

CITY OF CENTRAL, COLORADO
ADMINISTRATIVE POLICY ON OPEN RECORDS ACT REQUESTS

Date Issued: September 3, 2019

Effective Date: September 9, 2019

I. PURPOSES OF THIS POLICY

- A. To set forth a general policy for providing access to and inspection of public records maintained by the City of Central (the “City”) 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 City’s records and to prevent unnecessary interference with the regular operational duties of City 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 City-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 City-maintained records.
- E. To provide general guidelines to assist City employees in handling public records requests.

II. SCOPE

- A. Subject to any exceptions listed in C.R.S. §§ 24-72-201 *et seq.*, it is the policy of the City to make public records open for inspection at reasonable times.
- B. These rules apply to requests submitted to the City 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 City Clerk is the official records custodian for municipal records centrally maintained by the City. In certain circumstances, department directors may be considered records custodians for records maintained within their departments.

- D. The City Attorney shall be consulted when requests for public records under this Policy are made from members of the media, attorneys, or private investigators. The City Attorney shall also be consulted when requests involve multiple City 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 City has custody of any public records of an elected official, the City shall, in consultation with the elected official, meet any requirement of CORA as it may apply to the documents in the City'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 City 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 City Clerk's office on City-approved forms.
- 3. Requests may be submitted by hand-delivery, mail, or email.

4. The City may contact the person requesting to inspect or receive a copy of public records (the "Requester") 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 Requester and the City is strongly encouraged throughout the entirety of the process.

B. Cost Estimate and Deposit

1. A cost estimate will be provided by the City Clerk to the Requester. The cost estimate will include the estimated time needed by any City staff or representative to complete the research, retrieval, copying, redaction, assembly, transmission, etc., of the requested documents.
2. The fees for production costs of CORA requests is set forth in Part V below.
3. A 50% advance deposit shall 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 Requester must 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 Requester 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 of the cost estimate to the Requester, Requester's approval of such estimate and, if required, Requester's submittal of the 50% advance deposit.

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 (City Clerk) during the regular business hours of the City Clerk's office, 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 (3) business days of the date of the City 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 (7) business days.

3. All findings of extenuating circumstances shall be made in writing by the official records custodian to the Requester. 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 City does not begin to run until the City receives the request. CORA requests received on weekends, observed holidays, City closure days, or after regular business hours shall be deemed received on the following business day.
5. Public records shall not be removed from the City Clerk's office or from the City departments. Copies will be made be from the originals and will be made available for inspection in the City Clerk's office. Even if the Requester chooses to simply inspect the documents in the City Clerk's office, if the documents were assembled solely for the purposes of such request, the inspection must occur in the presence of the City Clerk or other designated member of City staff, and the full cost of filling that request, 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 City 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 City personnel using the equipment of the City.
7. The City will provide records in digital format pursuant to the requirements of C.R.S. § 24-72-203. For all other records, the City 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 of public records other than records stored in digital format. No transmission fees will be charged to the Requester for transmitting public records via electronic mail. However, other fees may be charged, if applicable, according to this Policy.
8. The City 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, the requested records are involved in litigation, or inspection of the requested records 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 set forth in writing by the official records custodian, in consultation with appropriate City staff and the City Attorney, and provided to the Requester.
10. The Requester must provide the City with written notice of an appeal of such denial to district court at least fourteen (14) days prior to filing the appeal in district court pursuant to C.R.S. § 24-72-204. The City will work with the Requester in good faith during the 14-day period to come to a resolution outside of court whenever possible.
11. 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 Requester shall pay the cost of providing them. In no event shall the records leave the custody and possession of a City employee during this process (other than providing the items to the third-party facility for reproduction). The City is under no obligation to allow members of the public access to City computers.

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 City has chosen to perform a manipulation of data so as to generate a record in a form not used by the City in its normal course of business, fee(s) will be charged to the Requester. Such fee(s) shall not exceed the actual costs of research, retrieval and manipulation of said data and generating said record in accordance with the request.
- C. The City will not impose a charge for the first hour of total time any staff members expend in connection with research and retrieval in filling a request for public records under CORA.
- D. After the first hour of time has been expended, the City will charge the maximum hourly fee permitted by C.R.S. § 24-72-205(6)(b), as amended from time to time, for the research and retrieval of such records. As of the effective date of this Policy, the current research and retrieval fee is \$33.58 per hour. 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 City provides information in a format other than hard copies, a fee not to exceed actual costs of the production of such records 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. Subject to Part IV.C.7 of this Policy, if the City delivers or transmits public records in response to a records request, the fees for such delivery shall not exceed actual costs. After notifying the Requester that the records are ready to be inspected or picked up, and if the Requester 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 City of Central.
- 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.

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 Requester 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 City 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 Requester must submit a new records request to receive the records.

- B. The official records custodian will maintain a list of requesters, 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 City Manager and City Clerk, on advice from the City 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 City website and made available for public inspection at the City Clerk's office.

VIII. APPROVAL

Daniel R. Mun
City Manager

9/4/19
Date

Reba Bechtel
City Clerk

9/4/19
Date