



CITY OF ENGLEWOOD POLICY GOVERNING ACCESS TO PUBLIC RECORDS

Under the Colorado Open Records Act, C.R.S. § 24-72-201 (the “Act”), public records made, maintained or kept by the City, regardless of the format or medium, are open for inspection by the public at reasonable times.¹ These rules shall apply to inspection of City records other than criminal justice records.

Public record means all writings made, maintained, or kept by the City of Englewood, Colorado (City) and related entities for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.²

All records are subject to the following rules adopted by the City to promote open and accessible government while maintaining the integrity of the City’s records, accounting for costs to the City of complying with requests, and preventing unnecessary interference with City operations. Certain records are specifically exempted from inspection by the Act or other Colorado law. Reasonable requirements, consistent with these rules and the Act, may be established by the custodian of records with respect to requests as necessary and appropriate. The City may update these rules from time to time.

A. Submission of Records Requests

1. Custodian of Records. Requests must be submitted to the City Clerk, who is the official custodian of City records (other than criminal justice records). The City may contact the requestor to clarify and understand the request. The requestor may confer with the City in filling out the electronic submission form to develop the clearest possible request. The City Clerk may direct records requests to City department(s) or staff members for a response.
2. Form of Request. Requests must be submitted in writing on the form provided by the City, using the City’s electronic submission form or printed, filled out, and provided to the City Clerk by e-mail, U.S. mail, or hand delivery.
3. Drafting Your Request.
 - a. Specificity. Requests must be made with sufficient specificity to permit the efficient identification, collection, and evaluation of records. Specificity on the nature of documents and necessary details enable the request to be filled more expediently and in a manner which may produce cost savings to the requestor. For example, to the extent available, specific requests should include information such as the record’s name or title, location(s), date(s), author(s), recipient(s), specific subject matter, or category of records. The City may contact the requestor to attempt to clarify and understand the request. Requests that are not sufficiently specific may be denied or deemed abandoned.

¹ Records qualifying as criminal justice records under the Colorado Criminal Justice Records Act, CRS § 24-72-301, *et seq.*, are not subject to this policy and must be submitted directly to the Police Department.

² C.R.S. § 24-72-202(6)

- b. Records Not Yet In Existence. Requests (or portions of requests) that seek records that are not yet in existence, that seek disclosure on a continuing or periodic basis, or that consist of interrogatories, editorials, or other similar comments will not be fulfilled.
- c. Voluminous, Broad or Ongoing Requests. The production of requests for voluminous documents, broad or extensive information may not be immediately feasible. If production of requested records is not feasible within this policy's time limit, the custodian is excused from producing the request within the time limits if production would significantly and adversely impact critically important or previously scheduled City work. If the City cannot respond to the request within three business days, the requestor will be notified and provided with an estimated timeframe for when a response will be provided
- d. Civility. The City may reject any request where the request or any communication relating to the request includes demeaning, harassing, or threatening language or abusive conduct. The City may prohibit an individual or entity from submitting requests where that person or entity has previously submitted requests that have included such language or conduct or that have been deemed abandoned as provided in this policy.
- e. Multiple or Modified Requests. Multiple requests and requests submitted by the same person or entity within five business days will be treated as one request for purposes of allocating fees and costs.

B. Responses to Records Requests

- 1. Nature of Response. The City may respond to a records request by: (a) providing the requested records; (b) making the requested records available for inspection; (c) denying the request; (d) responding that there are no records responsive to the request; (e) requesting clarification or narrowing the request; (f) directing requester to proper custodian of the record; (g) providing a cost estimate to respond to the request and request a deposit in accordance with this policy; (h) any combination of these; or (i) any other appropriate response.
 - a. If the City makes records available for inspection, the requestor may mark the pages she or he wishes to have copied with adhesive tabs and copies will be made at a later time.
 - b. In no event shall any records leave the custody and possession of a City employee during inspection. The City will not allow requestors to access City computers that are connected to internal City computer systems not ordinarily available for general public use.
- 2. Timeline for Response. Upon receipt of a complete and properly submitted records request and payment for estimated fees related to such request, the City will strive to provide a response within three business days, excluding holidays and weekends. Record requests shall not take priority over the previously scheduled work activities of the City. If the City

cannot respond to the request within three business days, the requestor will be notified and provided with an estimated timeframe for when the response will be provided.

- a. 10 Days to Review. The City will deem a request as abandoned if, after ten business days, the requestor has not reviewed records made available for inspection, retrieved records copied by the City in response to the request, or submitted payment for the identification, collection, evaluation, and copying of records. At such time, any original record will be returned to its normal place and any copies will be destroyed.
3. Conferral. Conferral between the requestor and the City is encouraged throughout the entirety of the process, and in some instances may be required.
4. Deleted Documents. Unless the requestor can provide a sufficient factual basis to establish bad faith, the City shall have no duty to recreate or reconstruct any mailbox or hard drive in order to respond to a request for documents.
5. Creation of Records NOT Required. The City is not required to create a new document in order to respond to a request for information.
6. Manipulation of Record NOT Required. The City will endeavor to provide information in that form which is most convenient and practical, in its discretion, but will not manipulate or customize the format of record. The City may respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a copy, disk or printout, but shall not allow access to a computer terminal connected to internal City computer systems not ordinarily available for general public use.
7. Format of Electronic Record. If a record is stored in digital format, the City will produce such record in digital format. If a digital record is stored in a searchable format, it shall be provided in searchable format; if stored in a sortable format, it will be provided in sortable format. Notwithstanding the foregoing, a digital record shall not be produced in searchable or sortable format if production would violate a copyright or licensing agreement, would result in the release of proprietary information, or it would not be technologically or practically feasible to permanently remove information that is required to be withheld in such format. It shall not be considered technologically or practically feasible to produce a record in such a manner if the custodian would be required to purchase software or create additional programming to remove information required to be withheld. If custodian cannot comply with requested format, the custodian shall provide an alternative format and provide requester with a written explanation as to why.
8. Certain Records Withheld or Redacted. Although most City documents are open to public inspection, certain information is specifically protected by State and/or Federal law, such as confidential personal information and attorney-client privileged information. When a request for records is received, it shall be the responsibility of the City Clerk, in consultation with the City Attorney's office, to determine whether or not the requested records should be released. If any portion of the requested records are only partially available for public inspection under State and/or Federal law, such records shall be redacted to protect such information and made available for inspection in such format.

