ADMINISTRATIVE POLICIES

PUBLIC RECORDS ACCESS

Records

Resolution No. ~~1397~~2026-2466; Number 5-02

5-02-1 POLICY

In accordance with Arizona and Federal law, the public shall have access to public records and other matters in the custody of officers of the Town of Prescott Valley.

5-02-2 PURPOSE

The purpose of this policy is to establish procedures for handling requests for access to public records and other matters in the custody of officers of the Town of Prescott Valley. Public records and other matters in the custody of Town officers will generally be open to inspection by any person at all times during office hours unless they are (a) made confidential by statute, (b) involve privacy interests which outweigh public interests, or (c) are otherwise protected from access in the best interests of the State (including the Town). The Town Clerk or designee will be primarily responsible for administering these procedures. These procedures are intended to provide prompt and uniform access to public records and other matters in the custody of Town officers and to ensure compliance with applicable Arizona and Federal laws.

5-02-3 APPLICABILITY

This policy generally applies to all requests for access to public records and other matters in the custody of Town officers. However, this policy does not apply to (a) requests for access to records and matters in the custody of the Magistrate Court (subject to the Rules of the Supreme Court of Arizona), (b) discovery under the Rules of Civil Procedure for the Superior Courts of Arizona or disclosure under the Rules of Criminal Procedure, or (c) requests from agencies or political subdivisions of the U.S. government or State of Arizona.

5-02-4 REFERENCE

A. ARS §39-121 et seq.

~~A.~~B. ARS §41-151 Provides the definition of what is, as well as what is not, a record.

~~B.~~C. Town Code §3-02-020

~~C.~~D. ~~Town Code §13-27-060~~ ARS §39-121.03(D) Commercial Purpose Fee and the Town of Prescott Valley Comprehensive Fee Schedule ("Fee Schedule")

~~D.~~E. Town Council resolutions setting charges (as adopted from time to time)

~~E.~~F. Prescott Valley Police Department General Orders (as amended)

~~F.~~G. ACJIS computer system requirements (ACIC/NCIC/MVD)

~~G.~~H. Arizona Agency Handbook (Arizona Attorney General)

5-02-5 DEFINITIONS

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~~. Gathering newsworthy facts from public records to include in a newspaper or other publication is not a commercial purpose. Obtaining information for insurance claims adjustment purposes and use of public records as evidence or as research for evidence in an action in any judicial or quasi-judicial body ~~is~~ are also not ~~a~~ commercial purposes.

Non-Commercial Purpose means any use of a public record for purposes other than for monetary gain from the direct or indirect use of such public record.

Public Records means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media, 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 data contained therein. Library

or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications or documents intended for sale or distribution to interested persons are not included.

5-02-6 PROCEDURES

A. REQUESTS TO INSPECT OR OBTAIN COPIES OF PUBLIC RECORDS

Public Records not available on the Town's website shall be requested by customers through the JustFOIA platform. The Town of Prescott Valley has created two JustFOIA forms available for submission of public records requests by customers. The Police Department has a JustFOIA Form pursuant to specific security protocols for police records. The Town JustFOIA Form is utilized for residents to submit PRRs for public records or other matters in the custody of Town officers. JustFOIA has automated workflow and templates that provide notifications to users after specific actions or mentions are made within the system. Any requests received via email will be entered into the JustFOIA platform for tracking and processing purposes. This portal allows customers to create an account where they can login, submit requests for records, and view the status of their request(s) in addition to searching the Archive. JustFOIA offers efficiency as it includes workflows that automatically assign requests to the appropriate staff/department, offers deflection responses to customers when the same data has already been uploaded to the portal, and provides confidence that all PRRs are handled consistently and promptly to reduce risk to the Town. When a request is received through JustFOIA, the following process occurs:

1.JustFOIA sends an automated response to the customer acknowledging that the request has been received and is being processed.

2.Staff analyzes the request for any clarification needed or feedback from the Legal Department. If the request is unclear or vague, assigned staff sends a message to the customer through JustFOIA requesting clarification or a narrowed down scope.

3. Staff assigns the request to the appropriate staff member or department, depending on the record type requested, and sends staff an email notification.

4. If a department has verified all sources and finds that no records exist, the assigned staff will notify the Clerk's office and update the request status accordingly.

5. As staff uploads each record as an attachment in JustFOIA, a determination is made as to which records should be tagged for redaction, non-responsive or other.

6. If payment is required, staff will create an invoice in JustFOIA and email message to the customer. Once an invoice is paid, records will be released through the platform.

7. Once all records have been made accessible and the customer has been notified, then the request shall be closed/completed by assigned staff.

8. Any supplemental emails requesting new records after the request has been completed, will be considered new requests which will need to go through the original process.

