

TOWN OF SUPERIOR
RESOLUTION NO. R-15
SERIES 2020

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR AMENDING THE TOWN OF SUPERIOR PUBLIC RECORDS
POLICY

WHEREAS, pursuant to C.R.S. § 24-72-205(6)(b), the Director of Research of the Legislative Council Staff of the Colorado Legislative Assembly is required to adjust the maximum hourly fee for the research and retrieval of public documents pursuant to the Colorado Open Records Act ("CORA") for inflation stating on July 1, 2019, and each 5 years thereafter;

WHEREAS, on June 21, 2019, pursuant to these statutory provisions, the State of Colorado increased the maximum hourly fee for the research and retrieval of public documents in response to a CORA request from \$30.00 to \$33.58, effective July 1, 2019; and


WHEREAS, the Board of Trustees wishes to modify the Town's hourly fee for the research and retrieval of CORA requests from \$30.00 to \$33.58.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

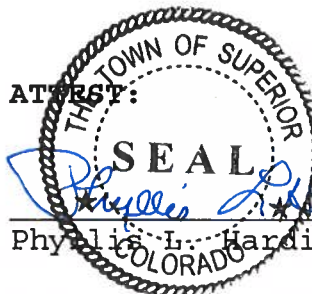

Section 1. The Town of Superior Public Records Policy is hereby amended, modifying the Town's hourly fee for the research and retrieval of CORA requests from \$30.00 to \$33.58.

Section 2. The attached amended Public Records Policy is hereby adopted and shall take effect immediately. The Town Clerk is hereby directed to publish the attached Public Records Policy on the Town's website and to have copies available for the public at Town Hall.

ADOPTED this 10th day of February, 2020.



Clint Folsom, Mayor

ATTEST:



Phyllis L. Hardin, Town Clerk



OPEN RECORDS REQUEST FORM

Requested By: _____

Phone Number: _____

Mailing or Email Address: _____

Date Requested: _____ Time Requested: _____

Specific Records Requested: _____

Requestor's Signature: _____ Date: _____

Office Use Only

Date documents were available for inspection: _____

Date documents were inspected: _____

Date & Time Request Completed: _____

Request Completed by: _____

Denial of Request and basis for denial: _____

Staff Time required for research: _____

(NOTE: First one hour (1 hour) of research time – no charge; \$33.58/hour thereafter

Fee: No ___ Yes ___ \$_____ per page Other costs \$_____ Total Cost \$_____

Any document requested already in electronic form is free of charge.

124 E. Coal Creek Drive · Superior, CO 80027 · (303) 499-3675

Fax: (303) 499-3677 · www.superiorcolorado.gov

Open Records Request Fees	
Description	Fee
Standard Page: Letter or Legal	\$0.25
11 x 17 Black & White – Oversized	\$0.50
8 ½ x 11 Color – Letter	Actual Costs*
8 ½ x 14 Color – Legal	Actual Costs*
24” x 36” Mylar – Black & White	Actual Costs*
Research Fee – Town Personnel	\$33.58 per hour (First 60 minutes of research time free)
* Actual Costs mean the time it takes a Staff person to prepare the necessary documents, the cost of the document, and mileage if necessary to go off site to make copies.	
Miscellaneous Fees	
Description	Fee
Postage/Mailing Fees	Actual Costs*
Video tape or DVD	\$10.00 \$5.00 if applicant brings in tape or DVD
*Actual Costs mean the time it takes a Staff person to prepare the necessary documents, the cost of the document, and mileage if necessary to go off site to make copies. All copies are subject to Superior’s sales tax	

TOWN OF SUPERIOR PUBLIC RECORDS POLICY

1. PURPOSE:

The policy of the Town of Superior (the "Town") 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 are frequently used by employees for the purposes of documenting and/or sending personal or private messages, or messages not intended to be viewed by the public. The Town 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 Town's computer system for personal use.

2. AUTHORITY:

The Town enacts this Policy under the following authority: the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, as amended ("CORA"); the Colorado Sunshine Law, C.R.S. § 24-6-401, *et seq.*, as amended; and *Glenwood Post v. City of Glenwood Springs*, 731 P.2d 761 (Colo. App. 1986).

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. The Town Council hereby designates the Superior Town Clerk as the Custodian of Records.

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 Town official

for the preparation of such opinion or deliberative materials. For example, if the Town Manager requests in writing that staff prepare material to assist the Board of Trustees 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 Town'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 that are exempt from the CORA might still be accessible to other forms of inspection, such as subpoena.

5. E-MAIL:

The Town shall make all e-mail which constitutes a public record and is not protected from disclosure under the CORA available for public inspection for a reasonable fee established by this Policy. All Town employees and officials shall refer to the Town of Superior E-mail Policy regarding all use, privacy, security, retention and archiving procedures.

6. RETENTION OF DOCUMENTS:

All documents which constitute 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 Town Attorney, the Custodian of Records may retain certain records after the retention period expires, if those records are relevant to pending or imminent litigation involving the Town.

7. INSPECTION:

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

C. **Review and Response.** Upon receipt of a request for inspection of public records, 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.

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

8. FEES:

A. **Copies, Printouts or Photographs.** 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 Town reserves the right to charge a fee of thirty-three dollars (\$33.58) per hour for any additional staff time devoted to researching and retrieving the requested information. Anyone submitting a request for electronically stored public records shall remit a deposit equal to fifty percent (50%) of the estimated costs for the search before any such search commences.

C. Board Meeting Packets. Notwithstanding subsections A and B above, one (1) copy of the packet for each Board of Trustees meeting shall be made available to each resident free of charge, upon request in person at Town Hall. Only standard, black and white, 8½ x 11" pages shall be included in the free Board meeting packet; oversized documents shall not be included in the free Board meeting packet.