

Town of Bow Mar Public Records

I. AUTHORITY:

The public policy of the state and of the Town of Bow Mar (“Town”) requires all public records to be open for inspection at reasonable times unless specifically excepted by law. Colorado Public (Open) Records Law, C.R.S. Section 24-72-201, *et seq.* (“CORA”). CORA further allows the official custodian of public records to formulate rules and regulations with reference to the inspection of these records which:

- A. Protect the integrity of the records, and
- B. Limit operational disruption caused by access to the records.

II. PURPOSE OF POLICY:

- A. To set forth a policy providing the public with timely, orderly, efficient and appropriate access to public records maintained by the Town in compliance with the standards and requirements of CORA; and
- B. To establish general procedures and reasonable and standardized fees for producing copies of and information from Town-maintained records as authorized by CORA (CORA does not require the Town to create a record in response to a request for information); and
- C. To protect public records from alteration, abuse, wear and tear, defacement or permanent loss and misuse, and to ensure that other activities of the respective offices of records custodians not be disrupted or interrupted.

III. SCOPE:

This policy shall apply to all public records except (1) records kept and maintained by Arapahoe or Jefferson County under the custody of the Arapahoe or Jefferson County custodian of records (release of which shall be governed by County policies).

IV. DEFINITIONS:

Definitions found in C.R.S. Section 24-72-202, as amended from time to time, shall apply unless the context clearly requires a different meaning in accordance

with customary usage. Other terms used in this policy shall have the following definition:

A. **Non-Public Record** shall mean any writing made or kept by the Town which does not constitute a Public Record under this policy and/or under the provisions of CORA.

B. **Non-Routine Record** shall mean any Public Record that is a not a "Routine Record" or any request where the legality of compiling or releasing the document may be in question.

C. **Public Records** shall mean all writings made, maintained or kept by the Town for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditures of public funds. "Public Records" does not include Work Product. However, it does include the correspondence of elected officials, with limitations, as noted in C.R.S. Section 24-72-202, *et seq.*

D. **Public Records Request Form** is the form attached hereto as **Exhibit 1** which shall be utilized for all records requests and as may be amended from time to time by the Custodian of Records.

E. **Records Custodian** shall mean the Town Clerk or his/her designee.

F. **Research/Data Gathering Time** shall mean all time expended by Town staff in processing requests for Public Records in excess of one hour as applied to the calculation of the fee associated with any request for public records.

G. **Routine Record(s)** shall mean Public Records that are commonly requested and maintained on-site at the Town offices and do not involve any significant staff time for research, compilation or tabulation of any data. Voluminous requests for records which are otherwise Routine Records may be treated as a Non-Routine Records request in the discretion of the Records Custodian.

H. **Work Product** shall mean all 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.

I. **Writings** shall mean all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics, including digitally stored data (including, without limitation, electronic mail messages) but do not include computer software.

V. RESPONSIBILITIES:

A. It is the responsibility of the Records Custodian for the Town to implement and oversee compliance with this policy.

B. It is the responsibility of each Town employee and contractor to become familiar with the standards and requirements of this policy.

VI. GENERAL PROCEDURES:

A. Requiring Identifying Information: Release of Public Records shall not be conditioned upon the furnishing of information by the requester such as name, address, phone number or reason for request. If the requester is asking for information to be faxed or sent via mail, appropriate information must be provided. Likewise, if the requester is paying by method other than cash for the cost of research, copying, etc., appropriate information must be provided.

B. Access Times: Inspection of Public Records shall be in the Town office from 8:00 a.m. until 4:00 p.m., Monday through Friday, except on Town observed holidays, by prior appointment. only.

C. No original Public Records shall ever leave the possession or control of the Records Custodian.

D. The Town will fulfill all Public Records requests within three (3) business days if the records are readily available. An additional seven (7) business days may be added if the records are in active use, in storage or otherwise not readily available. If the additional days are necessary, the Records Custodian shall notify the requester in writing of the extenuating circumstances within the initial three day period.

