

TOWN OF LYONS, COLORADO
ADMINISTRATIVE POLICY ON OPEN RECORDS ACT REQUESTS

Date Issued: June 5, 2017

Effective Date: June 6, 2017

I. PURPOSES OF THIS POLICY

- A. To set forth a general policy for providing access to and inspection of public records maintained by the Town of Lyons (the “Town”) pursuant to the Colorado Open Records Act (“CORA”), C.R.S. § 24-72-201 *et seq.* Generally, the public has the right to access the public documents of a governmental entity.
- B. To protect the integrity of the Town’s records and to prevent unnecessary interference with the regular operational duties of Town employees that may be caused by access to the records.
- C. To establish general procedures and reasonable, standardized fees for the research, retrieval and obtaining of information from Town-maintained records as well as the review, analysis, redaction, preparation, and production of copies of public records.
- D. To ensure consistent application of these procedures across all departments when responding to requests for Town-maintained records.
- E. To provide general guidelines to assist Town employees in handling public records requests.

II. SCOPE

- A. Subject to any exceptions listed in § 24-72-201 *et seq.* of the Colorado Revised Statutes, it is the policy of the Town to make public records open for inspection at reasonable times.
- B. These rules apply to requests submitted to the Town for the inspection of public records pursuant to CORA. These rules do not apply to informal requests for information or records that are not specifically submitted pursuant to CORA.
- C. The Town Clerk is the official records custodian for municipal records centrally maintained by the Town. In certain circumstances, department directors may be considered records custodians for records maintained within their departments.

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- D. The Town Attorney shall be consulted when requests for public records under this Policy are made from members of the media, attorneys, or private investigators. The Town Attorney shall also be consulted when requests involve multiple Town departments or when legal interpretation is required.
- E. Elected officials may develop their own policies and procedures regarding public records in their custody; however, to the extent that the Town has custody of any public records of an elected official, the Town shall, in consultation with the elected official, meet any requirement of CORA as it may apply to the documents in the Town's possession.
- F. This policy does not apply to criminal justice records, as defined by the Colorado Criminal Justice Records Act ("CCJRA"), C.R.S. §24-72-301 *et seq.* CCJRA records requests that originate in the Town Clerk's office, or requests that include public records under both CORA and CCJRA will be processed, but fees will be assessed accordingly.

III. DEFINITIONS

- A. The definitions found in C.R.S. § 24-72-202, as amended from time to time, shall apply to this Policy unless the context clearly requires a different meaning. The following definitions from C.R.S. § 24-72-202 are of particular importance:
 1. **Public Records.** “[A]ll writings made, maintained, or kept by... [any] political subdivision...for use in the exercise of functions required or authorized by law... or involving the receipt or expenditure of public funds.” CORA does not include criminal justice records, which are addressed by the CCJRA.
 2. **Writings.** “[A]ll books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. ‘Writings’ includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.”

IV. PROCEDURES

A. Submission of Requests:

1. Requests for public records under this policy shall be made in writing and must be specific as to the information requested.
2. Requests should be made to the Town Clerk's office.
3. Requests may be submitted by hand-delivery, mail, fax, or email.
4. The Town may contact the person requesting to inspect or receive a copy of public records (the "Requestor") in order to clarify or attempt to narrow the request. Specificity on things like the nature of documents, the timeframe requested, and other necessary details enable the request to be fulfilled more expediently and in a more cost-effective manner. Conferral between the Requestor and the Town is strongly encouraged throughout the entirety of the process.

B. Process of Filing Requests:

1. A cost estimate will be provided to the Requestor. The cost estimate will include the estimated time needed by any Town staff or representative to complete the research, retrieval, copying, redaction, assembly, transmission, etc. of the requested documents.
2. The fee schedule for production costs of CORA requests is set forth in Part V below.
3. A 50% advance deposit may be required for open records requests that are estimated to cost in excess of \$100.00 to complete.
4. Should production of the records prove more costly than provided in the estimate, the Requestor will need to pay the additional amount prior to receiving the records. However, if the actual costs prove less than the estimate, any necessary adjustment will be reflected upon the invoice at the time the request is ready for pickup.

5. No work to complete the request will begin until the Requestor approves the cost estimate and, if the estimate is greater than \$100.00, pays the deposit in advance. The timeframe the custodian has to complete the request will be tolled during the time period between notification to the Requestor and approval by the Requestor.

(§ 24-72-205, C.R.S.)

C. Inspection or Production of Documents:

1. Public records shall be made available for inspection or pickup in the office of the official records custodian (Town Clerk) from 8:30am to 4:30pm, Monday through Friday, except on observed holidays.
2. If the requested records are in the custody and control of the records custodian, but are in active use, in storage, or otherwise not immediately and readily available for inspection, the records custodian shall set a date and hour when the records will be available for inspection. The date and time shall be within three working days of the date of the Town Clerk's receipt of the request unless extenuating circumstances exist, which require the date and time to be extended for up to an additional seven working days.
3. All findings of extenuating circumstances shall be made in writing by the official records custodian to the Requestor. In no event will extenuating circumstances apply to a request that relates to a single, specifically identified document.
4. The time period for response by the Town does not begin to run until the Town receives the request. CORA requests received on weekends, observed holidays, Town closure days, or after regular business hours are deemed received on the following business day.
5. Public records shall not be removed from the Town Clerk's office or from the Town departments. Copies will be made be from the originals, and made available for inspection in the Town Clerk's office. Even if the Requestor chooses simply inspect the documents in the Town Clerk's office, if the documents were assembled solely for the purposes of such request, the full cost of filling that requested, as delineated in Part V of this Policy, must be paid in full before the documents can be inspected.