B. REQUESTS FOR IN-PERSON INSPECTION OF PUBLIC RECORDS

~~A. Requests to inspect and/or receive copies of public records or other matters in the custody of Town officers must be in writing. Requests made in person shall be directed to the Town's PUBLIC RECORDS ACCESS REQUEST FORM ("Request Form"). Persons making requests or any written requests received shall be directed to the appropriate custodian of records for the department from which the public records or other matters are being requested ("department custodian"). If the appropriate department custodian is unknown, said persons or written requests received shall be directed to the Town Clerk. The Town Clerk or the department custodian may return any written request without further processing if it lacks the specificity necessary to identify the public records or other matters to which access is requested. Any department custodian may forward a request to the Town Clerk for coordinated processing. In the event the Request Form is processed by a department custodian, the department custodian shall document the response by completing the box on the second page of the Request Form and forwarding a copy to the Town Clerk.~~

Because public records and other matters may not be inspected at such times and in such manner as to disrupt public business, persons wishing to visit a Town office to personally inspect public records may be asked by the department custodian or the Town Clerk (as appropriate) to return at a mutually convenient time between the hours of 8:00 a.m. and 5:00 p.m. during a week day for that purpose. ~~The Town may, in its sole discretion, authorize on-line, remote electronic access to public records and other matters in the custody of Town officers. Any on-line, remote electronic access shall be conditioned upon the user's agreement to access the information only as instructed by the Town, to not attempt any unauthorized access, and to consent to monitoring by the Town.~~

~~B.~~C. COMMERCIAL PURPOSE

Persons requesting reproductions of public records for ~~or other matters for one or more~~ commercial purposes must complete the *Commercial Purpose Statement* contained in ~~the Request Form~~the JustFOIA platform. Any individual who knowingly falsifies the *Commercial Purpose Statement*

is guilty of a class 6 felony.

Upon receipt of the ~~Request Form with the~~ completed *Commercial Purpose Statement*, the Town Clerk or the department custodian (as appropriate) may assess the commercial purpose fee or any other fee as applicable in the adopted Fee Schedule and then furnish~~.~~ the reproductions of the records. ~~and assess a charge in accordance with Subsection 6.3.25-02-6(C)(2).~~

Pursuant to ARS ~~5~~§39-121.03(B), any custodian of a public record is authorized to apply to the Governor to request that the Governor prohibit by Executive Order the furnishing of copies, printouts or photographs in instances where that custodian determines that the commercial purpose stated in the verified certification is a misuse of public records or is an abuse of the right to receive public records.

~~C.~~D. CHARGES

Persons requesting access to public records or other matters in the custody of Town officers will be assessed the following costs:

1. Non-Commercial Purpose[1]

~~Persons requesting access to public records or other matters in the custody of Town officers for non-commercial purposes shall pay the following charges:~~

a. Cost of materials/supplies used to provide copies of paper, audiotape, videotape, microfilm, computer or electronic based records (including copies made for purposes redacting, faxing, scanning, etc.) as set forth ~~from time to time by Council resolution;~~ in the ~~adopted Town Council Consolidated~~ Fee Schedule.

b. Cost of labour to prepare copies (but not labour to search for records). Labour costs may include computer time, programming costs, consultant costs, etc. to scan, retrieve, redact, program or translate data involved with electronic public records and other matters in the custody of Town officers;

[1] Per ARS§39-122, these charges shall not apply to requests concerning (a) claims for pensions, allotments, allowances, compensation, insurance or other benefits presented to the United States or a bureau or department thereof. The charges related to providing paper copies of criminal case files shall not apply to "victims" as defined in ARS§ 13-4401 and/or their attorneys involved in the cases. Charges for documents provided under subpoena in civil actions to which the Town is not a party are prescribed by ARS§ 12-351.

c. Postage costs; and

d. Actual other unique production-type costs.

As a general rule, estimated charges shall be paid by the requestor prior to the delivery of the requested public records or other matters in the custody of Town officers. Charges shall be payable to the Town of Prescott Valley by cash, credit or debit card, or certified funds. Nothing herein shall preclude the Town Clerk or department custodian from billing charges at or after delivery of the public records or other matters to (and accepting non-certified funds from) requestors whose corporate or similar legal status or history of prior payment for such requests are reasonable indicators that payment will be received. In the event of non-payment by the requester within the reasonable time specified by the Town Clerk or department custodian, said officers shall not deliver subsequently-requested records or matters until payment has first been received for earlier records or matters.

2. Commercial Purpose

~~**Persons requesting access to public records or other matters in the custody of Town officers for commercial purposes shall pay the following charges (as set from time to time by Council resolution):**~~

a. Cost to the Town of obtaining the original or copies of the requested public records or other matters;

b. A reasonable charge for the cost of time, postage, equipment, and personnel in producing such reproductions; and

c. The value of the reproductions will be based on ~~the Factors to be considered in determining the amount charged are:~~ the time expended in retrieving the public records or other matters; transportation costs, if any; and the actual cost to the Town in terms of special equipment or processing required.