E. Any denial of a Public Records request or request for a Non-Public Record by the Town shall be in writing.

F. In all cases in which a person has the right to inspect any Public Record pursuant to this policy, copies, printouts or photographs of such records may be provided to the requester if prior to reproduction, requesters pay the applicable fee in accordance with Section IX of this Policy.

G. Whenever fees or costs are assessed pursuant to this policy, the Town will accept payment in the form of cash and check only.

H. The public shall not be allowed to use its own equipment in inspecting or copying Public Records. The necessary manual or electronic functions necessary to extract, collate, organize, retrieve, copy or otherwise manipulate the records and data necessary to produce the record or allow for its inspection shall be performed by the Records Custodian.

VII. REQUESTS FOR ROUTINE RECORDS

A. The Records Custodian may allow inspection and/or copying and release of Routine Records. These requests may be made verbally or in writing and shall be handled in a timely and responsive manner and shall not be subject to the procedures for Requests for Non-Routine and Non-Public Records.

B. The Records Custodian will strive to handle Routine Records requests promptly but, in no event, will such requests take longer than three days to handle.

C. The cost for copying and providing the Routine Record shall be as set forth in Schedule A. If the cost is estimated to exceed \$20, the requester shall be required to approve the estimated cost before the request is fulfilled. After fulfilling the request and before releasing any documents or information, the Records Custodian shall return to the requester any excess funds or charge the requester for any deficiencies in funds.

VIII. REQUESTS FOR NON-ROUTINE INFORMATION OR NON-PUBLIC RECORDS

A. All requests for Non-Routine Records and for any Non-Public Records must be received in writing through the office of the Records Custodian on the Public Records Request Form. If a Non-Routine Record or Non-Public Record is requested via the telephone, the requester will be notified to submit the request in writing. The date and time of the request must be noted in the box at the bottom of the form.

B. The Records Custodian will notify the Town Clerk and, if so directed by the Town Clerk, the Town Attorney, of each Non-Routine or Non-Public Records request.

D. The Records Custodian, in consultation with other Town personnel and, when applicable, the Town Attorney's Office, shall determine if the Non-Routine Record requested should be open for inspection within the guidelines of CORA. In addition, if, in the opinion of the Records Custodian in consultation with the relevant Town personnel and Town Attorney's Office, disclosure of the contents of any Non-Routine Record would do substantial injury to the public interest, be contrary to any state statute, federal statute, or any regulation issued thereunder or is prohibited by rules promulgated by the order of any court, notwithstanding the fact that said record would otherwise be available for public inspection under the provisions of CORA and this policy, the Records Custodian shall notify the requester that access to such Public Record is denied and state the grounds for the denial within three days of the date of receipt of the request.

1. If a determination is made that the record is either not a Public Record (a Non-Public Record) or otherwise not subject to public inspection within the guidelines of CORA, the Records Custodian shall issue a written statement to the requester within three days of the date of receipt of the request explaining the legal basis for withholding release of the requested record.

2. If the request record is determined to be a Public Record within the guidelines of CORA but the records are not available (lost, non-existent, etc.), the Records Custodian shall notify the requester in writing within three days of the date of receipt of the request.

3. If the request is determined to be within the guidelines of CORA and the requested Public Records are in the custody and control of the Town but are in active use or in storage and not available at the time a requester asks to examine them, the Records Custodian shall inform the requester in writing of this fact and, except when extenuating circumstances exist which require the date and time be extended to a date and time not to exceed seven days, set a date and hour when the records will be available for inspection or for production and copying within three working days of the date of the request. The finding of extenuating circumstances forming the basis for the extension of time shall also be documented and provided to the requester in writing by the Records Custodian.

