POLICY REGARDING ACCESS TO PUBLIC RECORDS

Effective Date: July 16, 2024

Administrative Authority: Adopted by City Council on July 16, 2024

Scope: All departments within the City of Durango

The purpose of this policy is to assist the public in locating specific public records and to ensure public access to public records without unreasonable delay or cost, in accordance with the requirements of C.R.S. 24-72-201 et seq. The Durango City Clerk’s Office is the direct link between the residents of the community and their government. The mission of the Clerk’s office is to provide transparent, timely, accurate and engaging information to the public regarding the City’s policies, programs, departments, services, and records. This policy does not apply to criminal justice records, as defined in C.R.S. 24-72-302. Criminal justice records are not included as public records under the Colorado Open Records Act (CORA) and those agencies are independently responsible for maintaining all criminal justice records they create and manage. Please contact the applicable criminal justice agency regarding those records.

C.R.S. 24-72-202(6) defines public records as “all writings made, maintained, or kept... by any local government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” The definition of public records also includes the correspondence of elected officials, except to the extent that such correspondence is: 1) a work product, 2) without a demonstrable connection to the exercise of functions required by law or administrative rule, 3) a communication from a constituent to an elected official that clearly implies by its content that the constituent expects that it is confidential in nature or is subject to nondisclosure, or 4) pursuant to procedures in C.R.S. 24-72-204(1) the material requested is not to be disclosed. Additionally, C.R.S. 24-72-202(7) defines writings to include “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation electronic mail messages, but do not include computer software.”

All City records are subject to the following rules adopted by the City to promote open and accessible government while maintaining the integrity of the City’s records, accounting for costs to the City of complying with requests, and preventing unnecessary interference with City operations. Certain documents are not considered to be public documents by CORA. All decisions on releasing documents under this policy shall be based on CORA.
C.R.S. 24-72-203(1)(a) allows the official custodian of public records (City Clerk) to establish reasonable rules with reference to inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of duties of the custodian or the custodian’s office.

Records Available on the City Website
A substantial number of the City’s public records are available free of charge on the City’s website at www.durangoco.gov. Those records include, but are not limited to, the City budget and financial reporting, Ordinances, Resolutions, Orders, Business License lists, publications produced by the City of Durango and the agendas, recordings and minutes of meetings of the City Council and City Boards and Commissions. In lieu of completing a CORA request for information available on the City website, the Custodian may direct persons to the online location of relevant documents without assessing a fee.

Policy

It shall be the policy of the City of Durango to make all records available for public inspection unless such records are protected from disclosure by state or federal law, by court order, and/or unless disclosure of such records would be contrary to the public interest.

Unless circumstances make it impractical, all requests made under the Open Records Act shall be made in writing, through the Open Records request portal to the City Clerk, who is the Records Custodian, for those submissions. The custodian shall, in appropriate cases either provide the records or the Open Records Request Form to the Requestor or shall set a date, time, and on-site location where the records can be inspected. Requests must include sufficient specificity to facilitate the City’s efficient identification, collection, and evaluation of records. Specifying the nature of the documents requested and providing the necessary narrowing details enables the City to fill the request more expediently and in a manner that may produce cost savings to the Requestor. To the extent possible, requests should include the document name/title, location, date, author, recipient, specific subject matter, and the category (or categories) of records. The City may contact the Requestor to attempt to clarify, understand and narrow the request.

Response Time
The City shall respond to a request as soon as practicable upon receiving the request, but within not more than three (3) business days after it was received, not including the date of receipt. That period may be extended if extenuating circumstances exist (per C.R.S. 24-72-203(3)(b)), but the extension period shall not exceed seven (7) additional business days. If a deposit is required, work on retrieving the information will not begin until the deposit has been paid to the City. The City will deem a request abandoned, if, after ten (10) business days the required deposit and/or no communication is received by the Records Custodian regarding the clarification of the request, the deposit, or the cost estimate.
Electronic Records and Electronic Communications
If a record is stored in digital format, the City will produce such record in digital format. If a digital record is stored in a searchable format, it shall be provided in a searchable format; if stored in a sortable format, it will be provided in a sortable format.
Notwithstanding the foregoing, a digital record shall not be produced in searchable or sortable format if such production would violate a copyright or licensing agreement or would result in the release of proprietary information, or if it would not be technologically or practically feasible to permanently remove information that is required to be withheld in such format. It shall not be considered technologically or practicably feasible to produce a record in such manner if the custodian would be required to purchase software or create additional programming to remove information required to be withheld. If the Custodian cannot comply with the requested format, the Custodian shall either issue a denial of the request or provide an alternative format. In either case, the Custodian shall provide the Requestor with the reason for not being able to provide the document in the requested format.

The City of Durango may charge to convert a record into a structured data or searchable format. The fee charged will be based on the recovery of the actual time spent to search or convert the records.

Open records request records may themselves be public records under the public records law and may be subject to public inspection under C.R.S. 24-72-203 and the policy of the City of Durango.

Requests for Emails
The time charged on any CORA request for emails is based on actual time spent on the request by any and all City staff members, regardless of department or title. Depending on the records requested, this can be a very time intensive process. Emails and attachments will be reviewed and redacted, as necessary, in accordance with CORA.

Records Withheld or Redacted
Although most City documents are open to public inspection, specific types of information are protected by State or Federal law; these include but are not limited to confidential personal information and attorney/client privileged information. If requested records are only partially available for public inspection under such law, such records may be redacted to protect such information and the Requestor will be billed the actual costs of redacting the protected information.

