

CITY OF COMMERCE CITY RULES GOVERNING ACCESS TO PUBLIC RECORDS

Under the Colorado Open Records Act, CRS § 24-72-201 (the “Act”), public records made, maintained or kept by the City, regardless of the format or medium, are open for inspection by the public at reasonable times.¹ Certain records are specifically exempted from inspection by the Act or other Colorado law and all records are subject to the following rules adopted by the City to maintain the integrity of the City’s records, account for costs to the City of complying with requests, and prevent unnecessary interference with City operations. Reasonable requirements, consistent with these rules and the Act, may be established by the custodian of records with respect to requests as necessary and appropriate.

A. Submission of Records Requests

1. Requests must be submitted in writing on the form provided by the City, using the City’s electronic submission form (at <http://www.c3gov.com/government/clerk-records/records>), or on a separate writing clearly indicating that the request seeks public records under the Act.
2. Requests must be limited to three records or categories of records per request. Requests exceeding this limit may be subdivided into groups of three by the City in the City’s discretion.
3. Requests must be submitted to the City Clerk, who is the official custodian of City records (other than criminal justice records). Requests may be submitted to individual City departments if the requestor knows that the requested records are maintained by that department, but the request must be copied to the City Clerk. The City Clerk may direct records requests to City department(s) or staff members for a response.
4. Requests must be made with sufficient specificity to permit the efficient identification, collection, and evaluation of records. For example, to the extent available, specific requests should include information such as the record’s name or title, location(s), date(s), author(s), recipient(s), specific subject matter, or category of records. Requests that are not sufficiently specific may be denied or deemed invalid. The City may deem a request abandoned if requests are not clarified to include such information.
5. Requests (or portions of requests) that seek records that are not yet in existence, that seek disclosure on a continuing or periodic basis, not City records, or that consist of interrogatories, editorials, or other similar comments will not be fulfilled and will not receive a response.

¹ Records qualifying as criminal justice records under the Colorado Criminal Justice Records Act, C.R.S. § 24-72-301, *et seq.*, are not subject to this policy and must be submitted to the Police Department Records Division.

6. The City may reject any request where the request or any communication relating to the request includes demeaning, harassing, or threatening language or abusive conduct. The City may prohibit an individual or entity from submitting requests where that person or entity has previously submitted requests that have included such language or conduct or that have been deemed abandoned as provided in this policy.
7. The City will deem a request as abandoned if, after ten business days, the requestor has not reviewed records made available for inspection, retrieved records copied by the City in response to the request, or submitted payment for the identification, collection, evaluation, and copying of records. At such time, any original record will be returned to its normal place and any copies will be destroyed.

B. Responses to Records Requests

1. Upon receipt of a complete and properly submitted records request, the City will strive to provide a response within three business days, excluding holidays. Record requests shall not take priority over the previously scheduled work activities of the City. If the City cannot respond to the request within three business days, the requestor will be notified and provided with an estimated timeframe for when the response will be provided.
2. The City may respond to a records request by: (a) providing the requested records; (b) making the requested records available for inspection; (c) denying the request; (d) responding that there are no records responsive to the request; (e) requesting clarification or narrowing the request; (f) providing a cost estimate to respond to the request and requesting a deposit in accordance with this policy; (g) any combination of these; or (h) any other appropriate response.
3. Conferral between the requestor and the City is encouraged throughout the entirety of the process, and may be required. C.R.S. §24-72-204(5)(a).
4. Unless the requestor can provide a sufficient factual basis to establish bad faith, the City shall have no duty to recreate or reconstruct any mailbox or hard drive in order to respond to a request for documents.
5. The City is not required to create a document or collect documents from other entities in order to respond to a request for information. As an example, a person might request that the City provide him/her with the number of weed violations that occurred on a particular block for a certain time period. If there is a document that contains that information, the City is required to produce it. However, if no such record exists, the City is not required to find the information and generate a record.
6. Multiple requests and requests submitted by the same person or entity within five business days will be treated as one request for purposes of allocating fees and costs.

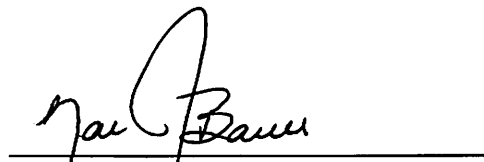
C. Inspection and Copying of Records

1. The City shall retain control of the records at all times. Inspection is subject to the supervision of the appropriate records custodian.
2. Records are generally available for inspection by appointment from 9:00 a.m. until 12:00 p.m. and 1:00 p.m. until 4:00 p.m., Monday through Friday, except during any holiday observed by the City or according to different hours of operation established by respective City departments.
3. The City will not allow requestors to access City computers that are not ordinarily available for use by the general public.
4. The City may charge reasonable fees for the production of record(s), including without limitation the cost of copying or reproduction and time spent by City (through its employees or any third-parties) to identify, collect, evaluate, redact, format, and reproduce records, prepare responses and privilege logs, or otherwise respond to the request.
 - a. A fee of twenty-five cents per standard page (8x10 or 8.5x11) will be charged for the reproduction of paper records. The fee for a non-standard page shall be as stated in the City's Fee Directory. If a commercial copy service is necessary to produce copies in the City's discretion, the requestor is responsible for paying the actual cost for such service
 - b. When the response to a request, in the aggregate, takes longer than one hour, the City will charge \$30 per hour (excluding the first hour) spent by any employee or third-party to review, evaluate, identify, collect, evaluate, redact, format, and reproduce records, to prepare responses, or to otherwise respond to a request (except for third-parties retained to assist with responding to requests for electronically stored information).
 - c. Unless waived by the City, the requestor must pay the actual cost of any media and third-party service required to respond to requests (including the identification, collection, duplication, and evaluation of records as well as production) for electronically stored information and hard copy records (no external hard drive or other media provided by the requestor will be accepted, unless approved by the Director of Information Technology). Nothing in this Policy requires the City to take action beyond what is required by the Act or other law.
 - d. The requestor must pay the actual costs of transmission of any records (except when transmitted by e-mail).
5. Payment of Fees & Costs:
 - a. The City will accept payment in the form of cash or check. Credit cards or other electronic payments may be accepted in the custodian's discretion.

- b. Where fees and costs may apply, the City will not take further steps after notifying the requestor of the estimate of fees and costs until the payment of such fees and costs has been agreed to and, where appropriate, paid as provided in this policy. Any timeline for the City to respond to a request will be tolled pending such payment.
 - c. The City will not proceed with a new request for a requestor who has not paid all costs associated with a previous request.
 - d. Before processing a request, the City may require an advance deposit of (in any combination, as appropriate): (a) up to 50% of the estimated fees and cost where that the City anticipates more than two hours of time will be required; (b) 100% of the estimated fees and cost where the requestor previously failed to pay fees and costs associated with a request or abandoned a request; or (c) 100% of the estimated costs of media and third-party services required to respond to requests for electronically stored information.
 - e. The actual costs, as calculated in this policy, must be paid before the inspector is provided access to records or copies under this policy.
6. Exceptions. No fees or costs will apply to requests from the following persons or entities, except as provided: (a) members of the City Council, the City's boards and commissions, and City staff (excluding election materials requested by incumbent officials running for office); (b) other governmental entities; and (c) students enrolled at an educational institution requesting documents for a specific class project. Standard fees and costs will apply to media required for requests and if the request requires more than one hour of time or more than 25 copies.

February 26, 2017


Brian K. McBroom, City Manager


Laura J. Bauer, MMC, City Clerk