
OPEN RECORDS POLICY

I. AUTHORITY:

The public policy of the state and the City requires all public records to be open for inspection at reasonable times unless specifically excepted by law. Colorado Public (Open) Records Law, C.R.S. Section 24-72-201, *et. seq.* ("CORA"). CORA further allows the official custodian of public records to formulate rules and regulations with reference to the inspection of these records which:

- A. Protect the integrity of the records, and
- B. Limit operational disruption caused by access to the records.

II. PURPOSE OF POLICY:

A. To set forth a policy providing the public with timely, orderly, efficient and appropriate access to public records maintained by the City of Lamar ("City") in compliance with the standards and requirements of CORA; and

B. To establish general procedures and reasonable and standardized fees for producing copies of and information from City-maintained records as authorized by CORA (CORA does not require the City to create a record in response to a request for information); and

C. To protect public records from alteration, abuse, wear and tear, defacement or permanent loss and misuse, and to ensure that other activities of the respective offices of records custodians not be disrupted or interrupted.

III. SCOPE:

This policy shall apply to all public records except criminal justice records (as defined in C.R.S. Section 24-72-301, *et. seq.*) kept and maintained by the Municipal Court or the Lamar Police Department. Other records kept by the Lamar Police Department shall similarly not be covered by this policy, it being understood that the policies and procedures adopted by City of Lamar shall govern the provision of such records.

IV. DEFINITIONS:

Definitions found in C.R.S. Section 24-72-202, as amended from time to time, shall apply unless the context clearly requires a different meaning in accordance with customary usage. In the event of any conflict between a definition set forth herein and in C.R.S. Section 24-72-202, the definition set forth in C.R.S. Section 24-72-202 shall prevail. Other terms used in this policy shall have the following definition:

- A. **Custodian of Records** shall mean the City Clerk.
- B. **Non-Routine Record** shall mean any Public Record that is not a "Routine Record" or any request where the legality of compiling or releasing the document may be in question.
- C. **Non-Public Record** shall mean any writing made or kept by the City which does not constitute a Public Record under this policy and/or under the provisions of CORA.

D. **Open Records Log** shall mean a log kept by the City Clerk, indicating (1) the date of any receipt of all requests for inspection and/or copies of Routine Records kept by the department, (2) the date of fulfillment and a description of the requested Routine Record, and (3) all requests for Non-Routine Records which are referred to the Records Custodian.

E. **Public Records** shall mean all writings made, maintained or kept by the City for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditures of public bonds. "Public Records" does not include Work Product. However, it does include the correspondence of elected officials, with limitations, as set forth in C.R.S. Section 24-72-202, *et seq.*

G. **Public Records Request Form** is the form attached hereto as Exhibit 1 which shall be utilized for all Non-Routine and Non-Public Records Requests and as may be amended from time to time by the City Clerk.

H. **Research/Data Gathering Time** shall mean all time expended by City staff in processing requests for Public Records in excess of 60 minutes as applied to the calculation of the fee associated with any request for public records.

I. **Routine Record(s)** shall mean Public Records that are commonly requested and maintained on-site at the City offices, do not involve any significant staff time for research, compilation or tabulation of any data, *and* are identified as Routine Records by City department on the attached Schedule A. Voluminous requests for records which are otherwise routine may be treated as non-routine records requests in the discretion of the Department Records Custodian.

J. **Work Product** shall mean all advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority.

K. **Writings** shall mean all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics, including digitally stored data (including, without limitation, electronic mail messages) but do not include computer software.

V. RESPONSIBILITIES:

A. It is the responsibility of each Department Records Custodian to maintain an accurate and updated Open Records Log.

VI. GENERAL PROCEDURES:

A. **Requiring Identifying Information:** Release of Records shall not be conditioned upon the furnishing of information by the requestor such as name, address, phone number or reason for request. The identification of the requestor can affect whether certain records are Non-Routine Records or Routine Records and thus the manner in which the request shall be fulfilled. Identifying information shall never be required as a condition to fulfilling the Public Records request but the requestor shall be informed that the request may be fulfilled more expeditiously if the requestor provides identifying information and the information provided leads to the determination that the requested record is a Routine Record. If the requestor is asking for information to be faxed or sent via mail, appropriate information must be provided. Likewise, if the requestor is paying by method other than cash for the cost of research, copying, etc., appropriate information must be provided.

