

Resolution #36, Series of 2024

A RESOLUTION ADOPTING AN UPDATED PUBLIC RECORDS POLICY

WHEREAS, the City of Yuma City Council desires to adopt a Public Records Policy in accordance with the Colorado Open Records Act, the Colorado Criminal Justice Records Act, and applicable law; and

WHEREAS, the City Council finds it is in the best interests of the City to adopt such a policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YUMA, COLORADO, THAT:

Section 1. The Public Records Policy, attached hereto as **Exhibit A**, is hereby adopted, supersedes any prior policy of the City, and is effective immediately. The City Clerk is hereby directed to publish the attached Public Records Policy on the City's website and to have a copy available for the public at City Hall.

Section 2. This resolution shall be in full force and effect from and after its passage and approval.


Section 3. If any portion or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion or provision shall not affect any of the remaining provisions of this resolution, the intention being that the same are severable.

ADOPTED AND APPROVED this 15th day of October, 2024.

Ayes 6


Noes 0

Absent/Abstain _____



Tim McClung
Mayor



Attest:


Karma Wells
City Clerk

CITY OF YUMA PUBLIC RECORDS POLICY

1. **PURPOSE:**

The policy of the City of Yuma (the "City") is that the decision-making process is a matter of public business and may not be conducted in secret. All public records shall be open for inspection by any person at reasonable times, except as otherwise provided by law. However, computer-generated communication systems may be used by employees for the purposes of documenting and/or sending personal or private messages, regardless of City personnel policies prohibiting such use, or messages not intended to be viewed by the public. The City desires to implement a policy that will serve the public's right to access public records, while identifying to employees the inherent difficulties in ensuring privacy in the use of the City's computer system for personal use.

2. **AUTHORITY:**

The City enacts this Policy under the following authority: the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, as amended (the "CORA"); the Colorado Sunshine Law, C.R.S. §§ 24-6-401, *et seq.*, as amended; the Colorado Criminal Justice Records Act, C.R.S. §§ 24-72-301, *et seq.*, as amended (the "CCJRA"); *Mountain Plains Investment Corp. v. Parker Jordan Metro, Dist.*, 312 P.3d 260 (Colo. App. 2013); *Black v. Southwestern Water Conservation Dist.*, 74 P.3d 462 (Colo. App. 2003); *Glenwood Post v. City of Glenwood Springs*, 731 P.2d 761 (Colo. App. 1986); and additional applicable case law.

3. **DEFINITIONS:**

For purposes of this Policy, the following terms shall have the following meanings:

A. Correspondence: A communication that is sent to or received by one or more specifically identified individuals and that is or can be produced in written form, including, without limitation, communications sent via electronic mail, private courier, U.S. mail, modem or computer.

B. Custodian of Records: The individual who shall be responsible for compiling documents, scheduling appointments for inspection, and for responding to any such public records request.

i. The City Council hereby designates the City Clerk as the Custodian of Records for the purposes of public records requests under the CORA, except as provided herein. The physical location of the records shall not alter the designation of the City Clerk as the official Custodian of Records for purposes of responding to public records requests under the CORA.

ii. The City Council hereby designates the Municipal Court Clerk as the Custodian of Records for the purposes of public records requests under the CCJRA. The physical location of the records shall not alter the designation of the Municipal Court Clerk as the official Custodian of Records for purposes of responding to public records requests under the CCJRA.

iii. The City Council hereby designates the City of Yuma Ambulance Department Head as the Custodian of Records pursuant to the CORA for the purposes of public records held by the City of Yuma Ambulance Service. All requests for records held by the City of Yuma Ambulance Service must be made directly to the City of Yuma Ambulance Service on forms provided by that Department Head as custodian. The physical location of the records shall not alter the designation of the Yuma Ambulance Service Department Head as the official Custodian of Records for purposes of responding to public records requests under the CORA.

C. **Electronic Mail ("E-mail")**: An electronic message that is transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. E-mail includes electronic messages that are transmitted through a local, regional or global computer network.

D. **Work Product**: 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 for the purpose of assisting such elected officials in reaching a decision within the scope of their authority. Such materials include, but are not limited to: (a) Notes and memoranda that relate to or serve as background information for such decisions; and (b) Preliminary drafts and discussion copies of documents that express a decision by an elected official. "Work product" also includes a request by a City official for the preparation of such opinion or deliberative materials. For example, if the City Manager requests in writing that staff prepare material to assist the City Council in a decision-making process, the written request shall also be considered "work product."

