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A-11 SUBJECT: OPEN RECORDS REQUESTS

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PURPOSE:

Definitions:

**Public Record:** All writings made, unless specifically exempted, by Colorado Law, maintained or kept by the Town or any agency, institution, or political subdivision thereof for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds. Criminal justice records (as defined elsewhere) are not governed by this Policy.

**Writings:** All books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Includes certain digitally stored data, printouts of digitally stored data, including without limitation electronic mail messages, but does not include computer software.

**State Law:** In the event of conflict between this policy and the Colorado Statute, the Statute shall control.

INSPECTION, COPYING OR PHOTOGRAPHING OF PUBLIC RECORDS:

The Colorado Revised Statutes (C.R.S.) state, in relevant part, the following:

24-72-203 - Public records open to inspection:

1. All public records shall be open for inspection by any person at reasonable times.
2. If the public record requested is not in the custody or control of the person to whom application is made, such person shall notify the applicant of this fact. In such notification he shall state the reason for the absence of the records from his custody, their location, and what person then has custody of the record.
3. If the public record requested is in the custody or control of the person to whom application is made but is in active use or in storage and unavailable at the time an applicant asks to examine them, such person shall notify the applicant of this fact. If requested by the applicant, the custodian shall set a date and hour within three (3) working days at which time the records will be available. The time period may be extended up to seven (7) days if there are extenuating circumstances as defined in C.R.S.

GROUND FOR DENIAL - APPEAL PROCESS:

[Other relevant State Law:]

24-72-204 - Allowance or denial of inspection - grounds - procedure - appeal.

1. The custodian of any public record shall allow any person the right of inspection of such records EXCEPT on one or more of the following grounds:
  - a. Such inspection would be contrary to any state statute.
  - b. Such inspection would be contrary to any federal statute or regulation issued there under having the force and effect of law.
  - c. Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

2. The custodian may deny the right of inspection of the following records on the ground that disclosure to the applicant would be contrary to the public interest:
  - a. Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, or any records of the intelligence information or security procedures of said individuals, or files compiled for any other law enforcement purpose.
  - b. Any records pertaining to administration of a licensing examination, employment examination or academic examination. Written promotional examinations and the scores and results shall be available for inspection, but not copying, by the person in interest after any examination.
  - c. The contents of real estate appraisals relative to the acquisition of property or any interest in property for public use, until such time as title to the property has been transferred.
  - d. Personnel files. Such files shall be available to the person in interest and the person who supervises that person's work.
  - e. Privileged information and confidential commercial, financial, geological or geophysical data.
  - f. Addresses, telephone numbers and personal financial information of users of public utilities, public facilities or recreational or cultural services.
3. If the custodian denies access, the applicant may:
  - (a) Request a written statement of the grounds for the denial;
  - (b) Apply to district court for a hearing where the custodian must show cause for denying inspection.

#### POLICY:

All Town records must remain at all times in the custody of the Town. Originals or file copies shall not be released to anyone not in the employ of the Town.

When responding to Open Records requests, regardless of whether the record(s) is inspected or copied, the Open Record Log must be completed. Log entries should describe what was inspected or copied. (see Log attached)

Transcripts (verbatim) will be provided by court order only. An applicant has the option of obtaining a copy of any audio recording of a public meeting by making arrangements for duplication and paying the cost. Video tapes may also be copied at the applicant's expense.

The Town will not bill for later payment of copies or other services in conjunction with open records requests. Charges must be paid at the time of service.

The Open Records Act allows \$.25 charge per page when copies are requested and provided, or the actual cost of preparation if the cost is greater. The actual COST may include, but is not limited to, the hourly rate paid to the employee conducting the research, cost of the physical medium of the document (e.g., tape or diskette) and the cost of retrieving the document from off-site storage for inspection.

Hourly charges will be based on actual costs, determined to be as follows:

Cost per hour for research, retrieval and related services will be based upon staff's hourly wage.

The Division responsible for the record shall provide it to the Town Clerk so that the Clerk's office may make an appointment with the applicant for inspection within the time frame required.

PROCEDURE:

1. Open Records Requests are initiated with the Town Clerk for all departments.
2. If request is under Open Records Act (as opposed to a copy of a readily available document - see list) the requestor needs to complete an application.
3. Town Clerk personnel determine:
  - a. Who is the physical custodian of the requested document(s);
  - b. The status of the record (availability, etc.);
  - c. Cost estimate from the appropriate department.
4. Applicant gets cost estimate and signs request.
  - a. A copy is sent to the responsible Department;
  - b. That Department makes the copies and returns them to the Town Clerk's office (within 2 working days of the request, day and time); unless extenuating circumstances (C.R.S 24-72-203 (3)(b) exist.
  - c. Town Clerk makes appointment and collects fee.
5. A copy of the request is maintained in the Town Clerk's Office.



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Town Manager

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May 2008  
Origination Date

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03/2013  
Date reviewed/revised