

## Release of Records

### 1101.1 PURPOSE AND SCOPE

The purpose of the policy is to

- (a) ensure the public timely, efficient and appropriate access to District public records in compliance with the standards and requirements of CORA; and
- (b) establish general procedures and reasonable and standardized fees for producing copies of and information from District-maintained records as authorized by CORA (CORA does not require the District to create a record in response to a request for information); and
- (c) protect public records from alteration, abuse, wear and tear, defacement or permanent loss and misuse, and to ensure that other activities of the records custodian not be disrupted or interrupted.

This policy applies to all requests of the public to inspect records of the Tri-Lakes Monument Fire Protection District pursuant to the Colorado Open Records Act ("CORA").

### 1101.2 DEFINITIONS

Definitions found in C.R.S. Section 24-72-202, as amended from time to time, shall apply unless the context clearly requires a different meaning in accordance with customary usage. In the event of any conflict between a definition set forth herein and in C.R.S. Section 24-72-202, the definition set forth in C.R.S. Section 24-72-202 shall prevail. As used herein, "Fire Chief" shall mean the appointed Fire Chief or his or her designee.

### 1101.3 POLICY

CORA requires that all public records be open to inspection by any person at reasonable times unless excepted by law. If a person is entitled to a record, the District is required to allow inspection of that record upon request. This policy promotes transparency and allows the District to recoup expenses incurred from research and retrieval of public records. Examples of public records may include financial records, district maps, construction or service contracts, ambulance records and rescue reports (subject to HIPAA and other legal restrictions), and emails related to District affairs.

The District will release public records in compliance with and as limited by CORA. All CORA requests must be submitted in the manner set by this policy.

### 1101.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any member who receives a request for records shall route the request to the Fire Chief or the Office Administrator.

#### 1101.4.1 REQUESTS FOR RECORDS

The Fire Chief shall be the custodian of District records. All requests to inspect public records must be submitted in writing to the Fire Chief by use of District Open Records Request Form.

Requests may be accepted via e-mail, mail, fax, or hand delivery.

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- (a) The date the request is received by the Fire Chief will constitute the “date of receipt.” A fax is received when it is printed during regular business hours, or if received after hours, at 8:00 a.m. on the following business day.
- (b) All requests for records must be specific as to the records sought. Requests for correspondence must identify the parties to the correspondence. For any request that is vague or broadly stated, the Fire Chief may require the requestor to provide a more specific request before responding. If a requestor is unable to identify the specific document(s) sought, the requestor is encouraged to contact the Fire Chief in advance of submitting a request for assistance in providing the requisite specificity. Release of records shall not be conditioned upon the furnishing of information by the requestor such as name, address, phone number or reason for request.
- (c) The Fire Chief, when necessary in consultation with the District’s attorney, shall determine if the records requested should be open for inspection within the guidelines of CORA or if the requested record is not a public record or is otherwise not available. In addition, if in the opinion of the Fire Chief, disclosure of the contents of any public record would do substantial injury to the public interest, be contrary to any state statute, federal statute, or regulation issued there under or is prohibited by rules promulgated by the order of any court, notwithstanding the fact that said record would otherwise be available for public inspection under the provisions of CORA and this policy, the Fire Chief shall, within three (3) days of the date of receipt of the CORA request, notify the requestor in writing that access to such record is denied and state the grounds for the denial explaining the legal basis for withholding release of the requested record.
- (d) If the requested record is determined to be a public record within the guidelines of CORA but the records are not available (lost, non-existent, etc.), the Fire Chief shall notify the requestor in writing within (3) three days of the date of receipt of the request.
- (e) If the request is determined to be within the guidelines of CORA and the requested public records are in the custody and control of the District but are in inactive use or in storage and not available at the time a requestor asks to examine them, the Fire Chief shall inform the requestor in writing of this fact and, except when extenuating circumstances exist which require the date and time be extended to a date and time not to exceed seven (7) days, set a date and hour when the records will be available for inspection or for production and copying within three (3) working days of the date of the request. The finding of extenuating circumstances forming the basis for the extension of time shall also be documented and provided to the requestor in writing by the Fire Chief.
- (f) If the request is determined to be within the guidelines of CORA, the District shall generate a cost estimate to complete the request.
- (g) If the cost estimate is in excess of \$20, the total estimated amount shall be collected by the Fire Chief in advance of proceeding with the request. The requestor shall be advised that this is only a deposit and that necessary adjustments to such amount must be made at the time the request is ready for inspection or prior to any pickup or delivery. If the requestor wishes to proceed once receiving an estimate, he or she must acknowledge his or her agreement to pay the costs and deposit in writing. By responding in writing, the requestor agrees to pay all fees associated with responding to the request. Upon receiving payment, the Fire Chief shall fulfill the request. The time between the date of the Fire Chief’s estimate of costs

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and the receipt by the District of a written request to proceed will not be counted against the time period for responding as set forth herein.

