

TOWN OF GYPSUM

POLICY ON RESPONDING TO OPEN RECORDS REQUESTS

The Town of Gypsum fully supports, and complies with, all Federal and State laws relating to the retention, protection and disclosure of Town records including, but not limited to, the Colorado Open Records Act, Title 24, Article 72, Part 2, C.R.S. (“CORA”), the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the Privacy Rule promulgated by the U.S. Department of Health and Human Services which interprets and implements HIPAA.

It is the policy of the Town that all public records shall be open for inspection by any person at reasonable times, except as otherwise provided by law. Public records are defined by CORA as all writings made or maintained by the Town, regardless of the format or medium of the records, subject to certain exceptions and public records expressly include e-mail communications.

The Town maintains an archive of all e-mail messages for emergency backup purposes only; such archived e-mail communications are not individually retrievable and are specifically not intended to create a public record.

By action of the Town Council, the Town Clerk is hereby designated as the official Custodian of Records responsible for the maintenance, care and keeping of all records of the Town. The Official Custodian of Records shall have the authority to designate such agents as he/she shall determine appropriate to perform any and all acts necessary to enforce and execute the provisions of this Policy.

The following are general policies concerning the release of records:

1. All public records of the Town shall be open for inspection at the times designated herein, unless prohibited by the provisions of CORA or policies adopted by the Town Council in conformance with CORA.
2. Upon receipt, requests by a citizen, entity, Federal or State agency, Town Council member, subpoena, Administrative or Court Order, or other legal process, to inspect and/or copy any Town record (collectively referred to as a “Records Request”) should be immediately sent to the Official Custodian.
3. Every Records Request shall be submitted to the Town’s Official Custodian in writing and be specific as to the information desired.
4. If any question arises as to the propriety of fully complying with a Records Request, the Official Custodian shall immediately forward it to the Town’s legal counsel.

5. The Town's legal counsel shall determine the Town's obligations under the applicable Federal and/or State law(s). If the Town is permitted to comply with the Records Request in whole or in part, the Town's legal counsel will so notify the Town's Official Custodian, who will assemble the disclosable requested documents for inspection and/or copying in accordance with applicable Federal or State law.

6. If the Town's legal counsel determines the Town is not permitted by Federal or State law to comply with the Records Request in whole or in part, legal counsel shall provide a written response to the party submitting the Records Request stating the legal basis upon which the Records Request in whole or in part is being denied.

7. Pursuant to CORA, all records must be made available for inspection within three (3) working days, unless extenuating circumstances exist. The deadline may be extended by seven (7) working days if extenuating circumstances exist and the requesting party is notified of the delay within the statutory period. The Official Custodian may set the time during normal office hours and the place for records to be inspected and require that the Official Custodian or a delegated employee be present while the records are examined. Inspection of the Town's public records shall be made, where permitted by law, during normal business hours, Monday through Friday, except on holidays, at an hour specifically set by the appropriate Official Custodian for each particular request for inspection.

8. A person granted the right to inspect Town records may also be furnished copies requested at a cost of twenty-five cents (\$.25) per standard page, except that there shall be no charge for council agendas and brochures produced specifically for assistance and convenience of citizens and businesses in complying with municipal regulations. The charge for providing a copy, printout or photograph of a public record in a format other than a standard page will be assessed at the actual cost of production. Additionally, in those cases where the location or existence of specific documents must be researched and the documents must be retrieved, sorted or reviewed for applicability to the request, and such process requires more than one hour of staff time, the Custodian may charge a research and retrieval fee not to exceed thirty dollars (\$30.00) per hour. The Custodian will not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. In the event the person making the request desires the documents to be mailed, he or she must pay the cost of postage.

9. The Town may require a deposit to cover the estimated cost to produce the records, including the cost of the copies and the research and retrieval fee, prior to commencing work to produce such records. Payment of any actual costs exceeding the deposit must be made at the time of release of the final work product or copies.

10. When practical, the copy, printout, or photograph of the requested record will be made in the place where the record is kept, but if it is impractical to do so, the

Official Custodian may allow arrangements to be made for the copy, printout, or photograph to be made at other facilities. If other facilities are necessary, the cost of providing requested records will be paid by the person making the request.

11. No person shall be permitted to inspect or copy any records of the Town if, in the opinion of the Official Custodian after consultation with the Town's general counsel, such inspection or copying would come within the prohibition of one or more exemptions set forth in CORA.

This policy shall supersede any previous policy related to records requests.

ADOPTED by the Town of Gypsum Custodian of Records.

Danette Schlegel,
Town Clerk / Custodian of Records

Date