

**TOWN OF BAYFIELD  
ACCESS TO PUBLIC RECORDS POLICY**

**I. Purpose:** To establish a protocol under which public documents will be made available upon request.

**II. Policy Statement**

In accordance with our statutory responsibility, the Town of Bayfield (the "Town") is committed to ensuring public access to Town public records within a reasonable time and at a reasonable cost.

**III. Definitions**

A. The "custodian" means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

B. "Public records" are those defined in C.R.S. § 24-72-202. Generally speaking, the following kinds of records are public:

1. Records of any official actions taken by board members during public meetings including minutes, tapes, exhibits, resolutions, agreements, contracts, reports, etc.
2. All documents related to the expenditure of public funds.
3. Applications for employment and employment agreements.
4. Minutes of meetings of any Town advisory boards, committees and commissions.
5. Incoming and outgoing correspondence of staff in which Town business is discussed.
6. Correspondence of officials, except to the extent that such correspondence is a work product; without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds; a communication from a constituent to an official that clearly implies by its nature or content that the constituent expects that it is confidential or a communication from a Board member in response to such a communication from a constituent; subject to nondisclosure as require by C.R.S. § 24-72-204(1).
7. Certain electronic mail. (Note: some electronic mail may be considered confidential work product or attorney-client privileged information.)

C. "Writings" includes 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 email messages, but does not include computer software.

D. "Work product" means and includes all intra- or inter-agency advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority. Such materials include: notes and memoranda that related to or serve as background information for such decisions; preliminary drafts and discussion copies of documents that express a decision by a Board member. Correspondence, reports and any other communication between staff, other agencies, consultants and/or others preparatory to any report or recommendation to a board member is considered to be a work product. Work product does not include: Any final version of a document that expresses a final decision by the Board; any final version of a fiscal or performance aptitude report or similar document the purpose of which is to investigate, track or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document; any final accounting or final financial record or report ; any materials that would otherwise constitute work product if such materials are produced and distributed in a public meeting

or cited and identified in the text of the final version of a document that expresses a decision by the Board.

E. The definitions found in C.R.S. § 24-72-202, as amended from time to time, are incorporated herein unless the context of this Policy clearly requires a different meaning.

#### **IV. Applicability**

This policy applies to all departments of the Town.

#### **V. Compliance**

All Town staff are responsible to ensure compliance with this policy.

#### **VI. General Provisions**

##### **A. Right to Inspect Public Records**

All books, papers, maps, photographs, cards, tapes, recordings, correspondence, digitally stored data and other documentary materials, regardless of physical form or characteristics, held by any local government for use in the exercise of its functions or involving the receipt or expenditure of public funds are public record pursuant to C.R.S. § 24-72-202, with the exceptions noted in Article 72, Part 2 of the Colorado Revised Statutes, and subject to public inspection under C.R.S. § 24-72-203. In addition to the right of inspection, any person also has the right to obtain copies of these records.

The following records are not public records:

1. Certain criminal justice records;
2. Work products prepared for (officials);
3. Personnel files (except applications, employment agreements and performance ratings);
4. Medical, psychological, sociological and certain scholastic achievement data;
5. Real estate appraisals; and,
6. Legal reports and advice on matters of litigation.

This list is not exhaustive; therefore, if there is any question about whether or not certain records are public information, the custodian shall consult with the Town Attorney.

##### **B. Electronic Mail**

Each individual employee is the custodian of his or her incoming and outgoing electronic mail (e-mail). In order to facilitate research and retrieval of email records that may be requested by the public, employees should take care to use a descriptive subject line that accurately and thoroughly reflects the topic of the e-mail correspondence.

##### **C. Document Creation and Format**

The records custodian is not under a duty to create any new public record in response to a request. Data and/or records need to be provided only in the format in which they currently exist. Data will not be manipulated and provided in custom formats.

##### **D. Advance Requests**

Requests in advance for "future" records, i.e. request for information on a subsequent continuing or periodic basis are not allowed. A separate request must be made each time existing data/and or records are requested.

##### **E. Requests for Information and Inspection**

###### **1. Procedure for Requesting Public Records**

With the exception of documents that are provided in the normal course of business, any request for public information that requires research and/or retrieval shall be made in writing and on the official Public Records Request form. The Town has developed the official Public Records Request form for the convenience of citizens and to ensure efficient and timely processing of public records requests. The form is available on the Town website (<http://www.bayfieldgov.org>) or may be obtained by calling the Town at (970) 884-9544.

All records requests may be delivered or mailed to the Town of Bayfield, PO Box 80, Bayfield, CO 81122 or may be submitted by email to Town Clerk at [kcathcart@bayfieldgov.org](mailto:kcathcart@bayfieldgov.org). Records requests may also be delivered by fax to (970) 884-2195. The staff person who receives the records request shall immediately transmit the request electronically to the Town Attorney and Town Manager. The Town Clerk shall maintain the log of all record requests received. Any staff member who receives a public records request directly shall immediately notify the Town Manager.

Whenever a request is made for records pursuant to C.R.S. § 24-72-203, the custodian of the records in question shall consult with the Town Attorney to ascertain whether the requested records are public or constitute an exception (such as a work product).

