

Chapters 1-9: Open Records Policy

Effective Date: 01/01/2018

1. TITLE: CITY OF GRAND JUNCTION OPEN RECORDS POLICY

2. POLICY

It is the policy of the City of Grand Junction to provide public access to City records as allowed and required by the Colorado Open Records Act (CORA) codified in 24-72-201 C.R.S. *et. Seq.* The State Legislature has declared that all public records shall be open for inspection by any person at reasonable times, except as provided in the law.

In general, all City records are public records open to public inspection regardless of the form (paper or electronic) unless specifically exempted by law. Records which are exempted from disclosure include many police records, most personnel records, protected health information, real estate appraisals, customer service and usage information, legal advice from the City Attorney's Office and other privileged information. Questions on the disclosure of records should be directed to the City Records Manager.

2.1. Requests for Records

A request for inspection or copying of records should be treated as a formal Open Records Request when:

- 2.1.1. A written request is submitted to you (letter, email, or request form).
- 2.1.2. A certified copy is requested.
- 2.1.3. A subpoena to supply records is served to you (contact the legal department).
- 2.1.4. The request form indicates the request is for a court case (contact the legal department).
- 2.1.5. The requested document may be confidential or privileged.
- 2.1.6. There is some other unusual circumstance.
- 2.1.7. The person is asking for a record that does not directly apply to them, their property, or their interests.

2.2. Exceptions

- 2.2.1. Citizen asks for copies of agendas, minutes, or other documentary material relative to a City Council meeting or action.
- 2.2.2. Citizen asks for routine copies of a non-restricted, readily available document (e.g., a list of Councilmembers and City Officials, etc.).

If you are unsure of how to proceed, contact the City Records Manager.

3. DEFINITIONS

- 3.1. *City personnel* includes all employees, whether permanent, temporary, full-time, or part-time; Board members; and Councilmembers.
- 3.2. *Electronic records* are records stored in a form that only a computer can access including, but not limited to, e-mail, word processing documents, calendars, spreadsheets, voice messages, videos, photographs, and text messages.
- 3.3. *Official Records custodian* is by law the City Clerk or his or her designee.
- 3.4. *Public Records* include, unless exempted, all writings made, maintained or kept by the City, any employee or division. Criminal justice records (as defined elsewhere in State

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Law) are not presumptively 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.

- 3.5.** *Records Custodian* is the authorized person having personal custody and control of the public records in question.
- 3.6.** *Writings* mean 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.

4. RESPONSIBILITIES**4.1.** Affected City personnel are responsible for:

- 4.1.1. Protecting and maintaining all public records in the custody of the City.
- 4.1.2. Responding to open records requests in a timely manner using the procedure adopted by the City.
- 4.1.3. Maintaining a record of all requests and the response made. The record of the request and response are to be maintained for two years.
- 4.1.4. Denying access to records that are non-disclosable. Respond to the requester in writing the reason for the denial if requested.
- 4.1.5. Collecting fees and charges according to the Open Records Fee Schedule. The City does not bill for the charges. Fees must be collected at the time of service.
- 4.1.6. Contacting the City Attorney, the City Clerk, or the City Records Manager with any questions concerning the interpretation or technical application of this policy.

In general, a request for records should be directed to the City Records Manager. If you are the custodian of the records being requested, the City Records Manager will contact you to obtain those records in order to respond to the request. The request form can be found on the City's website under City Public Records.

4.2. Supervisors of affected City personnel are responsible for:

- 4.2.1. Training all employees they supervise on this Open Records Policy.

5. INSPECTION, COPYING, OR PHOTOGRAPHING OF PUBLIC RECORDS.

- 5.1.** The official custodian of any public records may make such rules with reference to the inspection of such records as are reasonable 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 [24-72-203 (1) (a) C.R.S.].
- 5.2.** 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 shall state the reason for the absence of the records from his custody, their location, and what person then has custody of the record [24-72-203 (2) (a) C.R.S.].

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5.3. 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. (The person requesting the record may agree to a longer/different time period.)

5.4. The Official Records Custodian of the City of Grand Junction does hereby establish that upon the third request for the same or substantially the same records, with the sameness of the request being determined in his or her sole discretion, he or she will require the requestor to state in writing the reason(s) for any additional request and/or how an additional request(s) is not the same or similar to prior requests. Absent such written clarification, the Records Custodian may reject the request or may toll any response to the request unless and until the requestor complies [adopted locally on 6-23-2014].

