

Public Records Request Info:

What Is *Not* Required Under § 84-712

- Section 84-712 does not require a PUBLIC BODY:
 - *To review documents and create abstracts of those documents*
 - *To answer questions or create lists*
 - *To create documents which do not otherwise exist*
- What Is *Not* Required Under § 84-712
Section 84-712 does not require the REQUESTER:
 - *To provide a reason for his or her request*
 - *To sign a form which purports to restrict his or her use of the public records*
 - *To be a Nebraska resident*
- Section 84-712(3)(e) provides that a public body or the custodian of a public record is not required to produce or generate any public record in a new or different form or format modified from that of the original public record.

Public Records Request Resolution

1-9-2018-01

BE IT RESOLVED by the Board of Commissioners of Cherry County, Nebraska, to hereby adopt the following public records request policy as per Nebraska State Statute, §84-712, stating that officials of Cherry County acknowledge “all citizens of this state and all other persons interested in the examination of the public records are empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment...and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public recordsduring the hours the respective offices may be kept open for the ordinary transaction of business.” And in addition, acknowledge the Attorney General’s indication that “the custodian of a particular public record is the public officer who, by virtue of his office, is the legal custodian for all papers, books, and records of that office, including that particular record. Custody over a record requires supervision or control over the document, or legal responsibility for its care, keeping or guardianship.” And will therefore provide the public access to public records upon request, using the following general guidelines:

1. Upon receipt of a written request for access to or copies of a public record, the custodian of that record must provide the requester, within 4 days, with an estimate of the expected cost of the copies and either; access to the record or copies of the record, written reason for legal basis of denial of access or copies of the requested record, or a written explanation of delay if the entire records request cannot, with reasonable good faith efforts, be fulfilled within 4 business days after actual receipt of written request due to the significant difficulty or the extensiveness of the request. The written explanation of delay must include the earliest practicable date for fulfilling the records request, and estimate of the

expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.

2. In the case of a voluminous records request, the legislative history of LB 628 makes it clear that the custodian of the records may take whatever time is needed under the circumstances to prepare copies of the records at issue. Such a response time, for records requests such as “any and all records pertaining to” may be an “extremely long time.” Such a voluminous records requests also does not require the custodian to abandon all other public duties in order to accommodate the request.
3. The public official who is the custodian of requested records can charge the requester for copies. The actual added costs shall not exceed the amount of the reasonable calculated actual added cost of the photocopies, which may include a reasonable apportioned cost of the supplies, such as paper, toner and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time extending beyond 4 hours, to comply with the request for copies.
4. A special service charge representing the time required in excess of four cumulative hours to search for, identify, physically redact and copy records responsive to a particular records request can be imposed for providing copies of public records, since a large records request may delay or otherwise disrupt the operation of the custodian’s office.
5. If copies of records requested under the Public Records Statues are estimated by the custodian of those records to cost more than \$50, the custodian may require the requester to furnish a deposit prior to fulfilling the copy request.
6. The custodian of the records requested will identify a safe and appropriate space for the requester to view such records, that allows for adequate supervision and control of the records by the custodian and will not significantly disrupt the necessary daily activities of the that office.

NOW, THEREFORE, the governing body of Cherry County does herewith adopt the Public Records Request Policy in its entirety.

PASSED AND APPROVED this 9th day of January, 2018,

Cherry County Board of Commissioners