

# **TOWN OF LAKE CITY OPEN RECORDS REQUEST POLICY**

## **I. PURPOSE**

It is the policy of the Town of Lake City (Town) that all public records shall be open to inspection by any person at reasonable times, except as provided by the Colorado Public Records Act (the Act), or as otherwise specifically provided by law. In all cases where a person has the right to inspect a public record, the person may request a copy or printout of the record.

Although public records are typically open to inspection, the Act authorizes a custodian of records, the Town Clerk, to make rules and regulations regarding the disclosure and inspection of public records as are reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the Town Clerk or the Town Clerk's office. Consequently, it is important that all requests be carefully evaluated to determine what records can be provided to the requesting party in compliance with Colorado law.

The purpose of this policy is to set forth a general guideline for use by citizens or entities requesting public records, and for use by Town staff in responding to such requests. This policy is subject to interpretation by the Town Attorney, and exceptions may be made in individual circumstances in its sole discretion. As Colorado law changes, this policy and process will be amended. For the complete Act, see §24-72-201 et seq., C.R.S.

## **II. PROCEDURE**

The following procedure shall apply to all open records requests. Please review this policy in its entirety before submitting an open records request.

### **A. REQUESTS**

**1. Form.** An open records request must be in writing on the forms provided by the Town. If a request is made verbally, the requestor will be asked to put his/her request in writing. As a general rule, the more specific the request, the more likely the Town Clerk will be able to locate available records that respond to the request, and the more likely fees will be reduced. For any request that is broad or vague, the Town Clerk may require the requestor to provide a more specific request. A modification of the request is considered a new request.

The Town has available an official Public Records Request form for use in making open records requests. For a copy of the form, please see the Town's website at <http://www.townoflakecityco.gov> or contact the Town Clerk's Office.

**2. Submission.** Open records requests may be submitted in person, via regular mail, via facsimile or email to the Town Clerk. All faxed or emailed requests must be followed up with a phone call to be sure the request was received.

**3. Transmission to Town Attorney.** Upon receipt of a written request for records, the Town Clerk may send a copy of the request to the Town Attorney. The Town Attorney

will notify the Town Clerk as to the appropriate response, and the Town Clerk, or his or her designee, will compile the available records and respond to the request.

**4. Location of Records.** If the public records requested are not in the custody or control of the Town, the Town Clerk shall immediately notify the requestor of this fact, in writing. The notification shall state in detail to the best of the Town's knowledge and belief the reason for the absence of the records from the Town's custody or control, the location of the records and what person then has custody or control of the requested records. See § 24-72-203(2)(a), C.R.S.

## **B. TIMING FOR ACCESS TO OR PRODUCTION OF PUBLIC RECORDS**

In all cases in which a person has the right to inspect a public record, the person may request a copy or printout of the record. Physical inspection of available records is not required, and a requestor may decide an inspection is not necessary when it knows with certainty what records it wants produced and copied. However, there may be other situations in which a requestor wants to inspect available records in advance of or in lieu of receiving copies. To assist Town staff in responding to a request, a requestor should state in its request whether it wants to schedule an inspection of available records, or whether it wants copies of available records in lieu of inspection.

**A. Time for Inspection or Production of Records – Three (3) Working Days.** If records are available pursuant to § 24-72-201, C.R.S., the Town Clerk shall set a date and time when the requested records will be available for inspection or production. The typical time for inspection or production of available records shall be three (3) working days beginning on the first working day after a request which complies with the requirements of Section II.A.1 above is received. Weekends and recognized Town holidays do not count as days. If the requested records are in the custody and control of the Town but are in active use, in storage, or otherwise are not readily available at the time the applicant asks to examine them or requests copies of them, the Town Clerk shall immediately notify the applicant of this fact, in writing. If requested by the applicant, the Town Clerk shall set a date and time at which the records will be available for inspection or production. See § 24-72-203(3)(b), C.R.S.

**B. Seven Working Day Extension of Time.** The three-day period of time for inspection or production of records may be extended for an additional seven (7) working days if the Town Clerk determines that extenuating circumstances exist which prevent the inspection or production of available records within the initial three-day period described. The requestor shall be notified in writing of the basis for the extenuating circumstances and the resulting extension within the initial three-day period. An extension of time is not available for a request that relates to a single, specifically identified document. See § 24-72-203(3)(b), C.R.S.

