

RESOLUTION NO 2024-26

AN RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF MOFFAT, COLORADO AUTHORIZING AND APPROVING POLICY AND PROCEDURES FOR STAFF RESPONDING TO COLORADO OPEN RECORDS ACT REQUESTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees finds it necessary to implement policy and procedures for staff responding to Colorado Open Records Act ("CORA") requests in the manner set forth in this Resolution; and

WHEREAS, the Board of Trustees further finds the policy and procedures set forth to be reasonable and necessary to conduct efficient and effective responses in accordance with state law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MOFFAT, COLORADO that:

SECTION 1. The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.

SECTION 2. That the policy and procedures set forth in Exhibit A, are adopted by the Board of Trustees.

SECTION 3. Should any of the clauses, sentences, paragraphs, sections, or parts of this Resolution be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Resolution.

SECTION 4. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the Board of Trustees for the Town of Moffat, Colorado, on November 12<sup>th</sup>, 2024.

TOWN OF MOFFAT

  
Don Studinski, Mayor

ATTEST:

  
Matt Litrenta, Town Clerk

**EXHIBIT “A”**

**POLICY AND PROCEDURES FOR COLORADO OPEN RECORDS ACT (“CORA”)  
REQUESTS**

## **Exhibit A**



**TOWN OF MOFFAT | EST. 1911**

### **POLICY AND PROCEDURES FOR COLORADO OPEN RECORDS ACT (“CORA”) REQUESTS**

This policy applies to all properly submitted requests to inspect public records of the Town of Moffat, Colorado, pursuant to the Colorado Open Records Act (“CORA”), C.R.S. § 24-72-201 et seq. The Purpose of this policy is to:

- Assist the public in locating specific public records and to ensure public access to public records without unreasonable delay or cost, in accordance with the requirements of C.R.S. 24-72-201 et seq.
- Protect the integrity of the records;
- Prevent unnecessary interference with the regular discharge of the duties of the custodian's office;
- To provide clear and consistent guidance to requestors.

### **DEFINITIONS**

Definitions found in C.R.S. §24-72-202, as amended from time to time, shall apply unless the context clearly requires a different meaning in accordance with customary usage. As used herein, "Town Clerk" shall mean the appointed Town Clerk of Moffat, Colorado or their designee.

### **POLICY**

CORA requires that all public records be open to inspection by any person at reasonable times unless excepted by law. This policy is adopted to ensure adequate and timely access, promote transparency, and enable, if applicable, the Town to charge expenses incurred from the research and retrieval of public records in relation to the staff time and resources such requests may

demand in accordance with the law. All CORA requests must be submitted in the manner set by this policy.

## **PROCEDURE**

C.R.S § 24-72-203(1)(a) allows the official custodian of public records (the Town Clerk in Moffat's case) to make reasonable rules and regulations with regards to the copying and inspection of public records and to prevent unnecessary interference with the regular duties of the custodian.

1. The Town Clerk is the custodian of the Town's records. All requests to inspect public records should be submitted in writing to the Town Clerk by use of the Town's CORA Request Form. Requests may be accepted via email, mail, or hand delivery. Requests will not be accepted over the phone.
2. All requests for records must be specific as to the records sought and the relevant dates covered by the request. Requests for correspondence must sufficiently identify, to the extent practicable, the parties to the correspondence. For any request that is vague, unclear, confusing, or broadly stated, the Town Clerk may require the requestor to provide a more specific request before investigating what documents or materials may be responsive. While seeking clarification, the time to respond to a CORA request will be stayed until a sufficient clarifying response by the requester is received. The requester may contact the Town Clerk with any questions.
3. Please ensure that your request is asking for specific documents or data or information as they have been stored or exist and not information about and/or explanation of documents, which will not be provided. The Town will not compile information for a requestor when a document or record does not exist. Include your name and contact information on the CORA Request Form to ensure efficient communication.
4. The Town will make every reasonable attempt to fulfill all Public Records requests within three (3) working days following the date of receipt if the records are readily available. An additional seven (7) working days may be added, at the discretion of the Town Clerk or designee, if the records are in active use or in storage and not readily available, the request is overly broad, or the request is for a large volume of records. If additional days are necessary, the Town Clerk will notify the requestor in writing of the extenuating circumstances within the initial three (3) working day period.
5. The date the request is initially received by the Town Clerk will constitute the "date of receipt" for purposes of calculating the three (3)- or seven (7)-day requirement to fulfill the request unless clarification or a deposit is required. If a deposit is required, the Town Clerk will notify the requestor within two (2) business days the request is initially

received with the estimated cost and the date the deposit is paid will be the “date of receipt for purposes of calculating the three (3)- or seven (7)- day requirement to fulfill the request. Any request received between 3 p.m. and midnight, or on a non-working day, will be deemed received on the following working day.

