

**TOWN OF AVON, COLORADO
PUBLIC RECORDS POLICY**

**ADOPTED BY BRENDA TORRES, TOWN CLERK
ON OCTOBER 24, 2019**

I. AUTHORITY. The public policy of the State of Colorado and of the Town of Avon (“Town”) requires all public records to be open for inspection at reasonable times unless specifically exempted by law. Colorado Public (Open) Records Law, C.R.S. §24-72-201, *et seq.* (“CORA”). CORA further allows the official custodian of public records to formulate rules and regulations with reference to the inspection of these records which:

- A. Protect the integrity of the records; and,
- B. Limit operational disruption caused by access to the records.

II. PURPOSE OF POLICY.

- A. To set forth a policy providing the public with timely, orderly, efficient and appropriate access to public records maintained by the Town in compliance with the standards and requirements of CORA;
- B. To establish general procedures and reasonable and standardized fees for producing copies of and information from Town-maintained records as authorized by CORA (CORA does not require the Town to create a record in response to a request for information); and,
- C. To protect public records from alteration, abuse, wear and tear, defacement or permanent loss and misuse; and,
- D. To ensure that other activities of the respective offices of records custodians are not disrupted or interrupted.

III. SCOPE. This policy shall apply to all public records except (1) records kept and maintained by Eagle County under the custody of the Eagle County custodian of records (release of which shall be governed by Eagle County policies) and (2) criminal justice records (as defined in C.R.S. §24-72-301, *et seq.*) kept and maintained by the Sheriff’s Department. Other records kept by the Sheriff’s Department shall similarly not be covered by this policy because the policies and procedures adopted by Eagle County shall govern the provision of such records.

IV. DEFINITIONS. Definitions found in C.R.S. §24-72-202, as amended from time to time, shall apply unless the context clearly requires a different meaning in accordance with customary usage. Other terms used in this policy shall have the following definition:

- A. **Non-Public Record** shall mean any writing made or kept by the Town which does not constitute a Public Record under this policy and/or under the provisions of CORA.

B. Non-Routine Record shall mean any Public Record that is not a "Routine Record," any request where the legality of compiling or releasing the document may be in question, any request for personnel records, or any written request which references the "Colorado Open Records Act."

C. Public Records shall mean 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 expenditures of public funds. The term "Public Records" does not include Work Product; however, it does include the correspondence of elected officials, with limitations, as noted in C.R.S. §24-72-202, *et seq.*

D. Public Records Request Form is the form attached hereto as **Exhibit 1** which shall be utilized for all records requests and which may be amended from time to time by the Records Custodian.

E. Records Custodian shall mean the Town Clerk or his/her designee who shall be the "Custodian" as defined by C.R.S. §24-72-202.

F. Research/Data Gathering Time shall mean all time expended by Town staff in processing requests for Public Records which exceeds one-half hour as applied to the calculation of the fee associated with any request for public records.

G. Routine Record(s) shall mean Public Records that are commonly requested and maintained on-site at the Town offices and which require less than 30 minutes of total staff time for research, compilation or tabulation of any data. Public Records requests which are estimated to require more than 30 minutes of total staff time for research, compilation or tabulation of any data shall be treated as a Non-Routine Record(s) request.

H. Work Product shall mean all advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated to assist such elected officials in reaching a decision within the scope of their authority, as defined in C.R.S. §24-72-202.

I. Writings shall mean all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. "Writings" includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.

V. RESPONSIBILITIES.

A. It is the responsibility of the Records Custodian for the Town to implement and oversee compliance with this policy.

B. It is the responsibility of each Town employee and contractor to become familiar with the standards and requirements of this policy.

VI. GENERAL PROCEDURES.

A. Requiring Identifying Information: Release of Public Records shall not be conditioned upon the furnishing of information by the requester such as name, address, phone number or reason for request. If the requester is asking for information to be faxed or sent via mail, appropriate information must be

provided. Likewise, if the requester is paying by method other than cash for the cost of research, copying, etc., appropriate information must be provided.