- (h) The Fire Chief shall complete the request, accounting for all costs incurred in processing the request, and contact the requestor to inform him or her as to any adjustments to the original estimated deposit. If paid in advance, the requestor shall pay or be refunded any adjustment based on the actual costs incurred. Unless the District has informed the requestor of any circumstances requiring additional time as outlined herein, requests for public records inspection shall be fulfilled within three working days. The District can add up to a seven working day extension if extenuating circumstances apply. Extenuating circumstances exist if:
  - 1. The request is overly broad, or
  - 2. The request is for a large volume of records.
- (i) Upon notice to the requestor that public records are available for inspection, the records shall be made available for inspection for thirty days from the date of notice. If the requestor does not inspect the records within that thirty-day period, the CORA request will be deemed closed.
- (j) No employee of the district shall modify/omit any records requested in any CORA Request.

#### **1101.5 RELEASE RESTRICTIONS**

Examples of records with release restrictions include:

- (a) Patient Care Reports (PCRs) (45 CFR 164.502) (see the Patient Medical Record Security and Privacy Policy).
- (b) Personnel or similar files, except for employment agreements, performance ratings, salaries, expense allowances or benefits paid (CRS § 24-72-202(4.5); CRS § 24-72-204(3)).
- (c) Records of sexual harassment complaints and investigations, whether or not such records are maintained as part of a personnel file (CRS § 24-72-204(3)).
- (d) Arson investigations (CRS § 24-72-204(2)).
- (e) Disciplinary investigations until the conclusion of the investigation, then records not exempt by any other law are open for inspection (CRS § 24-72-204(2)).
- (f) Test questions, scoring keys and other examination data used to administer an examination for employment (CRS § 24-72-204(2)).
- (g) Records protected by the “deliberative process” privilege, including legal opinions and pending litigation records, if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government, unless the privilege has been waived (CRS § 24-72-204(3)).
- (h) Records of complaints to or investigations conducted by the Tri-Lakes Monument Fire Protection District for law enforcement purposes (CRS § 24-72-204(2)).

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- (i) Contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the Tri-Lakes Monument Fire Protection District relative to the acquisition of property or to prospective public supply and construction contracts, until all of the property has been acquired or all contract agreements executed (CRS § 24-72-204(2)).
- (j) Any other record not addressed in this policy shall not be subject to inspection where (CRS § 24-72-204(1)):
  - 1. Such inspection would be contrary to any state statute.
  - 2. Such inspection would be contrary to any federal statute or regulation.
  - 3. Such inspection is prohibited by rules promulgated by the Supreme Court or by the order of any court.

### **1101.6 FEES**

The District has the right to charge for personnel time spent gathering, researching and retrieving or manipulating documents to be provided pursuant to a CORA request and for copies. Fees are present on the District's fee/rate schedule.

### **1101.7 FORMATS**

- (a) The Colorado Open Records Act guarantees that "all public records shall be open for inspection by any person at reasonable times." (§ 24-72-201, C.R.S).
- (b) The District will provide records stored in a digital format in that same format that the record is stored. For example, if the record is stored in a digital format that is neither searchable nor sortable, the District will provide a copy of the record in that same format. The District will produce searchable digital records in the same searchable format. The District will produce sortable digital records in the same sortable format.
- (c) The District 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; or
  - (2) it is not technologically or practically feasible to permanently remove information that the District is required or allowed to withhold within the requested format, it is not technologically or practically feasible to provide a copy in a searchable or sortable format, or if the District would be required to purchase software or create additional programming of functionality in its existing software to remove the information.
- (d) If the District is not able to provide the record in the digital format for the reasons specified in item 3 above, the Fire Chief shall complete the request in an alternate format or issue a written denial.