6. The Town will not disclose certain records if the disclosure is contrary to state or federal law or regulation or to a court order. The Town will not provide certain records or parts of records exempt under CORA or other applicable law from disclosure. Examples of such records include, but are not limited to: trade secrets; privileged information, such as attorney-client communications and confidential commercial information; executive session records; deliberative process privileged materials; sexual harassment complaints and investigations; materials submitted by certain applicants for executive positions; medical, psychological, sociological, and scholastic achievement data; records on users of public facilities; personnel files and letters of reference; juvenile information; and personally identifiable information including social security numbers, dates of birth, electronic mail addresses, and driver's license or other state identification numbers. C.R.S § 24-72-204(3)(a) et seq. and as clarified by case law.
7. If the Town Clerk determines that the request for a record is denied, within three (3) working days of the date of receipt of the CORA request, the Town Clerk will notify the requester in writing that access to such record is denied and the reasons for the denial.
8. If the requested record is not available (lost, non-existent, etc.), the Town Clerk shall notify the requester in writing within three (3) working days of the date of receipt of the request.
9. If the request is determined to be within the guidelines of CORA and the request will generate a fee, the Town will provide a cost estimate to complete the request. The total estimated amount will be collected by the Town Clerk as a deposit before proceeding with the request. The actual charge of fees will be deducted from the deposit and the Town Clerk will refund any remaining amount to the requestor. If an amount above the deposit is due, the Town Clerk will collect this amount at the time of the document distribution. No records will be released until all amounts due have been paid.
10. Upon notice to the requester that public records are available for inspection (for materials that cannot easily be provided electronically or otherwise) the records will be made available for inspection for thirty days from the date of the notice. If the requester does not inspect the records within thirty (30) calendar days, the CORA request will be deemed closed.

11. Requested records pursuant to CORA will not be modified/omitted with the exception of information exempt from disclosure.
12. No employees should assume a document is exempt from CORA. The Town Clerk or assignee will contact the assigned liaison from the department(s) who maintain the record(s) requested and notify them of the request. Any and all responsive records will be provided to the Town Clerk or assignee in a timely fashion. No records will be provided to the requestor directly by any contact other than the Town Clerk or designee.
13. If the records are available on the Town website or other public site, the Town will not otherwise produce those records.

## **FEES**

The Town may charge for staff time spent gathering, researching, retrieving, and/or redacting responsive documents pursuant to a CORA request and for copies or other actual costs incurred. Fees are as follows.

- Staff time spent responding to a record request, including research, gathering, retrieving, and/or redacting data will be assessed for the records request. The Town does not charge for the first hour of staff time. After the first hour, the staff time will be charged in quarter-hour increments. A time log outlining staff time spent responding to the request may be provided upon request. Fees for research and retrieval and other staff activity described in this paragraph may be charged at the maximum rate by statute but only in accordance with the applicable Town of Moffat fee schedule.
- Records may be emailed to the requestor free of charge if the document already exists in electronic form and additional staff time over one hour is not required to fulfill the request.
- Subsequent or duplicate requests under CORA for the same or similar materials may be charged the original fee of cost to produce, review, or redact the requested documents.
- The charges for copies of documents are \$0.25/page for copying a standard 8 ½ x 11 " or 11 x 17" page, \$2.00/page for larger documents, \$1.00/page for color copies, and actual Town copy costs if third-party printing is required.
- The Town may charge up to the actual cost for copying nonstandard public records such as (without limitation) CDs, USB drives, and audio recordings. Actual cost charges pertain to the materials used to copy and do not include staff time/compensation in retrieval and copying costs, which shall be assessed separately.

- The Town reserves the right to charge fees to cover the cost of transmission via postal or another carrier.
- The Town will charge fees for research and retrieval by the quarter hour increments. This fee will also apply to the time Town personnel must spend in attendance while a third party is reviewing documents.

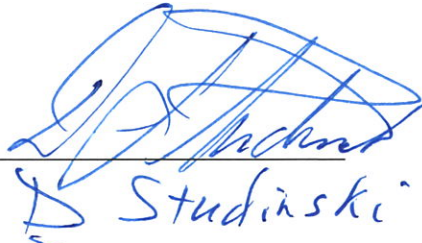
## **FORMAT**

1. The Town Clerk may provide records stored in a digital format in the same format that the record is stored when possible. For example:
  - a. If the record is stored in a digital format that is neither searchable nor sortable, the Town Clerk will provide a copy of the record in that same format (such as a scanned or saved document in non-searchable PDF format).
  - b. If the record is stored in a digital format that is searchable, but not sortable, then the Town Clerk will provide a copy in a searchable format (such as Word or a searchable Portable Document Format [a. k. a. "PDF"]).
  - c. If the record is stored in a digital format that is sortable, then the Town Clerk will provide a copy of the record in a sortable format (such as Excel or a comma-separated values format [a.k.a. "CSV"]).
2. The Town is not required to produce a public record in a searchable or sortable format if: (1) producing the record would violate the terms of any copyright or licensing agreement or result in the release of a third party's proprietary information; (2) it is not technologically or practically feasible to permanently remove information that the Town is required or allowed to withhold within the requested format; (3) it is not technologically or practically feasible to provide a copy in a searchable or sortable format, or (4) if the Town would be required to purchase software or create additional programming of functionality in its existing software to remove the information.
3. If the Town is not able to provide the record in the digital format for the reasons specified in item 2 above, the Town Clerk will complete the request in an alternate format or issue a written denial.

## **EFFECTIVE DATE**

This policy shall be effective upon signature.


Mayor:

  
Studinski

11/12/2024  
Date

Attest:

Town Clerk

  
Matt Litrenta

11.12.2024  
Date