Extenuating circumstances shall be found to exist when:

- 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 Town Clerk reasonably to prepare or gather the records within the three-day period; or

- A broadly stated request is made that encompasses all or substantially all of a large category of records and the Town is unable to prepare or gather the records within the three-day period because the Town or the staff member preparing the response needs to devote all or substantially all of its resources to meeting an independent deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
- A request involves such a large volume of records that the Town Clerk cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the Town Clerk's obligations to perform his or her other public service responsibilities.

If a request is too broad, speculative or voluminous to respond to within ten (10) working days (initial three days plus seven-day extension), the Town may request relief from the Court, including attorney's fees as provided for by law.

### **C. Inspection and Copying Of Records**

**1. Inspection.** If the requestor wishes to inspect available records in advance of or in lieu of receiving copies of such records, such inspection shall be by appointment only during normal business hours (9:00 am to 12:00 pm and 1:00 pm to 5:00 pm, Monday thru Friday) at Town Hall. In certain circumstances, and depending on the nature of the request, inspection may be supervised by a Town employee and the requestor may be charged for employee time associated with such supervision, as set forth in the Schedule of Fees. The original records shall not be removed from the Town's offices.

**2. Copies of Records.** In the event the requestor requests copies of available records in lieu of an inspection, such records will be made available within the timeframe set forth in Section II.B., above. In the event the requestor conducts an inspection and requests copies of available records at the time of such inspection, the requestor must mark with tabs or clips the pages that he or she wants copied. Copies may be made at a later date and time, based on volume and staff availability. In such case, the requestor will be notified when the copies are available for pick-up. Copies of available records may be mailed upon request at an additional fee.

**3. No Outside Copiers or other Devices.** The requestor may take notes and may bring a laptop or portable computer device to take notes while inspecting/reviewing available documents. However, the requestor shall not bring and shall not use outside photocopiers, scanners, fax machines, or other copy, scanning or reproduction devices to copy Town records.

### **D. Fees for Inspection and Copying of Records**

A substantial amount of public records related to the Town are available for review free of charge on the Town website. These records include, but are not limited to

budgets, agendas, minutes of meetings of the Town Council and other Town bodies, ordinances, and other information.

Where a person or entity wants to inspect and/or request copies of available records, the following fee schedule shall apply. Please note that the Town is not obligated to provide copies of records in electronic format.

**1. Manipulation of Data.** Please note that Town is not obligated to manipulate data in response to a request in order to generate a record in a form not used by the Town. However, if the Town elects to do so in response to a specific request, the Town Clerk may charge the requestor a reasonable hourly fee associated with the request. The fee shall not exceed the actual cost of manipulating the data and generating the record in accordance with the request.

**2. Shipping/Postage.** Upon request, and after receipt of payment in full for the requested records, the Town Clerk may ship or mail copies of the available records to the requestor. In such case, the requestor will be required to prepay the cost of the shipping or mailing and any associated staff time incurred in preparing the records for shipping.

**3. Notice of Fees.** The requestor will be notified in advance of the types of fees associated with the request. If a request involves voluminous research or records, the requestor may want to request an estimate of the full cost to produce the records. The Town will not commence work to assemble a response to a request without prior written approval from the requestor. For requests involving voluminous research or copies of records, a minimum deposit of 50% of the estimated cost of the work will be collected by the Town Clerk before work will start.

**4. Payment.** The Town cannot bill for fees relating to open records requests. Full payment for the applicable fees outlined above, including shipping/postage, must be remitted to the Town before copies of the available records will be released to the requestor.

## **E. DENIAL OF INSPECTION OF RECORDS**

A denial of inspection must be specific and can only be based on reasons set forth in the Colorado Open Records Act. If inspection of public records is denied, the requestor may request a written statement of the grounds for the denial. The statement shall cite the law or regulation which is the basis for the denial and shall be furnished forthwith to the requestor.

Confidential information may be redacted from records. If confidential information is redacted, the requestor will be notified of that basis for redaction.

## **F. CLOSED REQUEST**

An open records request will be deemed closed under any of the following circumstances:

**1. Following Inspection.** After records made available for inspection have been inspected by the requestor and no copies of the records are requested.

**2. Copies Provided.** After records made available for inspection have been inspected by the requestor and copies of the records have been provided consistent with this Policy.

**3. Failure to Inspect or Pay.** In the event a requestor does not make arrangements for review of documents within ten (10) days after being contacted by the Town for such purpose, fails to appear for a scheduled review, fails to prepay a deposit for the cost of research or records or fails to pay the total of all costs within ten (10) working days of notification of the availability of records.

**4. Request Closed.** A person whose request has been closed under this Section F and who still wishes to inspect the same records must submit a new request.