



Public Records Policy for Colorado Open Records Requests (CORA)

Reference: C.R.S. § 24-72-201, et seq.

I. Purpose

The Town of Paonia (“Town”) is committed to transparency and open government and this policy is intended to assure prompt and equitable service to individuals requesting access to public records, regardless of the format. This policy is guided by C.R.S. §24-72-201, et seq. and will be deemed modified by additional or new language added to the Colorado Open Records Act. **This policy does not apply to criminal justice records, as defined in C.R.S. §24-72-302.**

II. Background

“Public Records” are defined in C.R.S. §24-72-202(6)(a) to include all writings made, maintained, kept or held by a local government-financed entity for use in the exercise of functions required or authorized by law or administrative rule involving the receipt or expenditure of public funds.

C.R.S. §24-72-202(6)(b) details what are **not** included in public records.

C.R.S. §24-72-204 protects various documents from production/inspection, including but not limited to personnel files; medical, mental health, sociological and scholastic achievement data; letters of reference; trade secrets; privileged information, confidential commercial, financial, geological, or geophysical data; and names, addresses telephone numbers, and personal financial information of past or present users of public facilities.

“Work product” means materials which are deliberative or advisory in nature, prepared to help elected officials, and communicated to assist elected officials in reaching a decision within the scope of their authority - CRS §24-72-202(6.5)

“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.

III. Official Custodian

The Town Clerk is designated as the Official Custodian (the “Custodian”) responsible for the maintenance, care and keeping of all records centrally maintained by the Town, except as provided in C.R.S. Title 24 Article 72 Part 3.

The Custodian shall have the authority to:

- (1) make reasonable rules and regulations with reference to the copying and inspection of public records as necessary to protect the records and prevent unnecessary interference with the regular duties of the Custodian; and
- (2) designate such agents as the Custodian shall determine appropriate to perform all acts necessary to enforce and execute the Town’s public records policies.

IV. Policy

It shall be the policy of the Town to make all records available for public inspection unless such records are protected from disclosure by state or federal law, by court order, or unless disclosure of such records would be contrary to the public interest or policies adopted by the Town Board of Trustees in accordance with CORA. The Custodian may confer with the Town Attorney when there is a question of whether inspection or copying of records is prohibited under CORA or contrary to the public interest or policies adopted by the Town in accordance with CORA.

Elected Officials may develop their own policies and procedures regarding public records in their custody, however to the extent that the Town has custody of any public records of an elected official that Town shall, in consultation with the Elected Official, meet any requirement of the Colorado Open Records Act as it may apply to documents in the Town’s possession.

If the public records are not in the custody or control of the Custodian, they shall “forthwith” notify the applicant of this fact, in writing. In such notification, the Custodian shall state in detail to the best of the person’s knowledge and belief the reason for the absence of the records from the Custodian’s care and control, the location of the records, and what person then has custody and/or control of the records.

Colorado Open Records Act Requests constitute public records under the public records law and the completed requests may be posted to the Town’s online document repository for the term of its retention under the Colorado Municipal Records Retention Schedule, unless there is an exemption according to state or federal law.

A. Records Request Submission

To assist the Custodian in responding to requests in a timely and complete manner, a records request must be submitted on a ‘Colorado Open Records Act Request Form’ (Attachment A), developed by the Custodian. The form can be found:

- In person- Town Hall, 214 Grand Avenue, Paonia, Colorado 81428

- By email- Paonia@townofpaonia.com to request a form
- Town Website- <https://townofpaonia.colorado.gov> to find a printable or online submission form

It is important that the form be filled out as specifically as possible, using any details such as associated names, date ranges or other information that can facilitate the Custodian's search for your requested records as efficiently as possible. When your form is filled out you can submit it:

(1) in person at Town Hall to the front office staff or the Town Clerk, 214 Grand Avenue, Paonia Co, 81428

(2) by email – paonia@townofpaonia.com

(3) or fill out and submit the application on the Town website - <https://townofpaonia.colorado.gov> .

Except as required by C.R.S. §24-72-204(3.5)(g) and except when a requested record is confidential and accessible only on the basis that the requestor is the person in interest, no form of identification shall be required to request or inspect public records. However, if clarification or narrowing of a request or a deposit is needed to fulfill the request, some form of contact information is needed. **See B. Records Request Response and D. Fees and Charges.**

B. Records Request Response

Requests for routine copies of non-restricted public records that are readily available on the Town's website or from other easily accessible public sources (e.g., minutes, agendas, ordinance's, resolutions, etc) shall not be considered an open records request, and shall not be required to be submitted in writing. In such cases the requester shall initially be referred to such public sources. However, if the requestor specifically requests that the Town provide the records pursuant to CORA, a "Colorado Open Records Act Request Form" will be required, and applicable fees will still apply. **See D. Fees and Charges**

1) Clarifying or Narrowing the Request

Broad, general requests will be costlier to the requestor because of the staff time required to fulfill these requests. The Custodian may contact the requestor to clarify or narrow a request. Requesters are encouraged to narrow by date range, email inboxes to be searched, and by specific search terms. Searching the entire email system and server is very time-consuming, and the requests will be searched in the order in which they are conducted, which potentially leads to more time spent.