B. Access Times: Inspection of Public Records shall be in the Town offices from 8:30 a.m. until 4:30 p.m., Monday through Friday, except on holidays observed by the Town.

C. No original Public Records shall ever leave the possession or control of the Records Custodian.

D. The Town will fulfill a Public Records request within three (3) business days unless extenuating circumstances exist as defined by C.R.S. §24-72-203(3)(b). If extenuating circumstances are deemed to exist, then seven (7) business days may be added to the permitted timeframe to fulfill a Public Records request. The Records Custodian shall notify the requester in writing of extenuating circumstances within the initial three (3) day period. The period of time to fulfill a Public Records request may be extended upon mutual agreement of the person submitting the Public Records request and the Records Custodian.

C.R.S. §24-72-203(3)(b) states,

“Extenuating circumstances shall apply only 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 custodian reasonably to prepare or gather the records within the three-day period; or

(II) A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the three-day period because:

(A) The agency needs to devote all or substantially all of its 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

(B) In the case of the general assembly or its staff or service agencies, the general assembly is in session; or

(III) A request involves such a large volume of records that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.

(c) In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.”

E. Any denial of a Public Records request or request for a Non-Public Record by the Town shall be in writing.

F. In all cases in which a person has the right to inspect any Public Record pursuant to this policy, copies, printouts or photographs of such records may be provided to the requester if prior to reproduction, requesters pay the applicable fee in accordance with Section IX of this Policy.

G. Whenever fees or costs are assessed pursuant to this policy, the Town will accept payment in the form of cash or check only and payment must be received prior to releasing copies of the Public Records to the requester or permitting inspection of the Public Records.

H. The public shall not be allowed to use its own equipment in inspecting or copying Public Records. The necessary manual or electronic functions necessary to extract, collate, organize, retrieve, copy or otherwise manipulate the records and data necessary to produce the record or allow for its inspection shall be performed by the Records Custodian. The Town may, at its option, provide a computer for use by the public to research and access (but not in any way alter) certain limited Public Records.

I. All fees collected hereunder shall be deposited into the general fund of the Town.

VII. REQUESTS FOR ROUTINE RECORDS.

A. The Records Custodian may allow inspection and/or copying and release of Routine Records. These requests may be made verbally or in writing and shall be handled in a timely and responsive manner and shall not be subject to the procedures for Requests for Non-Routine and Non-Public Records.

B. The Records Custodian will strive to handle Routine Records requests promptly.

C. The cost for copying and providing the Routine Record shall be as set forth in **Schedule A**. If the cost is estimated to exceed \$50.00, the Records Custodian shall provide a cost estimate to fulfill the Public Records request to the requester within three (3) days after receipt of the Public Records request. The requester shall be required to pay the estimated cost before Records Custodian will proceed with fulfilling the request. Upon receipt of the payment of the estimated cost for a Public Records request, the Records Custodian shall proceed to fulfill the request within three (3) days after the date of receipt of payment, or within seven (7) after the date of receipt of payment if extenuating circumstances exist. After fulfilling the request and before releasing any documents or information, the Records Custodian shall return to the requester any excess funds or charge the requester for any deficiencies in funds.

VIII. REQUESTS FOR NON-ROUTINE INFORMATION OR NON-PUBLIC RECORDS.

A. All requests for Non-Routine Records and for any Non-Public Records must be received in writing through the office of the Records Custodian on the Public Records Request Form. If a Non-Routine Record or Non-Public Record is requested via the telephone, the requester will be notified to submit the request in writing. The date and time of that a request for Non-Routine Records is received shall be entered by the Records Custodian in the box at the bottom of the form.

B. The Records Custodian will notify the Town Manager and, if so directed by the Town Manager, the Town Attorney, of each Non-Routine or Non-Public Records request.

