

TOWN OF JOHNSTOWN

AMENDED POLICY REGARDING ACCESS TO PUBLIC RECORDS

Purpose: The Town of Johnstown ("Town") has adopted this policy is to assure prompt and reliable service to citizens requesting access to public records, regardless of the format of those records, in accordance with the requirements of the Colorado Open Records Act, 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.

Authority: 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.

Background: C.R.S. § 24-72-202(6)(a) defines public record as all writings made, maintained, or kept by any local government "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) subject to nondisclosure pursuant to procedures in C.R.S. § 24-72-204(1). 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," and includes "digitally stored data, including without limitation electronic mail messages, but does not include computer software." More extensive statutory definitions may be found at C.R.S. § 24-72-202.

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

All requests for inspection of public records shall be made in writing and on the form provided by the Town. The Town Clerk shall, within three (3) working days of the date the request is made, either set a date, time, and on-site location where the records can be inspected or provide copies of the records to the requestor. In the case of a request received by U.S. Postal mail, electronic mail, or facsimile, the Town Clerk 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.

If a record contains both public and confidential material, the Town is not required to redact

confidential material in order to comply with a request for the record. However, the Town Clerk may agree to provide redacted records provided that the requestor pays for the redaction time as part of the fee applicable to research and retrieval of documents.

With respect to records kept only in miniaturized or digital form, the Town Clerk may take measures necessary to assist the public in copying or inspecting any specific public record without unreasonable delay or cost. In the Town Clerk's sole discretion, such efforts may include, but are not limited to, providing portable disk copies or computer files, referring the requestor to the Town's website, providing hard copy printouts, or providing the requested records in any other format deemed appropriate by the custodian.

Fees and charges: The Town shall charge for any copies, printouts, photographs or electronic data pursuant to the Town Fee Schedule. The Town shall provide the first hour of research and retrieval time free of charge and shall charge Thirty-Three Dollars and Fifty-Eight Cents (\$33.58) per hour for research and retrieval time thereafter expended in increments of fifteen (15) minutes, which hourly fee shall be adjusted every five years in accordance with C.R.S. § 24-72-205(6)(b).

The Town shall also charge a fee for any manipulation of data needed to generate a record in a form or format not used by the Town. This fee shall not exceed the actual cost of manipulating said data and generating the record. Persons making a subsequent request for the same record shall be charged the same fee. If the requested public record is a result of computer output other than word processing, the fee for a copy, printout, or photograph will be based on 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.

Data kept by the Town but generated by a third party shall be charged at actual cost paid to the third party, in addition to other applicable charges.

If the Town estimates that the request will have a total charge of Ten Dollars (\$10.00) or more, the Town may require the requestor to provide a deposit of one-half the estimated amount if the requestor lives within the Town limits or one hundred percent (100%) of the estimated amount if the requestor lives outside Town limits. This deposit shall 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 thirty (30) days.

This Policy is adopted by Town Council Resolution No. 2023-10.