

TOWN OF WESTCLIFFE

POLICY REGARDING ACCESS TO PUBLIC RECORDS

Effective Date: July 5, 2011

Administrative Authority: Drafted by the Town Clerk and Adopted by the Board of Trustees pursuant to C.R.S. 24-72-203(1)(a)

Scope: All departments within the Town of Westcliffe.

Purpose: The purpose of this policy is to assure prompt and equitable service to citizens requesting access to public records, regardless of the format of those records, in accordance with the requirements of C.R.S. 24-72-201 et. seq. This policy does not apply to criminal justice records, as defined in C.R.S. 24-72-302.

Background: C.R.S. 24-72-202(6)(a) defines public record as “all writings made, maintained, or kept by any local government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” The definition of public records also includes the correspondence of elected officials, except to the extent that such correspondence is: 1) a work product, 2) without a demonstrable connection to the exercise of functions required by law or administrative rule, 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 or subject to nondisclosure or 4) pursuant to procedures in C.R.S. 24-72-204(1) the material requested is not to be disclosed. Additionally, 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 include digitally stored data, including without limitation electronic mail messages, but do not include computer software.”

C.R.S. 24-72-203(1)(a) allows the official custodian of public records (the Town Clerk) to make reasonable rules and regulations with reference to the copying and inspection of public records as necessary to protect the records and prevent unnecessary interference with the regular duties of the custodian.

Policy: It shall be the policy of the Town of Westcliffe to make all records available for public inspection unless such records are protected from disclosure by state or federal law, by court order, or unless disclosure of such records would be contrary to the public interest.

All requests made under the Open Records Act shall be made in writing to the Town Clerk, who is the Records Custodian. In the case of a request made in person, the custodian shall either provide the records to the requestor or shall set a date, time, and on-site location where the records can be inspected. The date shall be within three (3) working days of the date the request was made. In the case of a request received by U.S. Postal mail, e-mail, or fax, the custodian shall respond within three (3) working days of receipt of the request. Such period may be

extended if extenuating circumstances exist (per C.R.S. 24-72-203(3)(b)), but the extension period shall not exceed seven (7) additional working days. If a deposit is required, the request is not considered received until the deposit is paid.

Open Records requests are required to be in writing and made on the form provided by the Town Clerk.

Requests for routine copies of non-restricted, readily available documents (e.g. minutes, agendas, ordinances, resolutions, etc.) shall not be considered an open records request, and shall not be required to be submitted in writing. However, applicable fees will still apply.

Electronic records and electronic communications: Records stored on magnetic or optical disk, on tapes, or other non-paper media are considered public records and open to disclosure. After receiving a written request for records stored in any of the aforementioned media, the custodian may, but need not, take any measures necessary, in the custodian's opinion, to assist the public in copying or inspecting any specific public record(s); including but not limited to: providing portable disk copies or computer files, referring the requestor to the Town's web site, providing hard copy printouts, or providing the requested records in any other format deemed appropriate by the custodian.

Please note that requests received by email may be a public record under the public records law and may be subject to public inspection under C.R.S. 24-72-203 and the policy of the Town of Westcliffe.

Fees and charges: The custodian will charge for any copies, printouts, photographs, or electronic data requested. Requests expected to have a total charge of \$10.00 or more must be accompanied by a non-refundable deposit of one-half the estimated amount from any person. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. In the event the deposit amount exceeds the actual costs, the balance shall be refunded within 30 days.

Each standard page (Standard sized page will be considered any size up to 11 x 17) will be charged at .25 cents per page. In addition, the requestor must pay any research and retrieval fee associated with producing the record in accordance with the schedule below. The Town is **not** required by law to manipulate data found within existing Town records to create a requested form of record that does not otherwise exist. If the records custodian chooses to manipulate requested data, she or he may charge a fee for such service, which shall not exceed the actual cost of manipulating said data. Persons making a subsequent request for the same data shall be charged the same manipulation fee.

Additionally, the custodian will charge a fee for providing copies of electronically stored public records. 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. The records may be provided to the requestor by email if practical. The fee will be based on recovery of the actual incremental costs of providing the electronic services and products together with a portion of the costs associated with building and maintaining the information system.

Data kept by the Town of Westcliffe but generated by a third party shall be charged at actual cost paid to the third party, subject to additional fees below if applicable.

**TOWN OF WESTCLIFFE PUBLIC RECORDS
STANDARD FEES AND CHARGES**

Photocopies or printouts	25 cents per standard page or actual cost for documents larger than standard size and maps
FAX documents	25 cents per page plus applicable actual long distance charges
Document certification	\$5.00 per document (in addition to the per page copy charge)
Duplication of audio tapes or CDs (this includes transfer of audio files to CD)	\$20.00 per item
Publications produced by the Town of Westcliffe	Price varies, will be established based on production cost
<u>Verbatim transcripts of proceedings</u> (when not prepared as a matter of routine business)	
Transcriptions of proceedings that are 15 minutes or less	\$30.00 per document
Transcriptions of proceedings that are longer than 15 minutes	\$2.00 per minute
Transcriptions prepared by third party transcribers	Actual cost incurred.
<u>Research, Retrieval and Data Manipulation Fees</u>	
When done by the Town Clerk	Total Compensation
When done by the Town Manager	Total Compensation
When done by the Town Attorney	Total Compensation

The Town of Westcliffe does not charge for:

1. Requests from members of the Town Board of Trustees, the Town's boards, committees, commissions or staff when the information requested is for the purpose of Town business. Exception: The Town will charge for election materials requested by incumbent officials who are running for office to ensure equal treatment of all candidates.
2. Requests from other federal, state, or local government entities or governmental professional associations.
3. Requests from students enrolled in accredited schools located in Custer County for documents needed in connection with a specific class research project satisfactorily identified to the records custodian.

Denial of inspection: The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the grounds that disclosure to the applicant would be contrary to the public interest. Relevant exceptions described more fully under 24-72-204 are listed below. This is not an all inclusive list. Please refer to the actual statute or call the Town Clerk if you have any questions.

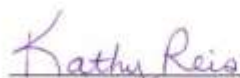
- Any records of the investigations conducted by any sheriff, prosecuting attorney, or any records of the intelligence information or security procedures of said individuals, or files compiled for any other law enforcement purpose.
- Test questions, scoring keys and other examination data pertaining 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 conducting and grading the examination.
- 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.
- Medical, mental health, sociological and scholastic achievement data.
- Personnel files except that such files are available to the person in interest and the person's supervisor. Employment contracts, salary amounts and benefits received are generally available.
- Letters of reference.
- Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data.
- Addresses, telephone numbers and personal financial information of users of public utilities, public facilities or recreational or cultural services.
- Sexual harassment complaints or investigations.
- Applications for an executive position.

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. If the applicant obtains the records through the court proceedings, the court can award attorney's fees.

Retention schedules: All public records, regardless of storage format, will be administered in accordance with approved retention schedules. The Town of Westcliffe has adopted the Model Records Retention Schedule as approved and updated by Colorado State Archives. This schedule is available at <http://www.colorado.gov/dpa/doit/archives/rm/municipalrmm/>

Signed under the authority of the Town Clerk:



Kathy Reis, CMC, Town Clerk