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## TOWN OF FREDERICK OPEN RECORDS POLICY

### 1. DEFINITIONS

#### a. PUBLIC RECORD means:

All writings made, unless specifically exempted, 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 by Colorado law) are not public records.

This includes correspondence of elected officials unless: it is a work product; it is without demonstrable connection to their elected official function; it does not involve the receipt or expenditure of public funds; it is a communication from a constituent who expects it to be confidential by its content; or it is otherwise subject to non-disclosure as required in 24-72-204(1) C.R.S.

#### b. WRITINGS means:

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

### 2. 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.

- a. All public records shall be open for inspection by any person at reasonable times.
- b. 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/she shall state the reason for the absence of the records from his/her custody, their location and what person then has custody of the record.
- c. 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 it, 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 record will be made available for inspection. The time period may be extended up to seven (7) working days if there are extenuating

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circumstances as defined in C.R.S.

### 3. **GROUND FOR DENIAL - APPEAL PROCESS**

[Other relevant State Law:]

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

- a. 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:
  - i. Such inspection would be contrary to any state statute.
  - ii. Such inspection would be contrary to any federal statute or regulation issued there under having the force and effect of law.
  - iii. Such inspection is prohibited by rules promulgated by the Supreme Court or by the order of any court.
  - iv. Such inspection would be contrary to the requirements of any joint rule of the Senate and House of Representatives pertaining to lobbying practices.
- b. Generally, 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 (see 24-72-204 C.R.S. for specifics):
  - i. 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.
  - ii. 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.
  - iii. 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. The exception would be the owner of the property in any eminent domain action as provided in 24-72-204(2)(a)(IV) C.R.S.
  - iv. Medical, mental health, sociological and scholastic achievement data exclusive of coroner's reports.
  - v. Personnel files (does not include employment contracts, salary and benefit information). Such files shall be available to the person in interest and their supervisor only.
  - vi. Letters of reference.
  - vii. Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data.

- viii. Library and museum material contributed by private persons who have requested that such material not be disclosed.
  - ix. Addresses and phone numbers of students.
  - x. Library user records.
  - xi. Addresses, telephone numbers and personal financial information of users of public utilities, public facilities or recreational or cultural services.
  - xii. Sexual harassment complaints or investigations as limited by 24-72-204-(3)(a)(X).
  - xiii. Applications for an executive position unless a finalist.
  - xiv. There are many others. See 24-72-204 C.R.S. for a complete list.
- c. If the custodian denies access, the applicant may:
- i. Request a written statement of the grounds for the denial;
  - ii. Apply to district court for a hearing where the custodian must show cause for denying inspection.

#### **4. POLICIES FOR OPEN RECORDS REQUESTS**

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 Format of Log attached.)

The log should be maintained for a period of two (2) years beyond the current year.

Transcripts (verbatim) will be provided by court order only. An applicant has the option of obtaining a copy of any audio or video recording of a public meeting by paying the cost of duplication.

#### **5. FEE SCHEDULE**

The Town will bill for copies or other services in conjunction with open records requests. Payment is to be made upon receipt of the copies or services.

The Open Records Act allows municipalities to charge \$0.25 per page for standard-size documents when copies are requested and provided, or the actual cost of preparation if the cost is greater. The actual cost to provide copies of public records, may include, but is not limited to, the size and cost of the physical medium of the document (e.g., paper, Mylar, photograph, audio or video tape or diskette), and the cost of retrieving the document from storage for inspection or copying. The custodian of the records may charge \$30.00 per hour for research and retrieval services, after the first hour of such services by the Town's staff. If the estimated cost of complying with the open records request will be \$50.00 or more, the applicant may be required to provide security to pay the cost incurred to obtain the records.

**Fee Schedule:**

|                                 |  |
|---------------------------------|--|
| B&W copies:                     | \$.25 per page (up to 11 x 17 paper copied on the Town's machine)                      |
| Color copies:                   | \$1.00 per page (up to 11 x 17 paper copied on the Town's machine)                     |
| Certified copies:               | \$1.00 additional per document   |
| Electronic Copies:              | \$.25 per page   |
| Large Format Copies:            | Actual cost  |
| Electronic Large Format Copies: | Actual cost  |
| B&W maps:                       | Actual cost  |
| Mylars:                         | Actual cost  |
| Photographic reproductions:     | Actual cost  |
| Audio tapes:                    | Actual cost  |
| Diskettes:                      | Actual cost  |
| Electronic retrieval:           | Actual cost  |
| Research/retrieval services:    | \$0.00 for the first hour, \$30.00/hour thereafter, pro-rated in 15 minute increments. |