



OPEN RECORDS REQUESTS POLICY REGARDING CORTEZ ACCESS TO PUBLIC RECORDS

Effective Date: January 1, 2023

Administrative Authority: Adopted by City Council on November 22, 2022, through Resolution No. 26, Series 2022.

Scope: All departments within the City of Cortez

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) 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 (City 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 City of Cortez 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 City Clerk, who is the Records Custodian. In the case of a request made in person, the custodian shall either provide the records to the requestor or shall set a date, time, and on-site location where the records can be inspected. The date shall be within three (3) working days of the date the request was made. 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 CRS. 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 required to be in writing and made on the form provided by the City Clerk.

If a record contains both public and confidential material, the City of Cortez is not required to redact confidential

material in order to comply with a request for the record. However, the City Clerk may agree to provide redacted records if the requester pays the redaction fee as shown on the schedule below.

Electronic records and electronic communications: Records stored on magnetic or optical disk, on tapes, or other non-paper media are considered public records and open to disclosure. After receiving a written request for records stored in any of the aforementioned media, the custodian may, but need not, take any measures necessary, in the custodian's opinion, to assist the public in copying or inspecting any specific public record(s); including but not limited to: providing portable disk copies or computer files, referring the requester to the City's web site, providing hard copy printouts, or providing the requested records in any other format deemed appropriate by the custodian.

Please note that requests for open records received by email 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 City of Cortez.

Fees and charges: The custodian will charge for any copies, printouts, photographs, or electronic data requested. Requests expected to have a total charge of \$10.00 or more must be accompanied by a non-refundable deposit of one-half 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. In the event the deposit amount exceeds the actual costs, the balance shall be refunded within 30 days.

No fee shall be charged for the first ten standard sized pages, per calendar year. (Standard sized page will be considered 8 ½ x 11). Each standard page after that will be charged at 25 cents per page. In addition, the requester must pay any research and retrieval fee associated with producing the record in accordance with the schedule below. The custodian will also charge a fee for any manipulation of data needed to generate a record in a form or format not used by the City of Cortez. 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.

Additionally, the custodian will charge a fee for providing copies of electronically stored public records. The City will respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a copy, disk, or printout. The records may be provided to the requester by email if practical. The fee will be based on recovery of the actual incremental costs of providing the electronic services and products at a fee of 25 cents per page. Printing costs shall apply to public records requests (even if sent by e-mail to the requestor) due to the official printed copy being maintained in the Clerk's office and if City Attorney review for redaction is required.

Data kept by the City of Cortez, 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 City for similar items.

Photographing of public records will not be allowed.

Please note that if the document requested does not exist as described by the requestor the custodian of records shall deny the request. The custodian shall suggest that the requestor schedule a time to inspect the records and determine which documents best serve requestors purpose and request copies of those documents.

PUBLIC RECORDS STANDARD FEES AND CHARGES

Photocopies or printouts (no charge for first 10 standard size pages per requester per calendar year, if picked up or emailed)	\$0.25 per letter- or legal-size copy; actual cost for larger documents
Electronic files	\$0.25 per page
FAX documents	\$0.25 per letter- or legal-size page
Document certification	\$5 per document (in addition to the per page copy charge)
Duplication of audio tapes, CDs, or DVDs (this includes transfer of audio files to CD)	\$25 per disc
Publications produced by the City of Cortez	Price varies; will be established based on production costs
City of Cortez Municipal Code	\$100.00
Weekly/Monthly/New Business License Report	\$7.50
List of All City Business Licenses	\$25.00
<u>Research, Retrieval and Redaction Fees</u>	(includes City Attorney time)
Up to 1 hour	No charge
Over 1 hour	*\$33.58 per hour

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 requester.

Records retention schedules: All public records, regardless of storage format, will be administered in accordance with the approved Colorado Municipal Records Retention Schedule (CMRRS). The City of Cortez has adopted the CMRRS as approved and updated by the Colorado State Archives. This schedule is available online at <https://www.colorado.gov/archives/municipal-records-retention-manual>

*The fee amount is established pursuant to C.R.S. 24-72-205(6)(B).



**ALL PUBLIC RECORDS REQUESTS MUST BE SUBMITTED
IN WRITING TO THE CITY CLERK'S OFFICE**

Fax to 970-565-8172 or mail/hand-deliver to
Cortez City Clerk, 123 Roger Smith Avenue, Cortez, CO 81321

RECORDS REQUEST

PLEASE PRINT

Name: Charles Jeter

Date of Request: 11/16/2023

Email: 154564-74682013@requests.muckrock.com

Mailing Address: Street: MuckRock News, DEPT MR154564, 263 Huntington Ave

City: Boston State: MA Zip: 02115

Phone:Day 617-299-1832

Phone: Evening _____

INSTRUCTIONS

Indicate the information you desire and/or list each requested document. **Please be as specific as possible.** Records requests are generally fulfilled within three (3) business days unless extenuating circumstances exist as defined by C.R.S. 24-72-203(3). If the request is substantially large or is maintained off-site, additional time may be necessary. The City will notify you within three (3) days of any extension and all estimated costs if the records can be reasonably provided within the time frame.