4. **PROTECTED RECORDS:**

Certain records are protected under law from public inspection under the CORA. These records fall into the following categories:

- Personnel files
- Ongoing investigations by law enforcement authorities
- Victim/witness information
- Social security numbers
- Juvenile criminal records
- Work product
- Correspondence sent to or received from the City's legal counsel
- Individual medical, mental health, sociological and scholastic achievement data
- Letters of reference
- Trade secrets
- Confidential commercial or financial data

- Names, addresses, telephone numbers, and personal financial information of past or present users of public utilities, facilities, or recreational or cultural services
- Records of sexual harassment complaints and investigations
- Library records and contributions
- Addresses and telephone numbers of students in any public elementary or secondary school

Records may also be protected under law from public inspection under the CCJRA. Records that are exempt from the CORA and the CCJRA might still be accessible to other forms of inspection, such as subpoena.

5. RETENTION OF DOCUMENTS:

All public records other than e-mail shall be retained in accordance with the guidelines established by the Colorado State Archives. At the request of the City Attorney, the Custodian of Records may retain certain records after the retention period expires.

6. INSPECTION:

A. General. Public records shall be open for inspection by any person at reasonable times, subject to the exceptions found in the CORA and the CCJRA. All public records shall be inspected at the City Hall, the Yuma Police Department or at the offices of the City Attorney.

B. Request Required. A request to inspect public records must be written, and sufficiently specific in scope to enable the Custodian of Records to identify the information desired. Requests for inspection of e-mail shall include the sender's name, the recipient's name and the approximate date and time of the transmission. If the Custodian of Records receives a request to inspect public records that is ambiguous or lacks sufficient specificity to enable the Custodian of Records to locate the records, the Custodian of Records shall, within three (3) working days, notify the requesting party in writing of the deficiencies in the request. Any clarified request shall be considered a new request for purposes of this Policy, the CORA, and the CCJRA.

C. Review and Response. Upon receipt of a request for inspection of public records under the CORA, the Custodian of Records shall review the request and determine whether the requested records are voluminous, in active use, or otherwise not readily available. If so, the Custodian of Records, within three (3) business days, shall notify the requesting party in writing that the documents will be produced for inspection within seven (7) additional business days, pursuant to C.R.S. § 24-72-203(3). The notice shall state the reason(s) why the requested records are not readily available and shall ask the requesting party to schedule an appointment for inspection of the requested records. Notwithstanding the foregoing, based on the case of *Citizens Progressive Alliance v. Southwestern Water Conservation District*, 97 P.3d 308 (Colo. App. 2004), if it is physically impossible for the Custodian of Records to comply with a request for public records within the time periods established by CORA, the Custodian of Records shall comply with the request as soon as physically possible. Upon receipt of a request for inspection

of public records under the CCJRA, the applicable Custodian of Records shall review the request and respond in accordance with the CCJRA.

D. City Attorney. Any of the notices required herein may be issued by the City Attorney in lieu of the Custodian of Records. By written notice, the City Attorney may further require that any requesting party contact the City Attorney rather than the Custodian of Records.

7. FEES:

A. Copies, Printouts, Photographs and Other Material. Pursuant to C.R.S. § 24-72-205(5)(a), the City shall charge a fee not to exceed twenty-five cents (\$0.25) per standard page for any copy of a public record or a fee not to exceed the actual cost of providing a copy, printout or photograph of a public record which is in a format other than a standard page. For purposes of this Policy, a black and white copy made on a single sheet of letter or legal sized white paper shall constitute a "standard page."

B. Research and Retrieval Time. Pursuant to C.R.S. § 24-72-205(6)(a), the first hour of research and retrieval time shall be free of charge; however, the City reserves the right to charge a fee of forty-one and thirty-seven cents (\$41.37) for any additional staff time, including attorney review time, devoted to researching and retrieving the requested information. Anyone submitting a request for public records shall remit a deposit equal to the estimated costs for the search and for the material (if copies of material rather than just an inspection are requested) before any such search commences. For requests under the CCJRA, pursuant to C.R.S. § 24-72-306(1), the City shall charge a fee of forty-one dollars and thirty-seven cents (\$41.37) for the search, retrieval and redaction of criminal justice records.

C. Postage/Courier Fees. If the Custodian of Records transmits records by regular mail or courier service, the requesting party shall be responsible for the cost of postage or courier fees.

D. Electronic Transmission Fees. The Custodian of Records may not charge transmission fees to the requesting party for transmitting public records via e-mail, although the requesting party may be charged for staff time associated with research and retrieval of the requested records as provided herein.