C. The Records Custodian, in consultation with other Town personnel and, when applicable, the Town Attorney's Office, shall determine if the Non-Routine Record requested should be open for inspection within the guidelines of CORA. In addition, if, in the opinion of the Records Custodian in consultation with the relevant Town personnel and Town Attorney's Office, disclosure of the contents of any Non-Routine Record would do substantial injury to the public interest, be contrary to any state statute, federal statute,

or any regulation issued thereunder, or is prohibited by rules promulgated by the order of any court, notwithstanding the fact that said record would otherwise be available for public inspection under the provisions of CORA and this policy, the Records Custodian shall notify the requester that access to such Public Record is denied and state the grounds for the denial.

1. If a determination is made that the record is either not a Public Record (a Non-Public Record) or otherwise not subject to public inspection within the guidelines of CORA, the Records Custodian shall issue a written statement to the requester explaining the legal basis for withholding release of the requested record.
2. If the request record is determined to be a Public Record within the guidelines of CORA but the records are not available (lost, non-existent, etc.), the Records Custodian shall notify the requester in writing within three (3) days of the date of receipt of the request.
3. If the request is determined to be within the guidelines of CORA and the requested Public Records are in the custody and control of the Town but are in active use or in storage and not available at the time a requester asks to examine them, the Records Custodian shall inform the requester in writing of this fact and, except when extenuating circumstances exist which require the date and time be extended to a date and time not to exceed seven (7) additional days, set a date and hour when the records will be available for inspection or for production and copying within three (3) working days of the date of the request. The finding of extenuating circumstances forming the basis for the extension of time shall also be documented and provided to the requester in writing by the Records Custodian. If the requester makes a request to only examine the Public Records, but does not request the production of such records, costs will still be incurred based on staff time to compile such documents (as outlined in **Schedule A**).
4. If the request is determined to be within the guidelines of CORA, the Records Custodian shall generate a cost estimate to complete the request.
 - (a) If the cost estimate exceeds \$50.00, the total estimated amount shall be collected by the Records Custodian in advance of proceeding with the request. The requester shall be advised that this is only a deposit and that necessary adjustments to such amount will be made at the time the request is ready for pickup.
 - (b) Upon receiving payment, the Records Custodian shall contact the appropriate Town personnel to fulfill the request.
 - (c) The Records Custodian shall fulfill the request, accounting for all costs incurred in processing the request.
 - (d) The requester shall be contacted by the Records Custodian, or representative thereof, and informed as to any adjustments to the original estimate.
 - (e) If the actual cost of the fulfilling the Public Records request is different than the cost estimate and amount paid by the requester, the requester shall pay any additional amount if the actual cost is more than the cost estimate or the Records Custodian shall refund the amount collected which exceeds the actual cost.

- (f) The requester must pay in full the costs incurred prior to examining or receiving the production of any documents.

IX. DIGITAL FORMAT.

- A. If a public record is stored by a custodian in a digital format, the custodian shall provide a copy of a public record, subject to appropriate redactions, in a digital format as follows:
 - 1. If the digital format of the public record is searchable, but not sortable, then the custodian shall provide a copy in a searchable format (*such as Word or a searchable Portable Document Format [a.k.a. "PDF"]*).
 - 2. If the digital format of the public record is sortable, then the custodian shall provide a copy in a sortable format (*such as Excel or a comma-separated values format [a.k.a. "CSV"]*).
 - 3. If a record is stored by a custodian in a digital format that is not searchable or sortable, (*such as scanned or saved document in non-searchable PDF format*), the custodian is not required to convert it to a searchable or sortable format. The custodian may provide it in the digital format in which it is stored.
- B. Exceptions. If the record is either searchable or sortable, the custodian does not have provide records in those formats under the following circumstances:
 - 1. Copyright/Licensing: Releasing the record would violate terms of any copyright or licensing agreement with a third party or result in the release of a third party's propriety information
 - 2. Not Feasible: After making reasonable inquiries, it is not technologically or practically feasible to permanently remove information permitted to be withheld or it is not technologically or practically feasible provide a copy of the record in a searchable or sortable format or if the custodian would be required to purchase software or create additional programming or functionality of its existing software to remove information
- C. Alternative Formats and Written Declaration. If the custodian is not able to comply with a request for a public record in a requested format, the custodian shall produce the record in an alternative format and shall provide, in writing, a declaration as to the reasons for not being able to provide the information in the requested format.
- D. Additional Records not Subject to Inspection. The following records are not subject to inspection:
 - 1. Either security arrangements or investigations;
 - 2. Physical and cyber assets of critical infrastructure (engineering, vulnerability, detailed design information, protective measures, emergency response plans or other data useful to a person in planning an attack on critical infrastructure); and
 - 3. Medical health records (unless requested by a person in interest).