Please see next page for full request.

Please select the format in which you would like to receive materials:

View only; no copies requested. (Appropriate City personnel will be scheduled to accompany you during viewing. No personal scanning or photography of records is permitted.)

Hard copies/printouts

CD or DVD*

Email* ☒

*not all documents are available electronically and not all documents may be emailed

Please select the method you prefer for notification and delivery when the records are available:

First Class mail

I will pick them up at City Hall. Contact me by (circle one): Mail Phone Email

Email (if records are available electronically). Specify an alternate delivery method if records are not available via email:

Snail Mail

I agree to pay any charges applicable to this request. (This request will be considered received when this form is complete and the deposit is paid, if required.)

Raj

For Charles Jeter

11/16/2023

7:00 Am

Signature of Requestor

Date and

Time of Request

For Staff Use Only

Received by: _____ Date/Time: _____

Estimated Charges:

Hard Copy or Electronic File: _____ Copies \$0.25 per page: \$ _____

CD or DVD: _____ Copies @ \$25 per disc: \$ _____

Oversize Hard Copy or Other Format Not Listed Above: \$ _____

Retrieval and Research: _____ hours X \$33.58 per hour = \$ _____

Deposit Required (half of the estimated total, if that is over \$10): \$ _____

Request completed by: _____ Date: _____

Amount received: \$ Payment method: _____ Date: _____

Method of delivery: _____

Request denied by: _____ Date: _____

Reason(s) for denial: _____

To Whom It May Concern:

Pursuant to the Colorado Open Records Act, I hereby request the following records:

Pursuant to the Freedom of Information Act, I hereby request the following records:

I am writing to request metadata relating to emails sent To, From, CC, or BCC the following accounts:

Rachael Marchbanks, rmarchbanks@cortezco.gov

Please provide me the following information for all emails sent, received, or cc'd into the City's emails from Jan. 1 2021 to the present to/from/cc/bcc the above-listed accounts:

1. From address
2. To address
3. bcc addresses
4. cc addresses
5. Time
6. Date
7. Subject

Please note that I am not requesting the contents of each email. This is lessen the burden as expressed by your city attorney.

I am more than happy to provide documentation or tips for extracting this information from your mail server if needed. Google's Vault tooling should make this request straightforward to complete. E-mail metadata is trivially exportable from the IT infrastructure of any modern e-mail archiving or data retention system - such as Microsoft Outlook 365, Google, Datacove, etc. - and should be deliverable in a .CSV, .XLS, or other machine readable format.

Please note that I am not requesting the contents of each email. E-mail metadata does not include the contents of the specified e-mails, thus do not need individual review for redaction.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not. If possible, I would request a waiver of all fees for searching or copying these records in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding.

1. When filing this, please note which documents have already been paid for by another FOIA request, and I request that if those documents have already been screened, that they not be duplicated in cost.
2. When estimating cost of per page, please use the discretion allowed by the CORA statute to interpret the pages to be 11x17, multiple columns, and 4 point font. Since this is an electronic request, the print version should not be provided, but for purposes of cost estimation, please take into consideration that Cortez population is underprivileged, and extend the courtesy of pricing accordingly.
- 2a. The economic information for this judgment comes from the submission done by myself of Kauffman Indicators of Entrepreneurship for Montezuma County in comparison to many surrounding counties in Utah, New Mexico, and Colorado. As seen in page 8 of the publicly presented documents August 22, 2023, Montezuma County has compensation ranking at 39.27% within the Kaufmann Entrepreneurial Jobs Indicators, meaning that the policy taken by Cortez brings it into direct conflict with the interests of the people they impact should they price these or other electronic documents at a punitive rate.
- 2b. Because these documents are of the public interest, and the population is demonstrably disadvantaged, the policies of Cortez which require hundreds or thousands of dollars to achieve transparency could be construed poorly in civil proceedings, meaning that legal fees could ensue which would further penalize City of Cortez budgets. This is not my intent, therefore I state it up front that the best course of action would be to ensure that FOIA costs are not borne as specified.
3. Staff time to review these documents should reflect the actual costs, not the maximum costs allowed by CORA law, please recalculate these costs taking into consideration both the public interest as well as eliminating from your cost estimate any documents previously screened by staff.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Charles Jeter