While not required, requesters may want to provide phone and e-mail contact information to facilitate communication regarding the request, including deposits and fees, which can affect the deadline of your records request. The Town staff does not suggest search terms or parameters and does not create new records in response to a request.

If the requester agrees to narrow their request, the Custodian will ask the requestor to re-submit their request in writing with the narrowed information and the statutory timeframe

will begin again. If the requestor is unwilling to narrow their request, the Custodian will advise the requestor of the potential fees associated with the request. **See D. Fees & Charges**

As indicated, CORA does not require the Town to create new records in response to a request.

2) Multiple, Repeated or Duplicative Requests

When there are duplicative CORA requests submitted – either by one individual or by multiple requestors – that require extensive amounts of staff time and would otherwise interfere with the completion of other duties of the Town, the Custodian must appropriately manage and delegate their staff time so as to ensure that the processing of such requests does not interfere with the other duties of the Town.

- Multiple requests made within one (1) month from the same requestor/agency regarding the same/similar topics will be considered a single request for the purpose of calculating staff time and fees.
- When addressing the same or similar requests from multiple requestors, the Custodian, at their discretion, may choose to publish the requested information on a publicly available website to satisfy their responsibilities under CORA, and will direct requestors to that website. Otherwise, the Custodian will respond to the requests in the order in which they are received and will consolidate duplicative requests as necessary.

Examples of requests to which this policy is applicable, include but are not limited to:

- Multiple requests from the same requestor within the timespan of one to two days
- Same or similar requests from the same requestor sent on a daily basis
- Same or similar requests from multiple requestors over a short timespan (e.g. 5 submissions of the same or similar request from different requestors within a week)
- Multiple requests for the same or similar search terms sent as “per day” requests instead of consolidated into a specific timeframe (e.g. searching for the same search terms on Jan. 1, Jan. 2, Jan. 3, Jan. 4, etc. versus January 2021).

3) Calculating Deadlines

In calculating the due date, the Custodian will deem a Records Request received the next business day after it is submitted. The Custodian will notify the requester of receipt of the request and due date.

For requests that require a deposit or payment, the timeframe for completion of the request is put on hold until payment is received. The Custodian will log time spent on each CORA Request on the “CORA Request Log Sheet” (Attachment B) and use it to calculate final payment amounts.

4) Time for Accessing Public Records

When filling a request under the Colorado Open Records Act, public records shall be made available for inspection within three (3) business days of the Custodian's receipt of the Records Request, per C.R.S. §24-72-203(3)(b), unless extenuating circumstances exist. If extenuating circumstances exist; the requesting party will be notified in writing within three (3) business days, the deadline may be extended by seven (7) additional working days.

Extenuating circumstances exist when the Custodian determines one of the following conditions exist and states such condition in writing to the requestor within the first three (3) days that the request was received:

- a) 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 records within the three (3)- day period; or
- b) 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:
 - i) The Custodian 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
 - ii) A request involves such a large volume of records that the custodian cannot reasonably prepare or gather records within the three (3)-day period without substantially interfering with the Custodians obligation to perform their other public service responsibilities.
- c) In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.
- d) If the request is too broad, speculative or voluminous to prepare in ten (10) days the Town may seek relief from the Court, including Attorney's fees, as provided by law.

5) Attorney Review

If any question arises as to CORA exemptions and/or the propriety of complying with a Records Request, the Custodian (or their designated agent) shall immediately forward the Records Request to the Town's legal counsel for review. Disclosure may be prohibited by court order or be contrary to state or federal law. If the Town is permitted to make records available for inspection, in whole or in part, the Town's legal counsel will notify the Custodian, who will assemble the disclosable requested documents for inspection and/or copying in accordance with applicable federal or state law. If the Town's legal counsel determines the Town is not permitted by federal or state law to make records available for inspection in whole or in part, legal counsel shall provide, or assist the Custodian in providing, a written response to the requestor stating the legal basis upon which the Records Request in whole or part is being denied.