4. If the request is determined to be within the guidelines of CORA, the Records Custodian shall generate a cost estimate to complete the request.

a. If the cost estimate is in excess of \$20, the total estimated amount shall be collected by the Records Custodian in advance of proceeding with the request. The requester shall be advised that this is only a deposit and that necessary adjustments to such amount will be made at the time the request is ready for pickup. Upon receiving payment, the Records Custodian shall contact work with the appropriate Town personnel to fulfill the request.

b. The Records Custodian shall fulfill the request, accounting for all costs incurred in processing the request.

c. The requester shall be contacted by the Records Custodian and informed as to any adjustments to the original estimate. If paid in advance, the requester shall pay or be refunded any adjustment based on the actual costs incurred.

IX. FEES:

- A. Fees for production of Public Records are as set forth in **Schedule A**.
- B. The Town may charge for Research/Data Gathering Time. Where data already exists in substantially the form requested and research or calculations do not have to be made, there will be no research or analysis charge. When manual or automated work needs to be performed on an ad hoc basis to generate the data requested, a charge shall be applied as set forth in the Schedule A to fully recover the Town's costs.
- C. The Town may also charge for extraction of email data at a rate different than that for other types of records based on costs assessed to the Town by a

third party contractor. The rate is based on a charge per “download” plus an hourly fee for time as noted in the Fee Schedule.

- D. Fees shall not be waived except with the approval of the Town Clerk or his or her designee.

SCHEDULE A
SCHEDULE OF COPYING CHARGES AND MISCELLANEOUS FEES
 (§24-72-205 C.R.S.)

<u>Annual Budget:</u>	Also available on Town of Bow Mar website and Colorado Department of Local Affairs website	\$.25 per standard page
<u>Audited Financial Statements:</u>		\$.25 per standard page
<u>_____:</u>		
<u>Town of Bow Mar Ordinances and Resolutions:</u>	Also available on Town of Bow Mar Website	\$.25 per standard page
<u>Certification of Document :</u>	Each copy This applies to requests from citizens/agencies for certified true copies of Town documents;	\$5.00 for staff time
<u>Copies of Documents:</u>	Per 8½" X 11" page; 8½" X 14" page; or Per 11" X 17" page Documents requiring outside printing will be assessed the actual cost to the Town	\$.25 per standard page
<u>_____:</u>		
<u>Model Traffic Code:</u>	Available through the Colorado Department of Transportation	
<u>Other Requests and Documents</u>		Actual cost to the Town to obtain or reproduce
<u>Staff Time:</u>	When information gathering, printing or retrieval of a document requires staff research, labor or travel time, the hourly charge begins after 60 minutes and will be assessed and prorated in quarter hour increments.	Actual hourly rate of appropriate staff, but not less than \$30.00 per hour
<u>Uniform Codes Such As Fire, Plumbing, Building</u>	Sold by: All community colleges Barnes and Noble Tattered Cover International Code Council: (www.constructionbook.com)	

EXHIBIT 1
PUBLIC RECORDS REQUEST FORM (follows)

Town of Bow Mar

PUBLIC RECORD REQUEST REQUEST MAY BE EMAILED TO: bowmartown@gmail.com

Name: _____ Date: _____

Address: _____ Town: _____

State: _____ Zip Code: _____ Daytime Phone: _____

E-mail Address: _____

Italicized above information is optional unless payment is by check or delivery of copies is requested.

Copies Requested Yes [] No []

INSTRUCTIONS

**Please indicate the information desired and/or list each requested document.
Please be as specific as possible.**

Pursuant to §24-72-203 C.R.S. three (3) working days may be allowed for a search of the records. This may be extended by seven (7) working days for extenuating circumstances, to include the records being in active use, in storage or otherwise not readily available.

[Please note – all e-mailed requests must be followed up with a phone call to ensure it was received.]

Charges: (See attached fee schedule)

_____	=	_____
_____	=	_____
_____	=	_____
_____	=	_____

Total \$ _____

Staff Use Only

Date Received: _____ Time Received: _____

Date Completed: _____ Time Completed: _____ Completed By: _____

Summary of Response: _____
