the reasonable time may be extended by the City by up to an additional seven working days if extenuating circumstances prevent an earlier response.

If it is not possible to provide the requested records for inspection or copying within the period specified above because: (i) the records were not specifically identified by the requesting party, (ii) the request was very broad, and/or (iii) earlier compliance would substantially interfere with the regular discharge of the duties of the custodian or the custodian's department, the custodian may set a date for inspection or copying for a later date. The custodian of the record will notify the requesting party in writing of the later date and the reasons for the delay within the initial three working days of the written records request unless the reason for the delay could not be reasonably anticipated during the initial three days.

4. Fees.

- a. Making Records Available for Inspection. There is no charge to inspect public records at the City department that maintains the records unless:
- (i) in the judgment of the custodian, the nature of the request makes it necessary to expend more than 60 minutes of staff time to (a) research and retrieve the requested records to ensure that the records are properly identified as being responsive to the request and are made available for inspection, and (b) review the requested records for withholding or redaction because of privilege as required or permitted by the Colorado Open Records Act; or
  - (ii) it is necessary to manipulate data or documents to generate a record in a form not used by the City as described in subsection 4.b (ii) below.
- b. Fee Amounts. The following hourly fees will be charged for the time necessary to accomplish those tasks:
- (i) research and retrieval, and identification, segregation, and/or redaction of records associated with a privilege review to determine whether a record may or may not need to be disclosed or redacted - \$ 30.00 per hour after the first 60 minutes of combined time spent on such tasks;
  - (ii) data or document manipulation – actual total hourly compensation for the person(s) doing the necessary manipulation plus any other applicable fees to cover the direct costs incurred in the following tasks:
    - reconstruction of deleted email as described in subsection 5. of this policy;
    - production of a privilege log of documents that are not disclosed (if requested by the party requesting documents); or
    - any other manipulation of data necessary for the custodian to generate a record in a form not used by the City, or to scan or otherwise manipulate records in order to transmit them in the manner requested.
- c. Copying. If copies of public records are requested or copying is necessary to perform the tasks identified in subsection 4.b. above, the following copying fees will be charged in addition to any other applicable fees:
- (i) up to 11” x 14” - \$.25 per copy;

- (ii) 11" x 17" - \$.50 per copy.

For copies of other sizes, fee amounts will be set by the department making the copies, but shall not exceed actual cost.

At its option, the City may send copying to an outside vendor, in which case the requesting party will be charged the vendor's charge.

- d. Placement on Electronic Storage Devices. The following fees will be charged for providing records on storage devices if the custodian department has the ability to copy the records to the device:
  - (i) CD/DVD-Rom - \$15 per disk
  - (ii) USB flash drive - \$15 per drive
  - (iii) other portable digital storage devices – actual cost of acquiring the device
- e. Email Transmission of Records. No fee will be charged for the transmission of records by electronic mail, although the other fees described in this policy may be applicable if the services for which those fees are charged are necessary in order to place the records into a format that can be emailed. Due to limits on the size of electronic files that may be emailed, it may not be practical to transmit records via email.
- f. Payment of Estimated Fees Required Prior to Identification, Retrieval, Review and Copying of Records. If the custodian estimates that the fees for researching, retrieving, reviewing, manipulating, segregating, redacting, and copying the requested records will be \$50 or more, the custodian will notify the requestor of the estimated amount and may not begin those tasks until the estimated fees are paid. The custodian will provide the fee estimate notice to the requestor as soon as it becomes apparent to the custodian that payment of the estimated fees will be necessary pursuant to this Section. The date of payment of the estimated fees will begin the period of time within which the records must be made available for inspection under the applicable timeframe as explained in Section 3, above. If in the course of the retrieval or review process, the custodian discovers a circumstance that results in a significantly greater estimate of the amount of fees, the custodian will provide the new estimate to the requesting party and the process will be paused until the new fee estimate amount is paid. Once the actual amount of the fees is known, the requesting party will be refunded any excess amount collected or will be required to pay any additional amount owed prior to obtaining access to the records, as applicable.

- g. Fees will be waived in any of the following circumstances:
- (i) Copying fees for 8½” X 11” copies if the request is for not more than 5 pages.
  - (ii) In the interest of promoting civic engagement, copies of agenda materials to be considered by the City Council, boards and commissions, and other City-sponsored groups at public meetings will be provided without charge up to and including the day of the meeting.
  - (iii) Records provided to other governmental entities or to entities with which the City has an ongoing business relationship, when the City determines that it is in its best interests to provide the fee waiver.
- h. Fees may, in the discretion of the City Manager or his/her designee, be reduced or waived if the records and services are to be used for a public purpose. The specific public purpose must be identified in the request.

5. Emails.

Searches for electronic mail communications that are the subject of a request for inspection will be limited to those messages that exist on the custodian’s computer as of the date of the request unless the requesting party specifically requests in writing that emails that have been “permanently deleted” from the email system on the custodian’s computer be reconstructed and retrieved. If such a request is made and reconstruction is reasonably possible, the applicant will be charged the fees described in subsection 4. b. (ii), above, for the time necessary to reconstruct the data that may contain the deleted emails, without a deduction for the first 60 minutes of time performing the task, in addition to any other applicable fees.

6. Security of Record.

The original public record to be inspected shall not be released to the requestor. The record custodian may take precautions to ensure the security of the record.