If the Town Clerk or department custodian believes that the commercial purpose of a reproduction is a misuse of public records or an abuse of the right to receive them, he/she may request the Governor to prohibit the furnishing of reproductions for such commercial purposes by Executive order. [ARS §39-121.03(B)]

~~D.~~E. TIMELY RESPONSE

In accordance with ARS §39-121.01(D) and ARS §39-171(B), upon receipt of a public records request, the Town Clerk or the department custodian (as appropriate) shall reply within five business days acknowledging receipt of the request. After the acknowledgement of the request the Town Clerk or the department custodian (as appropriate) shall promptly respond to requests for access to public records and other matters in the custody of Town officers. Whether the response to a particular request is prompt must in all cases be a factual determination depending on what is reasonable under the circumstances. The relevant factors to consider are the Town's resources, the nature of the request, the content of the records, and the location of the records. ~~upon the accessibility of the records or other matters.~~ If all records requested cannot be furnished at one time, the records should be released on a rolling basis as the records become available.~~In the event any request cannot be processed within ten (10) working days after receipt of the Request Form, the requestor will be so advised of the delay and the reason for it.~~

~~E.~~F. PRIVATE, NON-PUBLIC OR CONFIDENTIAL RECORDS OR OTHER MATTERS

All or parts of records or other matters in the custody of Town officers may contain private, non-public or confidential information. Such private non-public or confidential information includes:

1. Records or other matters made non-public, private or confidential by Arizona or Federal statute;

2. Records or other matters otherwise involve privacy interests of persons; and

3. Records or other matters, the release of which would be detrimental to the best interests of the State (including the Town).

Pursuant to Arizona and Federal law, such private, non-public or confidential information is available only to "qualified persons", namely (a) the individuals who are the subject of the information, (b) employees of the Town whose work necessitates access to the information, (c) agencies or subdivisions of the U.S. government or State of Arizona who are authorized by statute to obtain such information, and (d) entities or individuals given access under the express written direction of the information subject. Qualified persons may generally obtain access to private, non-public or confidential information by submitting a ~~Request~~ JustFOIA Form pursuant to Section ~~6.1~~5-02-6(A) of this policy. However, Town employees shall follow the procedures set forth in other applicable Town policies, and agencies or subdivisions of the U.S. government or State of Arizona shall follow such other statutes or regulations as are applicable to them.

In any event, the Town reserves the right to require reasonable confirmation of identity from individuals requesting access to private or non-public information to ensure that the individuals

are qualified. The Town also reserves the right to charge persons requesting copies of private or non-public information in accordance with Section ~~6.3~~5-02-6(D).

When non-public, private, confidential, or otherwise protected records or other matters are commingled in a single document with public records or other matters, a copy of the document may be made available for public inspection and copying with the non-public, private, confidential, or otherwise protected matter redacted. If non-public, private, confidential, or otherwise protected records or other matters have been attached to otherwise public records or other matters, the non-public, private, confidential, or otherwise protected records or other matters so attached may be removed.

Upon receipt of a Request Form, the Town Clerk or department custodian (as appropriate) shall make a preliminary determination as to whether the requested records or other matters are wholly or in part non-public, private, confidential, or otherwise protected. In the event either determines that the requested records or other information (or parts thereof) are non-public, private, confidential, or otherwise protected, he or she may redact the non-public, private, confidential, or otherwise protected material and release the remainder to the requestor. In the event the Town Clerk or department custodian (as appropriate) is uncertain as to the correct redactions or determines that the requested public records or other matters are wholly non-public, private, confidential, or otherwise protected, he or she shall forward the Request Form to the Legal Department for review. The Town Attorney (or designee) shall issue a written opinion to the Town Manager as to whether all or part of the requested records or other matters should be released, along with the reasons therefore. The final decision shall be made by the Town Manager.

G. NO DUTY TO CREATE A RECORD THAT DOES NOT EXIST

The public records laws do not require the Town to prepare a record, document, or material that is not in existence at the time of the request. An effort will be made to identify existing records reasonably related to the subject of the request.

~~F.~~H. RESPONSIBILITIES

All Town employees shall adhere to all records management policies and procedures as follows:

1. Directors are responsible to ensure the overall management and completeness of responses to public records requests within their respective divisions, departments or offices. Upper Level Management shall designate Record Division Leader. The

designation of more than one Record Division Leader is suggested for larger divisions to ensure adequate back-up. A current list of the names and contact information for the Record Division Leaders shall be maintained by the Town Records Coordinator who will provide an updated list to the Public Records Officer whenever a change is made.

2. Each employee who has custody of a public record ("Custodian") is responsible for locating and producing or preserving that record in response to a request. The Custodian, in conjunction with a Record Division Leader is responsible for documenting the actions taken to respond to such requests including, as appropriate, entry into the Public Records Request platform JustFOIA.

~~G.~~I. COMPLAINTS

Any complaint from or dispute by requesters related to access under this policy to records or other matters in the custody of Town officers may be directed, in writing, to: Town Manager, 7501 E. ~~Civic Circle~~Skoog Blvd., Prescott Valley, Arizona 86314.