

Town of Mead Public Records Request Policy

1. Purpose

This Policy sets forth the Town's rules regarding the inspection of the Town's Public Records as authorized by the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.* These rules are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the Town Clerk and the Town Clerk's office.

[*Note: CRS 24-72-201 (Legislative Declaration) states that "all public records shall be open for inspection by any person at reasonable times, except as provided in [CORA] or as otherwise specifically provided by law."*

CRS 24-72-203(1)(a) states that "All public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise provided by law, but the official custodian of any public records may make such rules with reference to the 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 the duties of the custodian or the custodian's office. ..."

This Policy, in large part, restates the statutory requirements of CORA. Citations to the applicable C.R.S. provisions are provided throughout this Policy for ease of reference by the Town Clerk and the public.]

2. Definitions

Capitalized terms in this Policy that are not defined in this Section 2 shall have the meanings provided in CORA § 24-72-202. In the event a conflict exists between CORA and the definitions provided below, CORA shall govern.

- **CORA** means the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*
- **Extenuating Circumstances** means when:
 - I. A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the Official Custodian reasonably to prepare or gather the records within three (3) working days; or
 - II. A broadly stated request is made that encompasses all or substantially all of a large category of records and the Official Custodian is unable to prepare or gather the records within three (3) working days because the Official Custodian needs to devote all or substantially all of their resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
 - III. A request involves such a large volume of records that the Official Custodian cannot reasonably prepare or gather the records within three (3) working days without substantially interfering with the Official Custodian's obligation to perform their other public service responsibilities.

[*Note: This definition tracks the description of "extenuating circumstances" in CRS 24-72-203(2)(b).]*

- **Official Custodian** means and includes any officer or employee of the Town who is responsible for the maintenance, care, and keeping of Public Records, regardless of whether the records are in their actual personal custody and control. The Town Clerk or their designee is the Official Custodian for the Town.

- **Policy** means this Town of Mead Public Records Request Policy.
- **Public Records** means all writings made, maintained, or kept by the Town for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds. Public Records includes the correspondence of elected officials subject to the limitations provided in CORA and summarized in Section 4.b), c), and d) of this Policy.

[Note: The above definitions are consistent with CORA and are provided in this Policy for ease of reference by the Town Clerk and members of the public. Reference in the first paragraph to CRS 24-72-202 is made to direct the Town Clerk and public of where to look for more detail on statutory definitions.]

3. **Public Records Available Online Without Request**

- Many of the Town's Public Records, including agendas, minutes, ordinances, resolutions, and contracts, are available free of charge on the Town's website at: <https://www.townofmead.org/townclerk/page/public-records-information>.
- The Mead Municipal Code is available at: https://library.municode.com/co/mead/codes/municipal_code.
- If a request for Public Records includes records available on the Town's website or Municode, the Official Custodian may direct the requestor to the online repository for inspection of such records.

[Note: This Section 3 is intended to provide useful information to the public on where they can find common records online without the need for filing public record requests and to reduce the burden on staff time/resources.]

4. **Limitations and Exemptions on Public Records Requests**

- The following Writings are not Public Records under CORA and, therefore, will not be made available to the public under this Policy:
 - a) Criminal Justice Records, as defined in C.R.S. § 24-72-302. Requests for Criminal Justice Records must be submitted to the Town of Mead Police Department.
 - b) Correspondence of elected officials that is Work Product.
 - c) Correspondence of elected officials without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds.
 - d) A communication from a constituent to an elected official that clearly implies by its nature or content that the constituent expects that it is confidential or that is communicated for the purpose of requesting that the elected official render assistance or information relating to a personal and private matter that is not publicly known affecting the constituent or a communication from the elected official in response to such a communication from a constituent.
 - e) Work Product prepared for elected officials unless the elected officials release or authorize the release of all or any part of the Work Product prepared for them.

CORA § 24-72-202(6).

[Note: The current Mead open records policy does not address correspondence of and work product of/for elected officials. These items are commonly the subject of public records requests, so the statutory requirements were included in this policy for ease of reference of the Town Clerk and members of the public.]

- In addition, the Official Custodian will deny inspection of Public Records if:
 - a) Inspection would be contrary to state or federal law or regulation.
 - b) Inspection would violate a court order.

- c) Disclosure is “contrary to the public interest.” For example, the Official Custodian will deny the inspection of electronic mail addresses, telephone numbers, or home addresses provided by a person to an elected official for the purposes of future electronic communications to the person from the elected official.

CORA § 24-72-204.