Following the denial of a records request, upon receipt of the required written notice from the individual requesting that they will seek relief from the District Court, the Custodian will attempt to meet in person or speak by telephone with the requesting

individual. The Custodian and their designees are encouraged to utilize all reasonably authorized means to attempt to resolve the dispute during this time-period and will provide a written summary of the Town's position at the end of that period to the requestor and to the Town Board of Trustees. No phone or in-person conference is required if the written notice indicates that the requestor needs access to the record on an expedited basis.

6) Abandoned Requests

If the Custodian attempts to contact a requestor to clarify a request or discuss the scope of a request and the requestor does not respond within ten (10) business days, the Custodian will automatically close the request.

The Custodian will hold records assembled in response to a CORA request for no more than ten (10) business days after the requestor has been notified that the records are available. The holding period may be shorter for records which are needed for any use. Failure to inspect or pick-up the records within this timeframe will be considered an abandoned request, and the request will be automatically closed.

When a cost estimate has been sent in response to a CORA request, the Custodian will hold records for no more than 21 calendar days. If payment has not been received within this time frame, the request will be considered abandoned, and the request will be automatically closed.

A request to re-open a closed request will be treated as a new request.

C. Records Production

Any public record that is stored in a digital format will be provided in a digital format and transmitted by electronic mail, unless the size prevents email transmission, in which case they shall be transmitted by another method, as agreed upon by the requestor and the Custodian.

A public record stored in a digital format that is searchable will be provided in a searchable format and a public record stored in a sortable format will be provided in a sortable format. A public record that is in a searchable or sortable format shall not be produced if:

- 1) Producing the record in the requested format would violate the terms of any copyright or licensing agreement between the Town and a third-party;
- 2) Producing the record would result in the release of a third party's proprietary information; or
- 3) After making reasonable inquiries:

- i) It is not technologically or practically feasible to permanently remove information that the custodian is required or allowed to withhold within the requested format;
- ii) It is not technically or practically feasible to provide a copy of the record in a searchable or sortable format; or
- iii) The Custodian would be required to purchase software for creating additional programming or functionality in its existing software to remove the information required or allowed to be withheld.

CORA does not require the Custodian to create a new record in response to a Records request but to produce existing public records that match the request. Altering an existing digital public record, or excising/redacting fields of information that the Custodian is either required or permitted to withhold does not constitute the creation of a new public record.

The Custodian may set the time, which shall be during normal office hours, and the place for physical records to be inspected, and require that the Custodian or a delegated employee be present while the records are examined. In no event may the requestor remove documents or add documents to those provided for review. Upon completion of the review, the requestor must mark the pages that they wish to have copies with adhesive tabs. Copies will be made at a later time, depending on volume. The requestor will be notified when the copies are available for pick-up.

If the Custodian has the capability to make reproductions, they will do so at the rates set in ***D. Fees and Charges***. If the Custodian does not have the facilities for making copies, printouts, or photographs of the records, the custodian may make arrangements for the services to be rendered at another facility. If other facilities are necessary, the person desiring a copy, print out or photograph of the record shall pay the cost of providing them. In no event shall the records leave the custody and possession of a Town employee assigned by the Custodian of record during this process (other than providing the items to the third-party facility for reproduction.)

The Town is under no obligation to allow citizens access to Town computers.

D. Fees and Charges

Per C.R.S. §24-72-205

The Custodian will fill out a "CORA Request Log Sheet" for each Records Request to ensure accurate tracking of time and actions related to the CORA Request and will provide it as a part of the records response.

1) Deposits

When 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 (1) hour of staff time, the Custodian will charge a research and retrieval fee. Once the free hour has been used the Custodian will contact the requester and give them an estimate of the cost to finish the records request. If the requestor wishes to cancel the request, Custodian will close the record request immediately, incurring no charges. If the requestor chooses to continue the record request, the Custodian will require a non-refundable deposit of one-half of the estimated amount to continue the request. Until the deposit is received, the time line on the Records request will be paused and restart once the deposit payment is made. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. In the event the deposit amount exceeds the actual costs, the balance shall be refunded within thirty (30) days.

2) Research and Retrieval Fee

The Custodian will provide the first hour of research and retrieval for free and then charge Thirty-three dollars and fifty-eight cents (\$33.58) per hour after in thirty (30) minute increments. This will also apply to any time the Custodian spends altering an existing digital public record, or excising/redacting fields of information that they are required or permitted to withhold.

The maximum hourly amount of the research and retrieval fee is adjusted every 5 years by the Executive Committee of the State Legislative Council.

3) Production Fees

Print-outs, photographs, and copies, when requested, will be provided at a cost of twenty-five (\$0.25) per standard page, and at the actual cost of any production for any non-standard page, except that no per-page fee will be charged for providing records in a digital or electronic format. A standard page shall mean an 8.5 x 11-inch black and white copy.