Fees and Charges
The Custodian shall charge for any printouts and electronic data storage devices to fulfill the request. Requests expected to have a total charge of $50 or more must be accompanied by a non-refundable deposit of at least one-half the estimated amount. This deposit will be credited toward the total fee, and the total fee shall be paid prior to
release of the requested records. If the deposit amount exceeds the actual costs, the balance shall be refunded within 30 days.

If requested, or in cases where the fees are anticipated to be more than $10, the Custodian shall provide a written estimate of charges. However, the actual fees charged may differ. The Custodian shall strive to make the estimate as accurate as possible but cannot guarantee the final cost of the request until the retrieval of the files is complete.

If any individual submits multiple requests in any 3 day period, those requests will be consolidated and considered one request. As with all requests, the first hour of staff time will be provided at no charge to the requestor. Any additional hours will be charged at a rate of $40.00 per hour.

No fee shall be charged for hard copies of up to ten standard sized pages of the Requestor's initial request, per calendar year. (Standard sized page will be considered letter or legal sized paper.) Larger format copies will be charged based on the actual cost of producing the copy. Each standard page after that will be charged at 25 cents per page. In addition, the Requestor must pay any research and retrieval fee associated with producing the record in accordance with the schedule below. The Custodian will also charge a fee for any manipulation of data needed to generate a record in a format responsive to the request. This fee shall not exceed the actual cost of manipulating said data and generating the record. Persons making a subsequent request for the same record shall be charged the same fee.

Such fees may be reduced or waived by the custodian as provided by statute. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

The City will respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a digital copy sent as an email attachment, files on a flash drive (where the total file size is too large to attach to an email), or physical hard copy printout. The City’s default method will be to provide the records via Requestor email. Please contact the Clerk’s office if an alternative method of delivery is preferred. The fee will be based on the City’s actual cost of producing and retrieving the documents.

Data generated by a third party shall be charged at the actual cost incurred by the City to reproduce or copy the documents. Not all documents held by a third party are subject to release under the CORA guidelines. If the information requested includes bid awards, bid tabulations, and bid pricing, the Requestor may be directed to BidNet for the retrieval of this information as a third party vendor.

Fees and charges for reproduction of records shall be standard throughout the City for similar items.
PUBLIC RECORDS STANDARD FEES AND CHARGES

Hard Copies $0.25 per letter or legal size page
Larger format copies will be charged based on the actual cost of producing the copy.

Electronic files
No fee will be charged for the transmission of records by electronically, 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 uploaded to the portal. Due to the limits of the size of electronic files that may be emailed, it may not be practical to transmit records via email.

If electronic files are placed on flash drive provided by the City, the actual cost of the flash drive will be assessed to the Requestor. The Requestor may provide a flash drive for this purpose, so long as the drive is new, unused and is in a factory sealed package, to avoid the transmission of viruses and/or system contamination.

FAX documents $0.25 per letter or legal size

Document certification Actual Cost incurred (in addition to the per page copy charge)

Duplication of audio tapes, CDs, or DVDs including transfer of audio files to CD (When technologically possible) Actual Cost Incurred

Publications produced by the City of Durango Price varies; will be established based on production costs (also available on the City’s website)

Weekly/Monthly/New Business License Report Actual Cost Incurred

Research, Retrieval and Data Segregation/Manipulation Fees (including redaction)
Up to 1 hour per records request No charge
Additional hours $40 per hour

Denial of inspection: Access to records may be denied in accordance with the provisions of CORA, federal or state law. The reasons for denial of access to records shall be provided to the Requestor.
Records retention schedules: All public records, regardless of storage format, will be administered in accordance with the approved Colorado Municipal Records Retention Schedule (CMRRS). The City of Durango has adopted the CMRRS as approved and updated by the Colorado State Archives. This schedule is available online at https://www.colorado.gov/archives/municipal-records-retention-manual and for your convenience a searchable single_pdf file of the same is available on the durangogov.org website.

Signed under the authority of the City Clerk:

[Faye Harmer, City Clerk]
RECORDS REQUEST FORM

PLEASE PRINT

Name: ____________________ 
Date of Request: _________________ 
Email: _____________________ 

*though this is the default method of delivery, not all documents are available electronically

INSTRUCTIONS
Indicate the information you desire and/or list each requested document. Please be as specific as possible. Allow three (3) working days after the date of receipt of your request for a search of the records. Per the State of Colorado Open Records Act (C.R.S. 24-72-203), if extenuating circumstances exist, an extension of seven (7) working days is permitted. The City will notify you within three (3) days of any extension and all estimated costs.

Please select the format in which you would like to receive materials:

☐ Electronic Portal *

☐ Email

☐ View only; no copies requested. (Appropriate City personnel will be scheduled to accompany you during viewing.)

☐ Hard copies/printouts

☐ CD or DVD or flash drive

*though this is the default method of delivery, not all documents are available electronically
Please select the method you prefer for notification and delivery when the records are available:

☐ Email (if records are available electronically). Specify an alternate delivery method if records are not available via email:_____________________

☐ I will pick them up at City Hall

Contact me by (circle one): Mail  Phone  Email

☐ First Class mail

I agree to pay any charges applicable to this request. (Work on this request will begin when this form is complete and/or the required deposit has been paid.)

________________________________________________________
Signature of Requestor          Date and Time of Request

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