



OPEN RECORDS POLICY

Purpose:

The Open Records policy of the City of Salida (the “City”) is established to insure compliance with Colorado’s “Sunshine Laws” and to protect the City from frivolous and/or costly requests, for which reimbursement could be received.

Background:

In general, all City records are public records, regardless of the form (paper or electronic) unless specifically exempt. Exemptions include most police records, most personnel records, sales tax data, real estate appraisals, customer information, memos from the City Attorney’s Office and other privileged information. If staff members have a question on whether a document is public or not, they are to check the statutes or contact the City Administrator who, in turn, may check with the City Attorney as needed.

Colorado’s Open Records Act Section 24-72-203 states:

1. All public records shall be open for inspection by any person at reasonable times.
2. If the public record requested is not in the custody or control of the person to whom application is made, such person shall notify the applicant of this fact. In such notification he/she shall state the reason for the absence of the records from his/her custody, their location, and what person then has custody of the record.
3. If the public record requested is in the custody or control of the person to whom application is made but is in active use or in storage and unavailable at the time an applicant asks to examine them, such person shall notify the applicant of this fact. If requested by the applicant, the custodian shall set a date and hour within three (3) working days at which time the records will be available. The time period may be extended up to seven (7) days if there are extenuating circumstances.

Scope:

This policy applies to “Open Records Requests” received by any employee of the City. Requests for inspection or copying of records are treated as an Open Records Request under the following circumstances:

1. A certified copy is requested.
2. A subpoena to supply records is served to you (contact the legal department).
3. A written request is submitted to you.
4. The document is not readily available.

5. The document may be confidential or privileged.
6. There is some other unusual circumstance.
7. The person is asking for a record that does not directly apply to them, their property or their interests.

Exceptions: (i.e., normally not an open records request) – Although we will charge \$0.25 per page

- Copies of a land use application in their neighborhood.
- Documents in which they are mentioned, or involving their property or family.
- Specific easily-accessed documents (limited to one or two short documents) rather than “any document relating to [broad topic] for the year 2010.” (Note – still charge for copies)
- Routine copies of a non-restricted, readily available document (e.g., minutes, an ordinance, a list of Council members and City Officials, etc)

State Law Requires:

- All public records shall be open to inspection by any person at reasonable times.
- If there is not time or space to accommodate the request at the moment, you may set another time. However, you must respond within 3 working days.
- A denial of the request must be in writing, if requested.

Policy:

City Policy Requires:

- Staff must follow the Colorado Revised Statutes Title 24, Article 72, which governs public (open) records.
- The employee taking the request must document all open records requests.
- The employee must collect the charges, according to the open records fee schedule.

All city records must remain at all times in the custody of the City. Originals or file copies shall not be released to anyone not in the employment of the City.

When responding to an Open Records Requests, regardless of whether the record(s) is inspected or copied, the Open Record Log must be completed. Log entries should describe what was inspected or copied. (See Log attached.)

The Open Record Log should be maintained for a period of two (2) years plus the current year.

Do not provide transcripts (verbatim) except pursuant to a court order or after consulting with the City Administrator. An applicant has the option of obtaining a copy of any audio or video recording of a public meeting by making arrangements for duplication and paying the associated costs.

Denials & Appeals Process. City personnel have statutory grounds for the denial of certain public records. CRS 24-72-204 outlines those situations and relevant sections are excerpted as the City’s policy.

- (1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds.
 - a. Such inspection would be contrary to any state statute.

- b. Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.
- c. Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.
- d. Such inspection would be contrary to the requirements of any joint rule of senate and houses pertaining to lobbying actions.

(2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest. Relevant exceptions described more fully under 24-72-204 are listed below. This is not an all inclusive list. Please refer to the actual statute or call the City Administrator if you have any questions.

- Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, or any records of the intelligence information or security procedures of said individuals, or files compiled for any other law enforcement purpose.
- Test questions, scoring keys and other examination data pertaining to administration of a licensing examination, employment examination or academic examination. Written promotional examinations and the scores and results shall be available for inspection, but not copying, by the person in interest after conducting and grading the examination.
- The contents of real estate appraisals relative to the acquisition of property or any interest in property for public use, until such time as title to the property has been transferred.
- Medical, mental health, sociological and scholastic achievement data.
- Personnel files except that such files are available to the person in interest and the person's supervisor. Employment contracts, salary amounts and benefits received are generally available.
- Letters of reference.
- Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data.
- Addresses, telephone numbers and personal financial information of users of public utilities, public facilities or recreational or cultural services.
- Sexual harassment complaints or investigations.
- Applications for an executive position.

