

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 26 - 2024

A RESOLUTION APPROVING AN AMENDED PUBLIC RECORDS POLICY

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Town Board of Trustees has previously adopted a Policy Regarding Access to Public Records (the "Public Records Policy"); and

WHEREAS, recent changes in Colorado law, including the enactment of Senate Bill 23-286 necessitate revision of the Town's Public Records Policy, as it relates to (1) requiring identification of a person making a records request and (2) providing materials that are available in electronic format; and

WHEREAS, such changes are reflected in the attached amended Public Records Policy.


NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Board of Trustees for the Town of Palmer Lake hereby approves the amended Public Records Policy as attached hereto.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 11th DAY OF APRIL 2024.

ATTEST:

TOWN OF PALMER LAKE, COLORADO



Dawn A. Collins
Town Administrator/Clerk

BY: 

Grant Havenar
Mayor



POLICY RELATING TO PUBLIC RECORDS

Effective Date: February 6, 2020; Revised April 11, 2024

Scope: All records within the Town of Palmer Lake, except that this policy shall not apply to criminal justice records (as defined in C.R.S. 24-72-302).

Purpose: The purpose of this policy is to assure prompt and equitable service to citizens requesting access to public records, regardless of the format of those records, in accordance with the requirements of C.R.S. 24-72-201 et. seq. This policy does not apply to criminal justice records, as defined in C.R.S. 24-72-302.

Background: C.R.S. 24-72-202(6)(a) defines public record as "all writings made, maintained, or kept... by any local government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds." The definition of public records also includes the correspondence of elected officials, except to the extent that such correspondence is: 1) a work product, 2) without a demonstrable connection to the exercise of functions required by law or administrative rule, 3) a communication from a constituent to an elected official that clearly implies by its content that the constituent expects that it is confidential in nature or subject to nondisclosure, or 4) pursuant to procedures in C.R.S. 24-72-204(1) the material requested is not to be disclosed. Additionally, C.R.S. 24-72-202(7) defines writings to include "all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation electronic mail messages, but do not include computer software."

C.R.S. 24-72-203(1)(a) allows the official custodian of public records (Town Clerk) to 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.

Policy: It shall be the policy of the Town of Palmer Lake 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.

All requests made under the Open Records Act shall be made in writing to the Town Clerk, who is the Records Custodian. The Town Clerk may designate other staff to receive requests on behalf of the Town Clerk. In the case of a request made in person, the custodian shall either provide the records to the requestor if the records are immediately available or shall provide a response in writing within three (3) working days letting the requestor know the date, time, and location where the records can be inspected, along with an estimate of the fees. In the case of a request received by U.S. Postal mail, e-mail, or fax, the custodian shall respond within three (3) working days of receipt of the request. Such period may be extended if extenuating circumstances exist (per C.R.S. 24-72-203(3)(b)), but the extension period shall not exceed seven (7) additional working days. If a deposit is required, the request is not considered received until the deposit is paid.

Open Records requests are to be in writing. The requestor may use the form provided by the Town Clerk or submit the request without the form including the equivalent information.

If a record contains both public and confidential material, the Town is not required to redact confidential material in order to comply with a request for the record. However, the Town Clerk may agree to provide redacted records if the requestor pays the redaction fee as shown on the schedule below.

Requests for routine copies of non-restricted, readily available documents (e.g. minutes, agendas, ordinances, resolutions, etc.) shall not be considered an open records request and shall not be required to be submitted in writing. However, applicable fees may still apply.

Electronic records and electronic communications: Records stored on electronic (non-paper) media are considered public records and open to disclosure. After receiving a written request for records stored in an electronic format, the custodian will notify the requestor of the most effective means of making these records available. This may include providing portable electronic media (such as disks or drives), referring the requestor to the Town's web site or other public access device, providing hard copy printouts, or providing the requested records in any other format deemed appropriate by the custodian. Data manipulation fees may apply.

If the records are stored in an electronic format which is "searchable and sortable", the record may be available in that native format as described in CRS 24-72-203(3.5)(a) unless that format does not accommodate redaction of confidential records as described in CRS 24-72-203(3.5)(b).

Please note that open records requests may be a public record under the public records law and may be subject to public inspection under C.R.S. 24-72-203 and the policy of the Town.

Fees and charges: Requests may require a non-refundable deposit equal to the estimated amount. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records with applicable fees. In the event the deposit amount exceeds the actual costs, the balance shall be refunded within 30 days.

The open records request shall be considered received only when the deposit has been paid.

Each standard page (8 1/2" x 11") will be charged at 25 cents per page. Non-standard sizes or color products (if available) will be charged at the actual cost of production. In addition, the requestor must pay any research and retrieval fee associated with producing the record in accordance with the schedule below, and within the restriction of state law. The custodian will also charge a fee for any manipulation of data needed to generate a record in a form or format that does not already exist. This includes redaction if needed. This also includes converting a proprietary file format into a standard format. This fee shall not exceed the actual cost of manipulating said data and generating the record. Persons making a subsequent request for the same record shall be charged the same fee.

The Town will respond to requests for access to public records stored electronically and in computer software by transmitting a digital copy of the public records in a digital format by electronic mail or by another mutually agreed upon transmission method if the size of the records prevents transmission by electronic communication. The custodian may charge a fee for providing copies of electronically stored public records, except as limited under state law. The fee will be based on research and recovery of the actual costs of providing the electronic services and products. A per page fee will not be charged for providing records in a digital or electronic format.

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 below if applicable.

Fees and charges for reproduction of records shall be standard throughout the Town for similar items. The Town Clerk has the authority to waive such fees and charges when it is deemed in the best interest of the Town to do so.

**TOWN OF PALMER LAKE PUBLIC RECORDS
STANDARD FEES AND CHARGES**

Photocopies or printouts

8 ½" x 11" black/white, \$0.25 per page beginning with the 6th page. The first 5 pages are provided at no cost.

Other sizes and color may be charged at actual cost, and may be provided by a third party service

Document certification

\$5.00 per document (in addition to the per page copy charge)

Portable media, such as CD/DVD/flash drive

Actual cost of media plus research/retrieval time.
NOTE: The Town does not have the technology available to provide excerpts of audio or video files.

Publications produced by the
Town of Palmer Lake

Price varies, will be established based on
on actual production cost.

Research, Retrieval and Data Manipulation Fees

There is no charge for the first hour.

\$30.00/hr. beginning with the second hour. This includes staff time needed for monitoring view-only requests.

The Town does not charge for:

1. Requests from members of the Town Board or advisory boards when the information requested is for the purpose of Town business.
2. Requests from Town Board candidates from the time of official candidacy through Election Day. Records provided to any individual candidate will be distributed to all candidates.
3. Requests from other federal, state, or local government entities or governmental professional associations.

Denial of inspection: Access to records may be denied in accordance with the provisions of federal or state law. Reasons for denial of access to records will be noted in writing on the public records request form and provided to the requestor.

Retention schedules: All public records, regardless of storage format, will be administered in accordance with approved retention schedules. The Town of Palmer Lake has adopted the Municipal Records Retention Schedule as approved and updated by Colorado State Archives. This schedule is available at <http://www.colorado.gov/dpa/doit/archives/rm/municipalrmm/>