If data must be manipulated in order to generate a record in a form not otherwise used by the Town, such data manipulation will be assessed at the actual costs to the Town, however the Town is in no way obligated to generate a record that is not otherwise kept, made or maintained by the Town. The Town is not required by law to manipulate data found within existing Town records to create a requested form of record that does not otherwise exist. If the Custodian chooses to manipulate the requested data, they may charge a fee for such service, which shall not exceed the actual cost of manipulating said data. Persons making a subsequent request for the same data shall be charged the same fee.

When it is impractical to make the copy, printout or photograph of the requested record at the place where the record is kept, the Custodian may allow arrangements to be made for the copy, printout, or photograph to be made at other facilities and the cost of providing the requested records will be paid by the person making the requests.

Data kept by the Town but generated by a third party shall be charged at actual cost paid to the third-party, subject to additional fees if applicable.

4) Transmittal Fees

The cost for transmitting the requested records will be charged at the actual cost of such delivery. Transmission fees will not be charged for transmitting any record via electronic mail, when requested.

5) Payments

Payments of deposits and fees can be made with cash, check, money order, credit or debit card. Make a note of your CORA number with the payment.

- 1) In person: 214 Grand Avenue, Paonia, Colorado 81428
- 2) By Mail: Town of Paonia, P.O. Box 460, Paonia, Colorado 81428
- 3) Online: <https://townofpaonia.colorado.gov> scroll down to the brown box "Make a Payment", Choose the option for non-utility payment, choose 'other' under 'Choose your payment type", add your CORA Request Number to the 'account number' box.

V. Internal Procedure

- 1) All CORA Requests shall be submitted to the Custodian, with the exception of Criminal Justice Records Act records requests, which shall be submitted to the Paonia Police Department or other applicable agency.
- 2) The Custodian will review the request to ensure it is complete and legible. At this time, if the request falls under the umbrella of requests needing to be clarified or narrowed; or a multiple, repeated or duplicative request the Custodian will follow the procedures in place in this policy.
- 3) The Custodian will number the request and start a CORA Request Log Sheet, calculate a deadline and contact the requester to confirm receipt of the request and let them know the deadline.
- 4) The Custodian will contact any staff member, elected official or individual who may have records compliant with the request. Any and all responsive records will be supplied to the Custodian's Office in a timely fashion. No records will be provided directly to the requestor by anyone other than the Custodian.
- 5) If the first hour of Research and Retrieval expires and the research and retrieval is still actively being worked on, the Custodian will pause the time on the CORA request and contact the requestor to see if they wish to continue the request. If the request continues, a non-refundable deposit will be required before further action is taken. The CORA Request Log will be used to track/calculate actual time spent on the records request.

- 6) If the Custodian needs legal counsel for the appropriate response, they will contact the Town Attorney for advice.
- 7) When the records are gathered and ready for inspection or delivery, the Custodian will contact the requestor to let them know their records are ready and notify them of all associated fees. Fees must be collected in full before records are released.
- 8) The Custodian will close the CORA request and will maintain the original records request and the Town's response according to the Colorado Municipal Records Retention Schedule and may post to the Town's online public document repository.

Submitted:

Received by Clerk:

Deadline:

Extension:

Fees:

Fulfilled:



Colorado Open Records Act Request Form

The first hour of research and retrieval is free and you will be charged thereafter at \$33.58/hr in 30 minute increments. You will be contacted before any paid time is incurred with an estimated cost and request a required deposit to continue the records request. Black and white 8.5 x 11 copies will be charged at \$0.25/page

Please read the Town of Paonia's Colorado Open Records Act Public Records Request Policy for more information on submission, response, procedure, and fees.

Please make sure there is at least one current and legible way to contact you for any questions the Town Clerk may have to help in your request.

Name:_____ Date:_____ Phone:_____

Mailing Address (if applicable):_____

Email Address (if applicable):_____ Physical or PDF:_____

This form is for requesting already existing records and does not apply to Criminal Justice Records which must be requested directly from the Paonia Police Department. To facilitate the search, please be as specific as possible in describing the requested document(s).

Number of Copies	Document Name or Detailed Description

C.R.S. 24-72-201 to 24-72-309

Note: The Town Clerk will deem the request received on the next business day after submittal.

Colorado Open Records Request Log



Name: _____ Estimated Fee: _____ Deposit _____

Date Finished: _____

Hours _____ x \$33.58 = _____

Pages _____ x \$.25 = _____

Additional fees: _____

Less Deposit: _____

Total Due: _____

Note: Records will not be released until full payment is made.