6. GROUNDS FOR DENIAL – APPEAL PROCESS

The custodian of any public record shall allow any person the right of inspection of such records EXCEPT on one or more of the following grounds:

- 6.1. Such inspection would be contrary to any state statute.
- 6.2. Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.
- 6.3. Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.
- 6.4. Such inspection would be contrary to the requirements of any joint rule of senate and houses pertaining to lobbying practices.

State law prohibits disclosure of certain records. The list is expansive. Contact the City Records Manager, the City Clerk, or the City Attorney first.

7. FEE SCHEDULE

The Open Records Act allows \$.25 charge per page for copies/printouts plus the actual cost of collection, review and manipulation after the first hour of time. The actual cost will be \$7.50 per quarter hour (\$30 per hour) after the first hour regardless of who is performing the work, plus the cost of the physical storage medium (e.g., CD). The hourly fee will be adjusted in accordance with 24-72-205 (6)(b) C.R.S. to stay current with the amount allowed by Law.

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Copies/Printouts

8 ½" X 11", 8 ½" X 14", 11" X 17" .25 each
(same for black & white or color)
Duplex copies are charged as two copies but are provided whenever possible

Large Format Copies \$10 per page

Audio or Video Recording \$1.00 each
(for video recordings copied from the dvr *ONLY* no charge if cd or dvd provided – no outside medium should be introduced into the City's computer system).

Audio or Video Recording from either the Police Department Property & Evidence section or the Communication Center Recordings

Not subject to the first hour at no charge rule
Tapes/DVD/CD Copies \$6.00 per disk

City Manuals (Planning) \$15.00

City Code/City Charter Subscription Service only through Code Publishing

Outside Services (reprographics, transcription) – actual cost

City Mapping

black & white ink, paper 24"x 36" \$ 3
colored ink, paper 24"x 36" \$10
City Map 30" X 36" (2000 scale) \$15
Index for City map \$15
City Map 36" X 48" (1500 scale) \$20
City Map 42" X 48" (1500 scale) \$30
City Map 72" X 80" (1000 scale) \$65 (2 pages)
Zoning Map 24" X 36" \$10
Comprehensive Map 42" X 42" \$25
Special Mapping Requests \$10 per square foot

Digital files

City map CAD files new customer \$250.00
City map CAD files update \$50.00 (repeat customer)
Air photos \$75.00 per Sq. mile
Contours \$25.00 per Sq. mile

Police Records from Microfilm \$5.00 per ¼ hour

Not subject to the first hour at no charge rule

Exemptions:

No fees shall be charged when providing copies of:

- City Council agendas, minutes, ordinances, resolutions
- Personnel records to employees or ex-employees
- Police Incident reports to victims
- Requests from Law Enforcement to the Fire Department
- Insurance Denials to Patients (EMS)
- EMS Trip Sheets to Patients or Donor Alliance

Waivers specifically granted by the City Manager.

A customer may collect information on their own equipment (such as hand held scanner or camera) if feasible. No outside media collection devices will be introduced into the City's computer system for purposes of copying records including but not limited to external drives or disks.

8. PROCEDURE FOR HANDLING OPEN RECORD REQUESTS

8.1. Open Records requests are initiated with or referred to the City Clerk's Office for all departments except personnel, legal, police records, fire incident records, HIPAA protected information and hazardous materials records.

8.2. The requester needs to complete a written form or submit a request with the same information in writing.

8.3. City Clerk's Office works with City staff to determine:

8.3.1. Who is the custodian of the requested document(s);

8.3.2. The status of the record (availability, etc.);

8.3.3. Time estimate to collect, review, or manipulate by the appropriate department/division. Applicant is provided with a cost estimate and signs the request to accept the estimated fees. For estimates exceeding \$50 the applicant must post a 50% security deposit based on the estimate.

8.4. A copy of the request is sent to the responsible division.

8.5. The custodial division works with the City Records Manager to provide the documentation (within 2 working days of the request, day and time);

8.6. City Records Manager makes appointment with requester and collects fee.

8.7. A copy of the request is maintained and logged in the City Clerk's Office.

9. DISCIPLINARY ACTION:

Violators of this policy are subject to discipline including termination of employment.