6. The public will not be allowed to directly use either its own equipment or the equipment of the Town in inspecting or copying public records. In every instance, the necessary manual or electronic function necessary to extract, collate, organize, retrieve, copy or otherwise manipulate the records and data necessary to produce the record or allow for its inspection shall be performed by Town personnel using the equipment of the Town.
7. The Town will choose the format in which to provide the public documents and will provide responsive information in a reasonably accessible form which does not alter the content of the information. The standard practice is to provide hard copies. In certain circumstances, at the discretion of the official records custodian, electronic copies may be provided. However, electronic copies will only be provided in PDF format. No transmission fees will be charged to the Requestor for transmitting public records via electronic mail. However, other fees may be charged, if applicable, according to this Policy.
8. The Town shall deny the inspection of any records if such inspection would be contrary to state or federal law or regulation, would violate a court order, is involved in litigation, or would do substantial injury to the public interest.
9. Reasons for denial of access to public records and for records not in the control or custody of the official records custodian shall be noted in writing by the official records custodian in consultation with Town staff.
10. If the official records custodian has the capability to make reproductions, he or she shall do so at the rates described in Part V below. If the custodian does not have the facilities for making copies, printouts, or photographs of the records, the custodian may make arrangements for the services to be rendered at another facility. If other facilities are necessary, the Requestor shall pay the cost of providing them. In no event shall the records leave the custody and possession of a Town employee during this process (other than providing the items to the third party facility for reproduction). The Town is under no obligation to allow members of the public access to Town computers nor is the Town obligated to provide records in electronic format.

V. FEES

- A. If a person has the right to inspect a public record, the person may request a copy of the record. The official records custodian may charge reasonable fees for the production of such public records.
- B. If, in response to a specific request, the Town has chosen to perform a manipulation of data so as to generate a record in a form not used by the Town in its normal course of business, fee(s) will be charged to the Requestor. Such fee(s) shall not exceed the actual costs of research, retrieval and manipulation of the said data and generating the said record in accordance with the request. Persons making subsequent requests for the same or similar records may be charged a fee not in excess of the original fee.
- C. The Town will not impose a charge for the first hour of total time any staff members expend in connection with filling a request for public records under CORA.
- D. After the first hour of time has been expended, the City will charge a fee of \$30.00 per hour for the research and retrieval of such documents. This cost is separate from and in addition to the fee for copies, printouts, photographs, CDs, DVDs, USB drives, or other devices onto which public records may be reproduced.
- E. Copies, printouts, and photographs of a public record will be provided at a cost of twenty-five cents (\$.25) per standard page. A “standard page” is defined as a document created from word processing, generated onto 8.5” x 11” or 11” x 17” sized paper from a non-color printer.
- F. Copies, printouts, and photographs of a public record in a format other than a standard page will be provided for a fee not to exceed the actual cost of providing such documents.
- G. If the Town, at the sole discretion of the official records custodian, chooses to provide information via a delivery mechanism other than hard copies, a fee not to exceed actual costs of such delivery mechanism will be charged.
- H. The fee for a Compact Disc or Digital Video Disc is ten dollars (\$10.00).
- I. The fee for a USB drive is ten dollars (\$10.00).
- J. If the Town, at the sole discretion of the official records custodian, chooses to deliver or transmit public records in response to a records request, the

fees for such delivery shall not exceed actual costs. After notifying the Requestor that the records are ready to be inspected or picked up, and if the Requestor asks and the official records custodian agrees to deliver or transmit the records, the official records custodian will send the records only upon either receiving full payment or making arrangements to receive such payment at a later date.

- K. Checks for the cost of production of public records shall be made payable to the Town of Lyons.
- L. The official records custodian may treat serial or multiple requests from the same person, entity, or group for documents related to the same or similar subject matter as a single request for purposes of assessing fees.

(§ 24-72-205, C.R.S.)

VI. ABANDONED REQUESTS

- A. Records assembled in response to a CORA request will be held for no more than seven (7) business days after the Requestor has been notified that the records are available for inspection or pick-up. The holding period may be shorter for records which are needed for any Town use. Failure to inspect or pick up the records within this timeframe will be considered an abandoned request, and the request will automatically be closed. The records will be returned to their files, and the Requestor must start the request process over by submitting a new records request form.
- B. The official records custodian will maintain a list of requestors, including agencies, who have previously abandoned requests. A 100% advance deposit may be required for requests from persons or agencies who have made previous records requests and not paid or not come in to view or pick up the requested information.

VII. AMENDMENTS

- A. The Town Administrator and Town Clerk, on advice from the Town Attorney, are authorized to approve amendments to this Policy as needed and in accordance with any revisions to CORA.

B. Any amendment to this Policy shall be effective seventy-two (72) hours following the date on which the amended Policy is posted on the Town website and made available for public inspection at the Town Clerk's office.

VIII. APPROVAL



Town Administrator



Town Clerk

6/7/2017

Date

6/5/2017

Date