

# TOWN OF COLLBRAN

## OPEN RECORDS GUIDELINES

### I. DEFINITION OF "PUBLIC RECORD" AND "WRITINGS"

#### PUBLIC RECORD

All writings made, unless specifically exempted, 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 expenditure of public funds. Criminal justice records (as defined elsewhere) are not public records.

#### WRITINGS

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

### II. 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

- (1) All public records shall be open for inspection by any person at reasonable times.
- (2) If the public record request 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 shall state the reason for the absence of the records from his custody, their location, and what person then has custody of the record.
- (3) 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 them, 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 records will be available. The time period may be extended up to seven (7) days if there are extenuating circumstances as defined in C.R.S.

### III. GROUND FOR DENIAL --APPEAL PROCESS

C.R.S.24-72-204 - Allowance or denial of inspection - grounds - procedure - appeal and other relevant State Laws

- (1) 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:

- (a) Such inspection would be contrary to any state statute.
- (b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.
- (c) Such inspection is prohibited by rules promulgated by the supreme court or by the order of the court.

(2) 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:

- (a) 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.
- (b) Any records 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 any examination.
- (c) 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.
- (d) Personnel files. Such files shall be available to the person in interest and their supervisor.
- (e) Privileged information and confidential commercial, financial, geological or geophysical data.
- (f) Addresses, telephone numbers and personal financial information of users of public utilities, public facilities or recreational or cultural services.

(3) If the custodian denies access, the applicant may:

- (a) Request a written statement of the grounds for denial;
- (b) Apply to district court for a hearing where the custodian must show cause for denying inspection.

#### IV. OPEN RECORD 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 Log attached)

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

Transcripts (verbatim) will be provided by court order only. An applicant has the option of obtaining a copy of any audio recording of a public meeting by making arrangements for duplication and paying the costs. Video tapes may also be copied at the applicant's expense. Minutes of executive sessions are only available by court order and are only released to the judge.

The Town will not bill for copies or other services in conjunction with open records requests. Charges must be paid at the time of service.

The Open Records Act allows \$.25 charge per page when copies are requested and provided, or the actual cost of preparation if the cost is greater. The actual COST may include, but is not limited to, the hourly rate paid to the employee conducting the research, cost of the physical medium of the document (*e.g.*, tape or diskette) and the cost of retrieving the document from off-site storage for inspection.

Cost per hour for research, retrieval and related services:

Personnel, Research, Copy (1 hour minimum)	\$20.00 per hour
Copies, per one sided page	\$ .25 each
FAX, per page, sent or received (must include the cover page)	\$ 1.00 each

## V. PROCEDURE

1. Open Records Requests are initiated with the Town Clerk.
2. If request is under Open Records Act (as opposed to a copy of a readily available document) the requester needs to complete an application.
3. Town Clerk determines:
  - a. Who is the custodian of the requested document(s);
  - b. The status of the record (availability, etc.);
  - c. Cost estimate.
4. Applicant gets cost estimate and signs request.
  - a. Copies are made available in the Town Clerk's office (within 2 working days of the request, day and time);
  - b. Town Clerk makes appointment and collects fee.
5. The original copy of the request is maintained in the Town Clerk's Office.

# TOWN OF COLLBRAN OPEN RECORDS REQUEST

## VI. REQUEST FOR INSPECTION/COPYING OF RECORD

Date of Request \_\_\_\_\_ Time of Request \_\_\_\_\_

Applicant Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Description of Document \_\_\_\_\_

Purpose of Request:

Court Case  Personal Information  Other (please specify) \_\_\_\_\_

Request To: Inspect \_\_\_\_\_ Receive Copies \_\_\_\_\_

Means of Notification: Mail  Fax  Pick Up

Certified Copy?  Yes  No

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### **FOR TOWN CLERK USE ONLY**

Availability:  Paper Copy  Electronic Format

Location:  In Storage  Readily Available (on-site)

Cost Estimate: # of pages @ \$ .25 = \_\_\_\_\_

# of hours @ \$20.00 = \_\_\_\_\_

Total Cost Estimate: \_\_\_\_\_

Request Denied - Basis for Denial \_\_\_\_\_

Having received the foregoing cost estimate I choose to confirm my request for the records described and agree to pay a deposit of 50% now and the balance of the charges at the time the records are made available.

Yes  No - Cancel Request

Deposit/Payment Received \_\_\_\_\_ Cash  Check # \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**Distribution:** Date Mailed \_\_\_\_\_ Initials \_\_\_\_\_ Date Faxed \_\_\_\_\_ Initials \_\_\_\_\_

Date Picked Up \_\_\_\_\_ Initials \_\_\_\_\_