

**AMENDED AND RE-STATED
ADMINISTRATIVE REGULATION
OF THE TOWN OF PAGOSA SPRINGS**

**ACCESS TO PUBLIC RECORDS
AND ELECTRONIC COMMUNICATION SYSTEMS**

Effective Date: 12/2/2014

Purpose: The purpose of this policy is to assure prompt and equitable service to citizens requesting access to public records, including those records created by electronic mail, in accordance with the requirements of C.R.S. 24-72-205.

Background: C.R.S. 24-72-202(6)(a) defines public records as “all writings made, maintained, or kept by the . . . [municipality] for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” Public records also include the correspondence of elected officials, except to the extent that 1) such correspondence is a “work product,” 2) is unrelated to the official’s public duties, or 3) a communication from a constituent to an elected official that clearly implies by its content that the constituent expects that it is confidential in nature. C.R.S. 24-72-202(7) defines writings to include “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.”

The Act allows the official custodian of public records (Town Clerk) to make such rules with reference to the inspection of such records and to the prevention of unnecessary interference with the regular duties of the Clerk.

Policy: It shall be the policy of the Town of Pagosa Springs to make all records available for public inspection unless such records are protected from disclosure by state or federal statute, by court order, or unless disclosure of such records would be contrary to the public interest. All Town of Pagosa Springs records, including work products and those of the elected officials, those kept only in miniaturized or digital form, whether magnetic or optical disks, tapes, and electronic mail, are potentially subject to public disclosure.

All requests for public records shall be made in writing to the official custodian of public records. Many of these requests can be filled immediately; however, if the public records

requested are in active use, in storage, or otherwise not readily available at the time the request is made, the custodian shall set a date at which time the records can be inspected that is within three (3) working days of the date the request is made. Such period may be extended if extenuating circumstances exist per C.R.S. 24-72-203(3)(b).

Electronic records and electronic communications: Records stored on magnetic or optical disk, and on tapes are considered public records and open to disclosure. After receiving a written request for records stored in any of the above-mentioned media, the custodian may take any measures necessary to assist the public in locating any specific public records, including but not limited to, the provision of portable disk copies or computer files, or direct electronic access via on-line bulletin boards or other means.

Fees and charges: A charge will be assessed for any copies, printouts or photographs requested. A fee will be charged for the manipulation of data in order to generate a record in a form not used by the Town of Pagosa Springs and this fee shall not exceed the actual cost of manipulating said data and generating the record.

The Town will respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a copy, disk, or printout, and not by allowing access to a computer terminal or the use of a private terminal connected to the Town's computer system. The exception is any public information provided by the Town on the Internet. This fee will be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system. The public custodian may waive such fee if the electronic services and products are to be used for a public purpose.

Occasionally a request for public records will involve the need to perform research. While the Town has an obligation to provide public records and information, it cannot effectively serve as a research service for citizens without affecting its ability to provide normal and usual services. Therefore, there will be a charge for research, the manipulation of data in order to generate a record in a form not otherwise used by the Town, or the creation of a privilege log that takes more than one hour to perform. The charge for this research retrieval, manipulation of data, or creation of a privilege log, will be \$30 per hour. In addition, the cost for transmitting the records will be charged at the actual cost of such delivery. The custodian may notify the record requester that a copy of the record is available but will only be sent to the requester once the custodian either receives payment or makes arrangements for receiving payment for all costs associated with records transmission.

Denial of inspection: Access to public records may be denied or restricted under the provisions of the Public Records Act. The following list shall provide guidance as to when certain requests shall be denied or restricted.

The following records shall not be disclosed:

1. Records of investigations by any sheriff, prosecuting attorney, or police department, records of the intelligence information or security procedures of the same, or any investigatory files compiled for any other law enforcement purpose;
2. Test questions, scoring keys, and other examination data pertaining to licensing, employment, or academic examinations, except that written promotional examinations and scores or results shall be available for inspection by the person in interest after the examination;
3. Bona fide research projects;
4. Real estate appraisals for acquisition of public property, until title to the property has been acquired;
5. Market analysis data generated by CDOT for its confidential use in awarding construction or purchasing contracts; and
6. Records and information of the department of revenue identifying persons who have driver's licenses.

§24-72-204(2)(a), C.R.S.

