

TOWN OF CAREFREE	
ADMINISTRATIVE REGULATIONS Office of the Town Clerk	Date: January 8, 2014
Public Records Requests	

A. Purpose

The purpose of this administrative regulation is to establish policy and procedures for responding to Public Information Requests in compliance with the Arizona Public Records Law (ARS §39-121).

B. Definitions

1. Commercial Purpose

In accordance with ARS § 39-121.03D, “commercial purpose” means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in any judicial or quasi-judicial body.

2. Public Records

As defined in ARS § 41-151.18, records include all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristic, including prints or copies of such items produced or reproduced on film or electronic media pursuant to ARS § 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of the data contained in the record, and includes records that are made confidential by statute.

3. Research

Research is defined as time spent to locate and analyze information requested within a public records request; research fees are applicable to “commercial” records requests only.

C. Policy

A.R.S. § 39-121 provides that all records of the Town shall be open for inspection at all reasonable times. Town of Carefree policy provides for an exception for records that may be determined to have a harmful effect on the best interests of the Town. Additionally, records that have been determined to be exempt from disclosure by state or federal laws

or by a court of competent jurisdiction of the State of Arizona or the United States of America will not be released.

A person requesting to inspect or obtain copies of Town records is not required to disclose the purpose or motive for the request. In accordance with ARS § 39-121.03A, the requestor is required to provide a statement of how the information will be used if the information will be used for commercial purposes.

Requests shall not be denied solely on the grounds that confidential information may be contained within the public record. Exceptions are made for records that are clearly sensitive or confidential in nature. In the case where a record may contain sensitive or confidential information, the Town Attorney is the final authority prior to release.

As a standard practice, records should be provided in an electronic format whenever possible.

D. Hours of Operation

The Town of Carefree complies with the Arizona Public Records Law and provides access to review and/or copy records that are subject to disclosure during the Town's regular business hours.

E. Timeframe to Respond to Requests

By Arizona law, the Town is allowed a reasonable amount of time to retrieve information in response to Public Records Requests.

F. Fees

Individuals requesting copies of Town records are required to pay reasonable fees, as established Resolution No. 2013-09. The following applies to all copies:

1. Charges for obtaining copies of Town records will vary by department and by the type and size of record being requested.
2. Established fees are located in Resolution No. 2014-01 and are subject to change.
3. A deposit may be requested prior to copying documents over 15 pages with dimensions larger than 8 ½ X 11 on commercial requests.
4. There is no fee associated with research and staff time to research records requested for a non-commercial use. Research fees are applicable to "commercial" records requests only.
5. Records requested for commercial purposes will be reviewed by the Town Attorney's Office and a fee will be assessed based on the value of the records as determined by the Town Attorney's Office prior to release of the record.
6. The following requests are exempt from fees pursuant to State Statute:

Crime victims – copies of police reports and court records in a case where they are named a victim as outlined in A.R.S. § 39-127A.

In accordance with A.R.S. § 39-127A, a victim of a criminal offense that is a part I crime under the statewide uniform crime reporting program or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge and, on request of the victim, the court or the clerk of the court shall provide, at no charge, the minute entry or portion of the record of any proceeding in the case that arises out of the offense committed against the victim and that is reasonably necessary for the purpose of pursuing a claimed victim's right.

G. Procedure for Processing Public Records Requests

Records requests may be initiated through any Town department by submitting a Public Records Request form, available on the Town's Website at www.carefree.org. The procedures for processing public records requests are outlined below.

Upon receipt of any records requests received directly from the media, the Town Clerk's Office is to be notified. All media requests are included in a weekly report provided by the Town Clerk's Office to the Town Administrator.

NOTE: Requests for Municipal Court records, Town records, Permits and Planning and Zoning are handled by each respective department by following the department procedures and charging fees according to Town of Carefree Fee Schedule.

1. If the Town Clerk's Office receives a public records request, the following process will be followed:
 - a. The Town Clerk's Office will acknowledge receipt of the records request to the requestor.
 - b. The request will be forwarded to all departments who may possess the requested records.
 - i. Departments should contact the requestor directly in order to obtain clarification or additional information regarding their request.
 - ii. The Town may release data in a different format or medium if it is in the Town's best interest to do so. Records should be provided in digital format when possible. **The Town is not obligated to generate a record to fulfill a request, if that record does not already exist.**
 - iii. Under Arizona Law, requestors must indicate if the records are to be used for a commercial purpose.
 - iv. If the requestor has specified the information will be used for commercial purposes, the department(s) fulfilling the request must indicate the amount of research time required to fulfill the request when submitting the records to the Town Clerk's Office. The Town Attorney's Office assesses a value for all commercial records requests.

- v. If the requestor has specified the requested information will be used for "non-commercial" purposes and the department(s) fulfilling the public records request has reason to believe the request is being used for "commercial" purposes, then a brief statement indicating so, along with the amount of time spent researching the request should accompany the requested documents when submitting the completed request to the Town Clerk's Office. Upon review, the Town Attorney's Office will determine whether the request is being used for "commercial" purposes and assess a value for the request, if applicable.
 - c. If a department has no records, the department representative will indicate so to the Town Clerk's Office via email.
 - d. If the department has records that are contained within the request, the department will forward the records, in electronic format whenever possible, to the Town Clerk's Office using the "Town Clerk" email distribution group.
 - e. Once all records within a request are obtained from all applicable departments, the Town Clerk's Office will forward the records to the Town Attorney's Office for redaction.
 - f. Upon receipt from the Town Attorney's Office, the Town Clerk's Office will notify the requestor that the records are available and assess the applicable fees.
 - g. At the direction of the Town Attorney, a 90-day retention period has been established for all documents provided to fulfill a public records request. All completed requests or any requests that have not been retrieved by the requestor will be destroyed after 90 days.
2. If a department, other than the Town Clerk's Office, receives a request for records, and the records can be provided over-the-counter, the following process will be followed:
 - a. A Public Records Request Form will be completed by the requestor and provided to the department.
 - b. The department liaison will determine if the documents are readily available, and if no redactions are required (see accompanying Redaction Guidelines), the department may allow the requestor to inspect the records, or if the requestor would like copies, may make copies of the records and provide them to the requestor after assessing the applicable fees.
 - c. The department liaison will write the word "completed" across the Records Request Form and forward to the Town Clerk's Office at the end of each month.
 - d. At the direction of the Town Attorney, a 90-day retention period has been established for all documents provided to fulfill a public records request. All completed requests and copies of the documents provided to fulfill the requests or any requests that have not been retrieved by the requestor are to be retained by the department and destroyed after 90 days.

- e. If the records contain information that may require redaction (see accompanying Redaction Guidelines), the request will be processed as outlined in Section 3 below.
3. If a department other than the Town Clerk's Office receives a request for records, and the records cannot be provided over-the-counter, or if the department liaison is unsure whether redactions are required, the following process will be followed:
 - a. The department will accept the completed Public Records Request Form, gather the information in their possession and forward the request as well as the requested information to the Town Clerk's Office.
 - b. Once all records within a request are obtained from all applicable departments, the Town Clerk's Office will forward the records to the Town Attorney's Office for redaction.
 - c. Upon release from the Town Attorney's Office, the Town Clerk's Office will notify the requestor that the records are available and assess the applicable fees.