

**ADMINISTRATIVE REGULATION****ACCESS TO PUBLIC RECORDS AND
ELECTRONIC COMMUNICATION SYSTEMS**

Effective Date: June 2014
Revision of: August 2007
Original Date of Publication: March 1984

PURPOSE:

The purpose of this policy is to assure prompt and equitable service to citizens requesting access to public records, including those records created by electronic mail, in accordance with the requirements of C.R.S. 24-72-201 to C.R.S. 24-72-206. This policy does not apply to criminal justice records.

BACKGROUND:

Lakewood's home rule charter states, "It shall be the policy of the City that all records of the City shall be open for inspection at reasonable times, except as otherwise provided by Colorado statute" (14.6). C.R.S. 24-72-202(6)(a) defines public record as "all writings made, maintained, or kept by the state or any agency, institution, ... or political subdivision ... 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 record also includes, generally, the correspondence of elected officials, except to the extent that 1) such correspondence is a work product, 2) without a demonstrable connection to the exercise of functions required by law or administrative rule, or 3) a communication from a constituent to an elected official that clearly implies by its content that the constituent expects that it is confidential in nature or 4) subject to nondisclosure under C.R.S. 24-72-204(1). Additionally, C.R.S. 24-72-202(7) defines writings to include "all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation electronic mail messages, but does not include computer software."

The Act allows the official custodian of public records (City Clerk) to make such rules with reference to the inspection of such records and to the prevention of unnecessary interference with the regular duties of the clerk.

POLICY:

It shall be the policy of the City of Lakewood to make those records available to public inspection as set forth in the Colorado Open Records Act, C.R.S. 24-72-201, *et. seq.*

All requests for public records shall be made in writing with the official custodian of public records. Many of these requests can be filled immediately; however, if the public records requested are in active use, in storage, or otherwise not readily available at the time the request is made, the custodian shall set a date at which time the records can be inspected that is within three (3) working days of the date the request was made. Such period may be extended if extenuating circumstances exist (per C.R.S. 24-72-203(3)(b)), but the extension period shall not exceed seven (7) working days. Extenuating circumstances cannot apply to a request that relates to a single, specifically identified document.

Electronic records and electronic communications: Records stored on magnetic or optical disk, on audio/visual tapes, microfilm, microfiche and as digital images may be public records and open to disclosure. After receiving a written request for records stored in any of the aforementioned media, city staff may take any measures necessary to assist the public in locating any specific public records, including but not limited to, the availability of viewing stations for microfilm, microfiche or digital images, the provision of portable storage devices or other means.

Please note that correspondence of any employee which is in the form of electronic mail may be a public record under the public records law and may be subject to public inspection under C.R.S. 24-72-203 and the policy of the City of Lakewood.

Inspection of public records: In order to safeguard the integrity of the City's records, the custodian of the records to be inspected shall retain control of the records at all times. Inspection of all public records is subject to the supervision of the records custodian.

Inspection of public records will generally be scheduled during the business hours of 9:00 a.m. to 3:00 p.m., Monday through Friday, except holidays.

Denial of inspection: Access to public records may be denied in accordance with the provisions of the Open Records Act. If access is denied, the custodian of the records will notify the applicant in writing of the grounds for the denial. Reasons for denial of access to public records will also be noted in writing on the public records request form.

Fees and Charges: Fees and charges for public records shall be as follows:

1. Copies of public records may not exceed twenty-five cents per standard page. A standard page is a document created from a word processing function and which is generated onto paper sized 8 ½ x 11" to 11 x 17" from a non-color printing process.
2. Fees for providing a copy, printout, or photograph of a public record in a format other than a standard page may not exceed the actual cost to the City. This means, if the public record is a result of computer output other than word processing, e.g. portable storage devices, digital data, digital recording, microfilm, GIS maps, ward maps, and oversized documents (larger than 11 x 17), the fee will be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the cost associated with building and maintaining the information system. *(This fee may be waived by the official custodian if the electronic services and products are to be used for a governmental purpose.)*

3. If a public records request includes a request for data in a form not used by the City, and if the City has to manipulate that data to provide it in the requested form, a reasonable fee, not to exceed the actual cost of manipulating that data, may be charged to the requesting party.

4. Occasionally, a request for public records will involve the need to perform extensive research and/or retrieval of documents. While the City has a clear obligation to provide public records and information, it cannot effectively serve as a research service for citizens without affecting its ability to provide normal and usual services. Therefore, departments may charge for research or retrieval that takes more than one hour to perform. The charge for this research or retrieval will be the maximum hourly fee posted on the Colorado General Assembly website by the Director of Research of the Colorado Legislative Council (\$30.00 per hour as of July 1, 2014). Time spent inspecting documents, redacting exempt information, and overseeing the inspection of public records by the requestor will be included in this calculation.

The City may require and collect a 50% advance deposit of estimated research, retrieval and copy fees for public records requests that will require significant staff time and resources to complete. The City may require and collect a 100% advance deposit of estimated research, retrieval and copy fees for public records requests from any person who has made a previous records request and not paid or not come in to view the requested information. Requestors who have not come in to view the requested information within 10 working days of being notified that the information is available for review will be required to submit a new public records request.

5. The City of Lakewood does not charge for public records requests for up to 20 standard pages of readily available documents from the following groups or persons:

a. Members of the City Council, the City's boards and commissions, other staff.

Exception: The City will charge for election materials requested by incumbent officials who are running for office.

b. Other government officials or organizations or professional associations.

c. Students requesting documents for a specific class research project.

The custodian of records may waive the cost for retrieval and or copying of records, provided the records requested will not require manipulation of data to produce, and do not exceed 20 standard pages.

6. The City will respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a paper copy, printout or electronic copy, and not by allowing access to a computer terminal or the use of a private terminal connected to the City's computer system. The exception is any public information provided by the City on the Internet or made available for public research purposes at a viewing station. Any portable storage device (e.g. disk or flash drive) used to transfer information to or from City computers must be provided by the City.

7. Fees and charges for reproduction of records shall be standard throughout the City for similar items. Department heads have the authority to waive such fees and charges. However, no department shall charge higher fees than the standard ones listed in this administrative regulation. Individual departments may, by administrative rule or action, establish fees for the search, retrieval, and reproduction of records that are specific to that department, and that do not exceed the actual cost to the City or applicable fees established by state law. All fees are subject to annual review and revision.

Annually, in January, a current list of those fees should be sent to the City Clerk's Office. A current fee schedule is included as an attachment to this regulation. All fees for copies must be prepaid by cash, credit card, or check made payable to City of Lakewood. The city will not bill requestors for fees due.

8. Certified copies of records will be provided for an additional fee if requested in writing.

Records Retention schedules: All public records of the City of Lakewood, regardless of storage format, will have retention schedules approved by the State Archives in accordance with state law. Retention schedules will establish retention periods and disposition requirements for City records and information.

Records Destruction and Legal Holds: No City records or information may be destroyed unless they meet the requirements set forth in the City's records retention schedule and are not subject to any legal hold. Scheduled destruction of any records or non-record information, in any format or media, may be suspended if deemed necessary by the City Attorney. Affected employees and business units will be notified when a legal hold is put into effect regarding the appropriate manner in which to suspend destruction as directed by the City Attorney.

Guidelines for Managing Public Records:

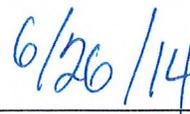
The City Clerk may prepare guidelines for employees regarding the management of all City records.

Submitted by the City Clerks Office

Approved by:



Kathleen Hodgson, City Manager



Date