The Town shall deny inspection of the following, except to the person in interest, unless otherwise provided by law:

1. Individual medical (including medical response reports), mental health, sociological and scholastic records;
2. Personnel files, except that they are available to the person in interest and to elected and appointed public officials who supervise the individuals;
3. Letters of reference;
4. Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data from another person;

5. Library and museum material contributed by private persons conditioned upon limitations;

6. Addresses and telephone numbers of public elementary and secondary school students;

7. Library records identifying users;

8. Data furnished to the Colorado Health Data Commission;

9. Addresses, telephone numbers and personal financial information of users of public utilities, public facilities, recreational or cultural services;

10. Sexual harassment complaints and investigations can be released only to "persons in interest," comprised of the complainant, the subject of the complaint and certain investigators, provided that the release is made to the "person in interest" without permitting, as a result of the disclosure, any identification of any individuals involved;

11. Records submitted by or on behalf of an applicant or candidate for the Town's executive position who is not a finalist;

12. Record indicating that a person has obtained distinguishing license plates, identifying placard, or any other motor vehicle record that would reveal the presence of a disability;

13. Records subject to the "deliberative process" privilege. The privilege attaches only to documents prepared for the Town Council which are both pre-decisional and deliberative. Public records protected pursuant to this privilege shall not be released if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussions within the government. If any public record is withheld pursuant to this privilege, the Clerk must provide the requesting party with a sworn statement specifically describing each document withheld, and an explanation why the document is privileged and disclosure would cause substantial public injury. If the applicant further requests the document, the Clerk must apply to the District Court for an order allowing the Town to prohibit disclosure; and

14. Certain veterinary records.

§24-72-204(3)(a), C.R.S.

Records of an Executive Session meeting of the Town Council may only be obtained through a court order issued by the District Court. The District Court may, but is not required to order that these records be disclosed if the person seeking disclosure

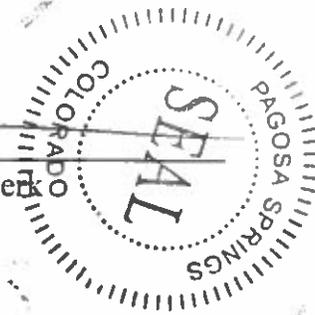
shows sufficient support for a reasonable belief that the Town Council engaged in substantial discussion of any matter prohibited under the Open Meetings Law Section 24—6-402(4), C.R.S., or adopted a proposed policy, position, resolution, rule regulation or formal action contravening Section 24-6-402(4), C.R.S. No disclosure of these records shall be made until the matter has been settled with the District Court.

Reasons for denial of access to public records should be noted in writing on the public records request form. The Custodian of Records shall confer with the Town Attorney prior to refusing to disclose any record under these provisions.

Retention schedule: All public records of the Town of Pagosa Springs, regardless of storage format, will have retention schedules proscribed for them. The State Archivist in accordance with state law will approve these retention schedules.



April Hessman, Town Clerk



Dec 2, 2014

Date

**TOWN OF PAGOSA SPRINGS – PUBLIC RECORDS
STANDARD FEES AND CHARGES**

Photocopies	\$.25 per standard page
Photocopies – not standard size	actual cost
Fax copies	\$ 1.25
Duplication of audio tapes	\$30.00
<p style="margin-left: 40px;">Note: A deposit, equal to the cost of duplicating one tape, is required at the time the request is made. The deposit is applicable to the total cost of duplication.</p>	
Verbatim transcripts of proceedings	
Non-refundable deposit (payable in advance)	\$125.00
Transcription	Actual fee for service
Certification	\$ 40.00
Documentation certification	\$ 2.00
Document notarization	\$ 2.00
Research and retrieval, manipulation of data, creation of a privilege log.	\$30.00 per hour
<p style="margin-left: 40px;">Note: The Town shall charge for actual time spent, in excess of one hour.</p>	
Transmission Costs	Actual cost

TOWN OF PAGOSA SPRINGS PUBLIC RECORDS REQUEST

PLEASE PRINT

Name: _____ Date of Request: _____

Address: _____ Town _____ State: _____ Zip: _____

Phone: Day: _____ Evening: _____

Copies requested: Yes _____ No _____

INSTRUCTIONS

Indicate the information you desire and/or list each requested document. Please be as specific as possible. Allow 3 working days for a search of the records.

Charges:

_____ copies @ \$0.25 per page = _____

_____ copies @ actual cost = _____

Research:

_____ hours* x \$30 _____

*not including first hour

Total: _____

Request completed by: _____

Request denied by: _____

(Give reason(s) below)