Time spent on redaction shall be subject to the fees set forth in Section C.3. below. The following records shall not be available for inspection:

- a. If, upon consultation with the City Attorney, inspection would be contrary to any state or federal statute or regulation or is prohibited by court order;
 - b. Communications from attorneys in the City Attorney office or other special counsel to any individuals other than those to whom the communication was directed without the consent of the authoring attorney or City Attorney;
 - c. If disclosure would do substantial injury to the public interest, even though such record is otherwise available for public inspection under the provisions of this policy, the custodian may deny access to such public record. When a public record is withheld pursuant to this provision, the custodian shall provide the person requesting the record a sworn statement generally describing the document or documents withheld and explaining why disclosure would cause substantial injury to the public interest;
 - d. The content of personnel files, specifically including but limited to, social security numbers, home addresses, home telephone numbers, and personal medical, psychological, sociological and scholastic achievement data;
 - e. Letters of reference
 - f. Correspondence between City Council and constituents where it is clear that there was an expectation of confidentiality;
 - g. Trade secrets, privileged information, or confidential commercial or financial information furnished or obtained from a person that cannot be accessed by the general public;
 - h. Sexual harassment investigations
 - i. Work product and drafts
 - j. Deliberative process materials;³
 - k. Real estate appraisals; and
 - l. Investigatory files compiled for any law enforcement purpose; and
 - m. Any other disclosure exceptions found within C.R.S. 24-72-204.
9. Failure to Pay for Prior Request. The City will not proceed with a new request for a requestor who has not paid all costs associated with a previous request.
10. Records Available Elsewhere. Many City records are available on its website at [www.englewoodco.gov] such as financial documents, City Council agendas, minutes, and the Municipal Code and City Charter. If the records that are the subject of a request are

³ Deliberative process materials are defined as material so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government.

available publicly (i.e., on the City website), the City Clerk may direct the requestor to such source for inspection of the records.

C. Inspection and Copying of Records/Fees

1. The City shall retain control of the records at all times. All inspection is subject to the supervision of the appropriate records custodian.
2. Records are generally available for inspection by appointment from 9:00 a.m. until 12:00 p.m. and 1:00 p.m. until 4:00 p.m., Monday through Friday, except during any holiday observed by the City or according to different hours of operation established by respective City departments.
3. Fees & Costs. The City may charge reasonable fees for the production of record(s), including without limitation the cost of copying or reproduction and time spent by City (through its employees or any third-parties) to identify, collect, evaluate, redact, format, and reproduce records, prepare responses and privilege logs, or otherwise respond to the request.
 - a. When the response to a request, in the aggregate, takes longer than one hour, the City will charge \$30 per hour (excluding the first hour) spent by any employee or third-party to review, evaluate, identify, collect, evaluate, redact, format, and reproduce records, to prepare responses, or to otherwise respond to a request (except for third-parties retained to assist with responding to requests for electronically stored information). Standard size paper copies will be charged \$0.25 per page. Non-standard size pages are subject to an additional fee. Total copy charges of \$5.00 and under will be waived.
 - b. A fee of twenty-five cents per standard page (8x10 or 8.5x11) will be charged for the reproduction of paper records. If a commercial copy service is necessary to produce copies in the City's discretion, the requestor will be responsible for paying the actual charges for such service.
 - c. The requestor must pay the actual cost of any media and third-party service required to respond to requests (including the identification, collection, and evaluation of records as well as production) for electronically stored information (no external hard drive or other media provided by the requestor will be accepted, unless approved by the Director of Information Technology). USB's provided by the City will be charged \$5.00 unless otherwise noted at the time of estimate. Nothing in this Policy requires the City to take action beyond what is required by the Act or other law.
 - d. The requestor must pay the actual costs of transmission of any records (except when transmitted by e-mail).
4. Payment of Fees & Costs:

- a. The City will accept payment in the form of cash, card, or check at the Finance Counter only (no over the phone payments).
 - b. Where fees and costs may apply, the City will not take further steps after notifying the requestor of the estimate of fees and costs until the payment of such fees and costs has been agreed to and, where appropriate, paid as provided in this policy. Any timeline for the City to respond to a request will be tolled pending such payment.
 - c. Before processing a request, the City may require an advance deposit of (in any combination, as appropriate): (a) up to 50% of the estimated fees and cost where that the City anticipates more than two hours of time will be required; or (b) 100% of the estimated costs of media and third-party services required to respond to requests for electronically stored information.
 - d. The actual costs, as calculated in this policy, must be paid before the inspector is provided access to records or copies under this policy.
5. Creation of Logs. When staff time in excess of one hour is required to respond to a records request, a time-log may be maintained on request describing the time spent in responding to the request.
 6. Publication. The City Clerk, on behalf of all custodians for the City of Englewood records, shall publish this Policy by posting and maintaining it on the City of Englewood's website.