B. All requests for records must be specific as to the records sought and the relevant dates

covered by the request. Requests for correspondence must identify the parties to the correspondence. For any request that is vague or broadly stated the Custodian of Records may require the requestor to provide a more specific request before responding. If a requestor is unable to identify the specific documents sought and the relevant dates, the requestor is encouraged to contact the City Clerk in advance of submitting a request for assistance in providing the requisite specificity.

C. Access Times: All Public Records shall be open for inspection in the City of Lamar City Clerks Office from 8:30 a.m. until 4:00 p.m., Monday through Friday, except on City observed holidays.

D. No original Public Records shall ever leave the possession or control of the Custodian of Records.

E. The City will fulfill all Public Records requests within three (3) business days if the records are readily available. An additional seven (7) business days may be added if the records are in active use, in storage or otherwise not readily available. If the additional days are necessary, the City Clerk shall notify the requestor in writing of the extenuating circumstances within the initial three day period.

F. Any denial of a Public Records request or request for a Non- Public Record shall be in writing, regardless of whether such a writing is requested.

G. In all cases in which a person has the right to inspect any Public Record pursuant to this policy, copies, printouts or photographs of such records may be provided to the requestor if, prior to reproduction, requestors pay the applicable fee in accordance with Section IX of this policy. When records are made available to a person via email, a pdf copy of the record will be made and attached to the email.

H. Whenever fees or costs are assessed pursuant to this policy, the City will accept payment in the forms that are accepted at that time by the City.

I. The public shall not be allowed to use its own equipment in inspecting or copying Public Records. The necessary manual or electronic functions necessary to extract, collate, organize, retrieve, copy or otherwise manipulate the records and data necessary to reproduce the record or allow for its inspection shall be performed by the respective department personnel using the equipment of the department. The City may, at its option, provide a computer for use by the public to research and access (but not in any way alter) certain limited Public Records.

J. All fees collected hereunder shall be transmitted by the City Clerk for bookkeeping and deposit into the general fund of the City.

VII. REQUESTS FOR ROUTINE RECORDS

A. All requests for Routine Records must be received in writing through the office of the City Clerk on the Public Records Request Form. The Custodian of Record may allow inspection and/or copying and release of Routine Records.

B. The Custodian of Record will strive to handle Routine Records requests promptly and within the same day of request but, in no event, will such requests take longer than three (3) days to handle.

C. The cost for copying and providing the Routine Record shall be as set forth in Schedule B, except as provided by Section IX, Paragraph B of this policy. If the cost is estimated to exceed \$30, the requestor shall be required to pay the estimated cost before the request is fulfilled. After fulfilling the request and before releasing any documents or

information, the Records Custodian shall return to the requestor any excess funds or charge the requestor for any deficiencies in funds.

VIII. REQUESTS FOR NON-ROUTINE INFORMATION OR NON-PUBLIC RECORDS

A. All requests for Non-Routine Records and for any Non-Public Records must be received in writing through the office of the City Clerk on the Public Records Request Form. If a Non-Routine Record or Non-Public Record is requested via the telephone, the requestor will be notified to submit the request in writing. The date and time of the request must be noted in the box at the bottom of the form.

B. The City Clerk will notify the City Manager and City Attorney, to the request of each Non-Routine or Non-Public Records request when the City Clerk determines such notification is warranted.