- Examples of other Public Records that may be exempt from disclosure include: medical, psychological, sociological, scholastic achievement data; personnel files and letters of reference; privileged or confidential information, such as communications with attorney-client privilege or proprietary information like computer source codes; deliberative process privileged materials; sexual harassment investigation records; some election, library and museum records; records on users of public utilities and facilities; materials submitted by certain applicants for executive positions. CORA § 24-72-204.

- See CORA § 24-72-204 for more information on exempt public records.

[Note: All of the above limitations and exceptions to “public records” in this Section 4 are set forth in the cited statutory provisions.]

5. Form of Requests; Incomplete and Abandoned Requests

- A person must submit their request for Public Records using the Request for Public Records Form available on the Town Clerk’s website at <https://www.townofmead.org/townclerk/page/public-records-information>. The form must be submitted online or emailed to the Town Clerk’s Office at mstrutt@townofmead.org.
- All requests for Public Records must include the following to be determined complete:
 - a) The requestor’s name, e-mail address, and telephone number.
 - b) Sufficiently specific information to allow the Official Custodian to identify and gather the records within three (3) working days. Without sufficiently specific information, the Official Custodian may require the requestor to provide clarification or additional information; in such cases, the request will be deemed incomplete until clarification or additional information is provided.
 - c) Payment of deposit in accordance with Section 9 of this Policy.
 - d) *If the request includes email communications*, the requestor must provide a date range and keywords for the Official Custodian to use to search and locate requested records. If available, the requestor must also include the names, position/title at the Town (e.g., Town Manager, Trustee, Community Development Director), and email addresses of the sending and receiving parties to the email communications requested. The requestor must state in their request if any of the foregoing information is unavailable.
- The Official Custodian may deem an open records request incomplete and abandoned if, after 10 business days: (i) the requester did not provide clarification or additional information to Official Custodian; or (ii) did not submit payment of the deposit in accordance with Section 9 of this Policy. At such time, the request will be closed, and the requestor must submit a new request, including payment of a new deposit if required under Section 9, to obtain their desired Public Records.

[Note: This Section 5 is new but allowable by CORA. I.e., Clerk “may make such rules with reference to the 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 the duties of the custodian or the custodian’s office.” CRS 24-72-203(1)(a). This Section includes basic administrative requirements that you would typically see in a CORA policy – e.g., where to file an application, information required for an application, information needed to facilitate a clerk’s search for documents, requester contact information for delivery of documents and follow-up questions from the clerk, etc.]

6. Responding to Requests; Time frame for Response; Format of Response

- The Official Custodian will apply the provisions of CORA and this Policy to determine whether the requested records are Public Records subject to public disclosure. The Official Custodian will notify the requestor if requested records will not be disclosed.
- If Public Records are requested in compliance with this Policy, the Official Custodian will make the records available within three (3) working days of a complete request. CORA § 24-72-203(3)(b). However, if Extenuating Circumstances exist, the Official Custodian is permitted an extension of seven (7) working days to make the records available. CORA § 24-72-203(3)(b). If an extension is required, the Official Custodian will provide written notification to the requestor of the Extenuating Circumstances and the expected time frame for making the records available. This notification will be provided within the initial three (3) working day time frame. CORA § 24-72-203(3)(b)(III).
- If the same requester submits multiple Public Records requests within a three (3) working day period, the requests will be treated as one request. The three (3) working day time frame within which the Official Custodian must respond will commence only after the latest request is complete. *[Note: This provision is new but consistent with other jurisdictions' policies and furthers the statutory purpose of preventing unnecessary interference with staff time/resources.]*
- Public Records will be made available as follows:
 - *Physical records.* The Official Custodian will notify the requester when and where original or physical copies of Public Records are available for on-site inspection and, if applicable, when and where physical copies of Public Records may be picked up. At no time shall an original record be removed from the place at which the record is made available by the Official Custodian for inspection, except upon authorization of the Official Custodian. A Public Record shall not be photographed or otherwise copied by a requestor during their inspection of the record unless authorized by and under the supervision of the Official Custodian. Any attempt by a person to alter, remove, destroy, or, without authorization by the Official Custodian, photograph any original records being reviewed will immediately terminate such person's review, and may subject that person to prosecution. Original and physical copies of Public Records that are made available for on-site inspection and physical copies prepared for pick up will be available for thirty (30) calendar days following the Official Custodian's notification of their availability. If the requester does not, as applicable, inspect or pick up the records within said thirty (30) calendar days, the request will be considered abandoned. At such time, any original records will be returned to their usual location, and any copies will be destroyed. *[Note: This provision is new but furthers the statutory purpose of protecting public records.]*
 - *Digital Records.* Copies of Public Records maintained in digital form shall be furnished, if available, according to the procedures described in Section 7 of this Policy. *[Note: Since adoption of the current Mead open records policy in 2019, the General Assembly has made significant changes to CORA with regard to digital records. These are detailed in Section 7 below.]*

7. Digital Records

- If a Public Record is stored in a digital format that is neither searchable nor sortable, the Official Custodian shall provide a copy of the Public Record in a digital format.

