

## POLICY REGARDING ACCESS TO PUBLIC RECORDS

Effective Date: March 1, 2023

Administrative Authority: Adopted by Board of Trustees on March 1, 2023

The following policy is developed by the Town of Fraser in accordance with and to facilitate compliance with the Colorado Open Records Act, Colorado Revised Statutes (C.R.S.) §24-72-200.1, et seq. ("CORA") as it refers to public records. There is a separate policy for criminal justice records pursuant to C.R.S. § 24-72-301, et seq. 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.

**Purpose:** The purpose of this policy is to establish general policies and procedures for providing access to public records maintained by the Town of Fraser, and to establish reasonable and standardized fees for records requests.

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."

### **Records Available on the Town Website**

A substantial number of the Town's public records are available free of charge on the Town's website at [www.frasercolorado.com](http://www.frasercolorado.com). Those records include, but are not limited to, the Town budget, ordinances, resolutions, and the agendas and minutes of meetings of the Board of Trustees, Planning Commission, and other Committees. In lieu of completing a CORA request for information available on the Town's 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 Town of Fraser 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.

All requests to inspect public records must be submitted in writing or sent through the website records page to the official custodian, Town Clerk. Requests made to any person other than the proper custodian will not be accepted. If a request is sent via e-mail to anyone other than the custodian, it will not be considered as received by the Town, and the statutory time for response

to the requests will not begin until a confirmation has been sent by the custodian. The custodian is not required to construct or create a record that does not exist.

The custodian shall, in appropriate cases either provide the records or shall set a date, time, and on-site location where the records can be inspected. Requests must include sufficient specificity to facilitate the Town's efficient identification, collection, and evaluation of records. Specifying the nature of the documents requested and providing the necessary narrowing details enables the Town 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 Town Clerk may contact the Requestor to attempt to clarify, understand and narrow the request.

### **Response Time**

The Town 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 Town. The Town 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 Town 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.

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.

### **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 Town 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 Town 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.

### **Protected Records**

Certain records are protected under law from public inspection. These records fall into the following categories:

- Personnel files
- Ongoing investigations by law enforcement authorities
- Victim/witness information
- Social security numbers
- Work product
- Correspondence sent to or received from the Town's legal counsel
- Individual medical, mental health, sociological and scholastic achievement data
- Letters of reference
- Trade secrets
- Confidential commercial or financial data
- Names, addresses, telephone numbers, and personal financial information of past or present users of public utilities, facilities, or recreational or cultural services
- Records of sexual harassment complaints and investigations

### **Fees and Charges**

The Custodian shall charge for any printouts and electronic data storage devices to fulfill the request. 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 one hour in retrieval time, 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. The Town 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 Town'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 Town'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 Town to reproduce or copy the documents. Not all documents held by a third party are subject to release under the CORA guidelines.

### **Electronic files**

No fee will be charged for the transmission of records by electronic mail, 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 emailed. 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 Town, 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.

Hard Copies

8 ½ X 11	\$0.25 per page
11 X 14	\$0.35 per page
11 X 17	\$0.75 per page
24 X 36	\$5.00 per page

FAX documents \$0.25 per letter or legal size

Research, Retrieval and Data Segregation/Manipulation Fees (including redaction) (subject to adjustment per C.R.S. § 24-72-205(6)(a)):  
\$33.58 per hour after the first hour which is free of charge

There is no fee for delivery of electronic documents, but the research and retrieval fee will apply. Any postage required Requestor will pay the actual cost of the postage.

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 Town of Fraser 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>