## **2. When Time Period for Response Begins**

The time period begins when the Town receives the completed official Public Records Request form. If the form is sent by:

- a. Email, it is deemed received when it is viewed by the recipient.
- b. U.S. mail, it is deemed received when the letter is opened and date stamped.
- c. Fax, it is deemed received when it is received and date stamped during regular business hours.
- d. Notwithstanding the foregoing, requests received outside of normal business hours, on holidays, and over weekends will be deemed received no earlier than 8:00a.m. on the next succeeding business day.

## **3. Time for inspection of records**

The Town will strive to comply with all public records requests within three (3) working days of receipt. If the requested records are in active use or are in storage, and are therefore, not immediately available, this information shall be communicated to the person making the public records request either by phone, or in writing, if requested, before the expiration of the three-day period.

The period of time for providing requested documents may be extended for an additional (7) seven days if the Town Attorney determines that one of the following conditions ("extenuating circumstances") exists, and states such condition in writing to the requestor, within the first three (3) working days of receipt of the request (CRS 24-72-203(3)(b) ):

- a. A broadly-stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the appropriate custodian of records reasonably to prepare or gather the records within the three-day period (CRS 24-72-203(3)(b)(I)).
- b. A broadly-stated request is made that encompasses all or substantially all of a large category or records, and the agency is unable to prepare or gather the records within the three-day period because:
  - i. The custodian needs to devote all or substantially all of its resources to meet an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

ii. A request involves such a large volume of records, or such obscure records, that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities. (CRS 24-72-03(b)(II)).

c. If the request is too broad, speculative or voluminous to prepare in ten working days (three days plus the seven-day extension), the Town may request relief from the Court, including attorney's fees, as provided by law.

d. If custodian is not available due to illness, vacation, holiday, training, or similar activity which prevents the custodian from responding in a timely fashion.

#### **F. Fees**

1. A substantial number of Town public records are available free of charge on the Town's website ([www.bayfieldgov.org](http://www.bayfieldgov.org)). These include, but are not limited to, the Town's budget, agendas and minutes of meetings of the Board, recorded documents, press releases, and other information.

2. The Town may charge for time spent responding to large requests for inspection of records, including without limitation, requests that require the searching of voluminous files for specific information, manipulating data or redacting documents to excise confidential information. The hourly rate for such work is specified in 4 below. A deposit of the estimated cost of the work may be requested and collected before the work begins. If actual charges are less than the deposit, the balance will be refunded. If a deposit is required prior to processing an open records request, the deposit must be received by the office of the Town Clerk within seven (7) days of notification of said deposit. If the deposit is not received as required in this Section, the request will be considered as abandoned and not processed. In the event a requestor has at any time presented a check or draft dishonored or returned due to insufficient funds or stop payment, the Town Clerk's Office may/shall require the payment of any records fees required hereunder to be paid with cash or certified funds.

#### **3. Copies**

a. The fee for a *paper copy* of any public record is 20 cents per page for copies up to 11" x 17" in size. If the document is greater than 11" x 17", then the fee shall be the actual cost of reproduction.

b. The fee for an *electronic copy* of any public record(s) shall be as follows:

- If the record exists in electronic format \$1 per CD or DVD + data compilation time
- If the record has to be scanned \$1 per CD or DVD + data compilation time
- If the record has to be printed and scanned \$1 per CD or DVD + data compilation time + paper copy fee
- For copies of videos \$1 per DVD + data compilation time

The Town will not accept a CD, thumb drive, or other storage media from the person requesting the records (the "requestor") to avoid viruses and/or system contamination.

#### **4. Data Compilation and/or Data Manipulation**

a. If the request will take more than fifteen minute to fulfill, the fee for compiling the requested information and/or manipulating the data to create a format otherwise not used by the Town, shall be as follows:

- Less than an fifteen minutes – no charge
- More than an fifteen minutes - \$25 per hour or otherwise established in the Colorado Revised Statutes.

b. The fee for data compilation includes the cost of redacting documents to excise privileged material.

c. The Town may charge for actual costs associated with retrieving records that require the assistance of an IT or computer consultant or other consultant not on Town staff.

d. The Town may refuse any request requiring data manipulation on the basis that the Colorado Open Records Act does not require manipulation.

### **G. Inspection of Records**

Inspection of records will take place during regular business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.) in the Town Clerks Office or at such other location as may be specified by the custodian of the requested records. The requestor may not bring or use photocopiers, fax machines and other copy, scanning or reproductive device when inspecting records. Upon completion of the review, the requestor must mark with tabs the pages he or she wishes to have copied. Copies will be made at a later time, depending on the volume. The requestor will be notified by the method identified on the Public Records Request form when the copies are available for inspection and/or pickup.

### **H. Denial of Inspection of Records**

In accordance with the Colorado Open Records Act, certain records are either prohibited from disclosure or may be withheld from public inspection. Any denial of inspection of records will be specific and the justification for such denial, as authorized under the Colorado Open Records Act, will be provided in writing to the requestor.

### **I. Retention and Archiving**

The custodian of records for the Town is responsible to retain, archive and/or purge records in accordance with the retention schedule established by the State Archivist for such records. With respect to e-mail, each day the Town's computer system routinely purges incoming and outgoing e-mails that are over 90 days old. Therefore, employees are responsible to retain, archive and/or purge, as appropriate, any incoming or outgoing e-mail, along with their other official Town records, in accordance with the Department's or Office's retention schedule from the Colorado State Archivist.