- If a Public Record is stored in a digital format that is searchable, the Official Custodian shall provide a digital copy of the Public Record in a searchable format unless otherwise requested by the requester.
- If a Public Record is stored in a digital format that is sortable, the Official Custodian shall provide a copy of the Public Record in a sortable format.
- If a Public Record is available in a digital format, the Official Custodian shall transmit a digital copy of the Public Record in a digital format by electronic mail or by another mutually agreed upon transmission method if the size of the record prevents transmission by electronic communication.
- The Official Custodian shall not convert a digital public record into a non-searchable format before transmission; provided, however, the Official Custodian is not required to produce a digital public record in a searchable or sortable format if:
 - Producing the record in the requested format would violate the terms of any copyright or licensing agreement between the Town and a third party or result in the release of a third party's proprietary information; or
 - After making reasonable inquiries, the Official Custodian determines: it is not technologically or practically feasible to permanently remove information that the custodian is required or allowed to withhold within the requested format, it is not technologically or practically feasible to provide a copy of the record in a digital searchable or sortable format, or if the custodian would be required to purchase software or create additional programming or functionality in its existing software to remove the information.
- If the Official Custodian is not able to produce a Public Record in the requested digital format, the Official Custodian shall produce the record in an alternate format and shall provide a written declaration attesting to the reasons the custodian is not able to produce the record in the requested format.
- See CORA § 24-72-203(3.5) for more information on Public Records in digital format.
[\[Note: This Section 7 tracks the language in CRS 24-72-203\(3.5\).\]](#)

8. **Records Retention**

- The Town does not permanently retain all Public Records. Rather, the Town disposes of nonpermanent Public Records and retains Public Records of enduring value in accordance with Article XI of Chapter 2 of the Mead Municipal Code.
- The Town automatically and permanently deletes email messages from its servers after two (2) years.

[\[Note: This Section 8 is included for informational purposes and states current practice.\]](#)

9. **Fees and Costs**

- CORA authorizes the Town to charge requestors for the research, retrieval, and redaction costs actually incurred by the Town in processing Public Records requests. CORA § 24-72-205.
- The Town will bill for physical copies and other services in conjunction with Public Records requests. Payment shall be made prior to receipt of the copies or services; provided, however, if the Official Custodian's estimated cost of complying with a Public Records request is \$50.00 or more, the requestor will be required to pay a deposit equal to 50% of the estimate prior to the Official Custodian commencing their search and retrieval of the requested records. [\[Note: Current policy states that security may be required but does not specify the amount of the deposit.\]](#)
- *Town Fee Schedule:*

B&W copies:	\$.25 per page (up to 11 x 17 paper copied on the Town's machine)
Color copies:	\$1.00 per page (up to 11 x 17 paper copied on the Town's machine)
Certified copies:	\$1.00 additional per document
Electronic Copies:	\$.25 per page
Large Format Copies:	Actual cost
Electronic Large Format Copies:	Actual cost
B&W maps:	Actual cost
Mylars:	Actual cost
Photographic reproductions:	Actual cost
Audio tapes:	Actual cost
Diskettes:	Actual cost
Electronic retrieval:	Actual cost
Research/retrieval services:	\$0.00 for the first hour, \$41.37/hour ¹ thereafter, prorated in 15-minute increments.

[Note: No changes have been made to the fee schedule in the current policy, except that the research/retrieval fee reflects statutory allowance to increase rate every 5 years based on CPI. See FN 1.]

- In addition to the fees listed above, the Town may require a requestor to pay any service charge or fee imposed by the processor of credit card or electronic payment. CORA § 24-72-205(7).
- The Official Custodian may treat serial or multiple Public Records requests within a 30-day period from the same person, entity, or group and related to the same or similar subject matter as a single request for purposes of assessing fees. [Note: This is new to the policy and is intended to alleviate the burden on staff time/resources. The effect of this provision is that the requester would not get a free hour of research/retrieval services with each request within a 30-day period.]
- Public Records will not be made available to a requestor until all fees and costs associated with providing the records are fully paid.

¹ CORA § 24-72-205(6)(b) states that "[o]n July 1, 2019, and by July 1 of every five-year period thereafter, the director of research of the legislative council appointed pursuant to [CRS] 2-3-304(1) shall adjust the maximum hourly fee [for research/retrieval services] in accordance with the percentage change over the period in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index." *Id.* This adjusted fee for research/retrieval services shall be imposed by the Town upon posting of the adjusted fee on the Town Clerk's website or publication in this Policy.