If the custodian denies access, the applicant may:

- a. Request a written statement of the grounds for the denial;
- b. Apply to district court for a hearing where the custodian must show cause for denying inspection. If the applicant obtains the records through the court proceedings, the court can award attorney's fees.

Procedure:

Open Records requests are initiated with the City Clerk for all departments.

If the request is under the Open Records Act (as opposed to a copy of a readily available document to the person in interest, for example- see list) the requestor needs to complete an application.

The City Clerk will determine:

- a. The custodian of the requested document(s);
- b. The status of the record (availability, etc.);
- c. Cost estimate from the appropriate department/division.
- d. Make two copies of the request. (The original stays with Clerk; 1 copy for the Department Head; 1 copy to the City Administrator.)

Applicant gets cost estimate and signs request. For estimates exceeding \$50, the applicant must post a security based on the estimate.

- a. One copy is sent to the responsible Department;
- b. That Department makes the copies and returns them to the City Clerk's office (within 2 working days of the request, day and time);
- c. City Clerk makes appointment and collects fee.

Copies should be double-sided.

The original copy of the request is maintained in the City Clerk's Office.

Definitions:

- OPEN RECORDS REQUEST means a request received by the City for access to public records.
- PUBLIC RECORDS include, unless exempted,
 - All writings made, maintained or kept by the City, any employee or department of the City. Criminal justice records (as defined elsewhere) are not public records.
 - Correspondence of elected officials (including e-mail) is a public record unless it is a work product, it is without demonstrable connection to the elected official's function, or it is a communication from a constituent who expects it to be confidential by its content or otherwise subject to non-disclosure as required in 24-72-204 (1) C.R.S.
- WRITINGS means
 - All books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data and electronic mail, but does not include computer software.

Reference:

- Colorado Revised Statutes §24-72-200 to 206, Public Records Part 2, Inspection, Copying, or Photographing

- Memorandum of Understanding Re: Control of Confidential Data between the Colorado Department of Revenue and the City of Salida.

Attachments:

- A – Fee Schedule
- B – Request for Inspection / Copying of Record
- C – City Clerk Log – Open Records Request and Open Record Log

Approvals:

Date	Name	Signature
	Department Head	
	City Administrator	

Revision History:

Version	Date Revised	Reason for Change

Open Records Policy – Attachment A

Fee Schedule

Charges must be paid before service is provided.

The City does not allow payment terms on copies or other services in conjunction with open records requests.

The Open Records Act allows \$.25 charge per page when copies are requested and provided, or the actual cost of preparation if the cost is greater. The actual cost may include, but is not limited to, the hourly rate paid to the employee conducting the research, cost of the physical medium of the document (e.g., tape or diskette) and the cost of retrieving the document from off-site storage for inspection.

The first hour of research and retrieval service is free.

Cost per hour for research, retrieval and related services after the first hour:

City Attorney \$30/hr

Assistant City Attorney \$30/hr

Information Services \$30/hr

Department Heads \$30/hr

Supervisor \$30/hr

Non-Supervisory Personnel \$20/hr

City Mapping \$5/ black & white ink, paper 24" x 36"
\$10/colored ink, paper 24" x 36"

DVD - \$10

The Department responsible for the record shall provide it to the Clerk so that the Clerk's office may make an appointment with the applicant for inspection within the time frame required.

Open Records Policy – Attachment B
Open Record Request Form



**REQUEST FOR
INSPECTION/COPYING OF
RECORD**

Date of request: _____

Time of request: _____ AM / PM

Applicant name: _____

Address: _____

Telephone contact number(s): _____

Email: _____

Description of document: _____

Purpose of request: Court Case Personal information Other (please specify):

Certified Copy?: Yes No

FOR CITY CLERK USE ONLY:

Responsible Department & Division: _____

Availability: Paper Copy Electronic Format

Location: In Storage Readily Available (on-site)

Cost Estimate:

of pages _____ @ \$.25 = \$ _____

of hours _____ @ hourly rate \$ _____ = \$ _____ Total Cost Estimate: \$ _____

Having received the foregoing cost estimate I choose to confirm my request for the records described and agree to pay the charges at the time the records are made available. If over \$50, I understand I must provide security to pay for the cost incurred to obtain the records.

Yes No - Cancel request

Signature

Date

Open Records Policy – Attachment C
City Clerk Log



CITY CLERK LOG

OPEN RECORDS REQUEST

Description of Document Requested	Purpose	Date Requested	Responsible Department	# of Pages	Cost Est.	Date Provided