C. The City Clerk and the City Attorney's Office, shall determine whether the Non-Routine Record requested should be open for inspection within the guidelines of CORA or whether the requested record is a Non-Public Record. In addition, if in the opinion of the City Clerk and the City Attorney's Office, disclosure of the contents of any Non-Routine Record would do substantial injury to the public interest, be contrary to any state statute, federal statute, or regulation issued thereunder or is prohibited by rules promulgated by the order of any court, notwithstanding the fact that said record would otherwise be available for public inspection under the provisions of CORA and this policy, the City Clerk shall notify the requestor that access to such Public Record is denied and state the grounds for the denial within three (3) days of the date of receipt of the request.

1. If a determination is made that the record is either a Non-Public Record or otherwise a Public Record not subject to public inspection within the guidelines of CORA, the City Clerk's Office shall issue a written statement to the requestor within three (3) days of the date of receipt of the request explaining the legal basis for withholding release of the requested record.

2. If the requested record is determined to be a Public Record within the guidelines of CORA but the records are not available (lost, non-existent, etc.), the City Clerk shall notify the requestor in writing within (3) three days of the date of receipt of the request.

3. If the request is determined to be within the guidelines of CORA and the requested Public Records are in the custody and control of the Custodian of Records but are in active use or in storage and not available at the time a requestor asks to examine them, the City Clerk shall inform the requestor in writing of this fact and, except when extenuating circumstances exist which require the date and time be extended to a date and time not to exceed seven (7) days, set a date and hour when the records will be available for inspection or for production and copying within three (3) working days of the date of the request. The finding of extenuating circumstances forming the basis for the extension of time shall also be documented and provided to the requestor in writing by the City Clerk.

4. If the request is determined to be within the guidelines of CORA, the department in which the record is kept or maintained shall generate a cost estimate and submit to the City Clerk to complete the request.

a. If the cost estimate is in excess of \$30, the total estimated amount shall be collected by the City Clerk in advance of proceeding with the request. The requestor shall be advised that this is only a deposit and that necessary adjustments to such amount must be made at the time the request is ready for pickup. If the requestor wishes to proceed once receiving an estimate, he or she must acknowledge his or her agreement to pay the costs and deposit in writing. By responding in writing, the requestor agrees to pay all fees associated with responding to the request. Upon receiving the deposit, the City Clerk shall contact the appropriate

department to fulfill the request. The time between the date of the City Clerk's estimate and the receipt by the City Clerk of a written request to proceed will not be counted against the time period for responding as set forth *above*.

b. The department in which the request was made shall complete the request, accounting for all costs incurred in processing the request, and deliver the documents, along with the cost summary, to the City Clerk.

b. The requestor shall be contacted by the City Clerk and informed as to any adjustments to the original estimated deposit. If paid in advance, the requestor shall pay or be refunded any adjustment based on the actual costs incurred.

IX. FEES:

A. Fees for production of Public Records are as set forth in Schedule B.

B. Routine Records may be emailed to the requestor free of charge if the document already exists in electronic form and additional staff time *over* sixty (60) minutes is not required to fill the request. Fees for paper copies of records shall be as set forth in Schedule B.

C. Fees for extraction of email data will be charged at a rate different than that charged for other types of records.

D. Fees otherwise to be assessed pursuant to this policy shall not be *waived* except with the approval of the City Clerk.

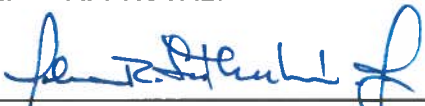
X. FUTURE MINOR AMENDMENTS OF POLICY AND ADOPTION OF ADMINISTRATIVE DIRECTIVES:

By ratification, the City Council hereby authorizes the City Manager to adopt administrative directives consistent with this policy and to adopt updates and minor amendments to this policy which shall become effective without further ratification.

XI. EFFECTIVE DATE:

This policy shall be effective upon signature.

XII. APPROVAL:



John Sutherland, City Administrator



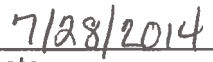
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XIII. RATIFICATION:

Resolution No. 14-07-07

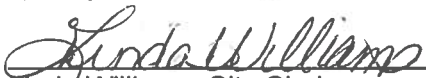


Roger Stagner, Mayor



Date

ATTEST:



Linda Williams, City Clerk