SCHEDULE A
SCHEDULE OF COPYING CHARGES AND MISCELLANEOUS FEES
 (§24-72-205 C.R.S.)

1. Annual Budget:	Also available on Town of Avon Website	\$.25 per standard page
2. Audited Financial Statements:	Also available on Town of Avon Website	\$.25 per standard page
3. CD/Tape Duplication:	Per CD/cassette	\$25.00 (Cassette or CD provided by City)
4. Ordinances and Resolutions:	Also available on Town of Avon Website	\$0.25 per standard page
5. Certification of Document :	Each copy This applies to requests from citizens/agencies for certified true copies of Town documents;	\$8.00 for staff time
6. Certification of Transcript:	Records Custodian review required.	\$8.00 plus \$1.00 per page for staff time
7. Copies of Documents:	Non Color: Per 8½" X 11" page; 8½" X 14" page; or, Per 11" X 17" page Color Copies: Per 8½" X 11" page; 8½" X 14" page Color Copies: Per 11" X 17" page <i>Documents requiring outside printing will be assessed the actual cost to the Town</i>	\$0.25 per standard page \$1.25 per page \$2.00 per page
8. Liquor Code Book:	Available through Colorado Department of Revenue	
9. Model Traffic Code:	Available through the Colorado Department of Transportation	
10. Other Requests, Documents, Postage and Delivery		Actual cost to the Town to obtain, reproduce, mail or send
11. Staff Time:	When information gathering, printing or retrieval of a document requires staff research, labor or travel time, the hourly charge begins after one hour and will be assessed and pro-rated in thirty minute increments.	\$33.58 per hour
12. Uniform Codes Such As Fire, Plumbing, Building	Sold by: All community colleges Barnes and Noble Tattered Cover International Code Council: (www.constructionbook.com)	



TOWN OF AVON
PUBLIC RECORD REQUEST FORM

REQUEST MAY BE FAXED TO: (970) 949-9139, Attention Records Custodian or
E-Mailed to btorres@avon.org – NOTE: Confirmation of receipt is required for e-mailed requests

Name: _____ Date: _____

Address: _____ City: _____

State: _____ Zip Code: _____ Daytime Phone: _____

E-mail Address: _____ FAX Number: _____

Italicized above information is optional unless payment is by check or delivery of copies is requested.

Inspection Only Requested: Yes [] No []
Hard Copies Requested: Yes [] No []
CD or Electronic Copies Requested: Yes [] No []
Desired Retrieval Method: Pick-up [] Mailing [] E-Mail []

Please indicate the information desired and/or list each requested document. Please be as specific as possible. (You may attach a letter indicating the requested public records)

Four horizontal lines for listing requested documents.

[Please note – all faxed requests must be followed up with a phone call to be sure it was received. All e-mailed requests must receive a confirmation of receipt e-mail from the Records Custodian.]

I have read the Town of Avon, Colorado Public Records Policy, revised October 24, 2019, and agree to pay all charges incurred in accordance with such Public Records Policy and the attached fee schedule:

Signature of Person requesting Public Record(s)

Charges: (To be completed by Records Custodian and attached as invoice)

Total \$ _____

Staff Use Only box containing fields for Date Received, Time Received, Date Completed, Time Completed, Completed By, and Summary of Response.