

Resolution 06-50

A RESOLUTION OF THE TOWN OF TAOS REPLACING AND SUPERCEDING TOWN OF TAOS RESOLUTION 98-42 TO ADD AND ADJUST FEES FOR THE INSPECTION AND COPYING OF PUBLIC RECORDS TO COMPLY WITH STATE LAW AND TOWN ORDINANCE MAKING SUCH COPIES AVAILABLE TO THE PUBLIC AT A REASONABLE CHARGE.

WHEREAS, Access to public records is one of the fundamental rights afforded people in a democracy;

WHEREAS, Public policy has established the right to inspect and copy records to afford members of the public the opportunity to keep a watchful eye on government;

WHEREAS, The New Mexico Supreme Court recognized the public's right to inspect by stating, "[w]ritings coming into the hands of public officers in connection with their official functions should generally be accessible to members of the public so that there will be an opportunity to determine whether those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants." State ex rel Newsome v. Alarid, 90 N.M.790, 795, 586, P.2d 1236 (1977) (quoting with approval MacEwan v. Holm, 359 P.2d 413, 420-21 (or. 1961);

WHEREAS, It is the right of the public to inspect or examine records and included in this right is the right of making copies as promulgated by the New Mexico State Legislature, NMSA 1978, § 14-2-1 (1993);

WHEREAS, NMSA 1978, § 3-13-1(4) 1965) requires, "upon request, furnish copies of municipal records. The Clerk may charge a reasonable fee for the cost of furnishing copies of municipal records";

WHEREAS, The Code of Ordinances of the Town of Taos, New Mexico § 3.44.010(E) states: "The Town Clerk shall furnish, upon written request, copies of municipal records to the public. The governing body shall adopt a resolution prescribing reasonable fees for the cost of furnishing copies of the municipal records";

WHEREAS, The Town is a public entity and keeps records that shall be made available to the public;

WHEREAS, New Mexico State Law, NMSA 1978, § 14-2-9 (1993) states:

- A. Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection. If necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial

printout of data containing public records or information may be furnished in lieu of an entire database.

- B. A custodian:
1. May charge reasonable fees for copying the public records, unless law otherwise prescribes a different fee;
 2. Shall not charge fees in excess of twenty-five cents (\$.25) per page for documents eleven inches by seventeen inches in size or smaller;
 3. May require advance payment of the fees before making copies of public records;
 4. Shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and
 5. Shall provide a receipt.

WHEREAS, The Town Council desires to provide this information to the public, set up procedures for the dissemination of such information to the public and establish reasonable fees.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Taos, that:

- A. Except as otherwise provided by federal, state law, or town policy that classifies as confidential information contained in records or databases shall be considered information available to the public except as to those portions considered to be exempt information or to the complete databases, programming information and software, which is considered to be proprietary property of the Town of Taos. The Town shall allow the disclosure in printed, typed, audio, video or digital format by the Town Clerk, Deputy Clerk, or other custodian of record (Department Head) in accordance with the Public Records Act, and the Taos Municipal Code upon the payment in advance of delivery of such information for a reasonable fee for the service. The Town Clerk, Deputy Clerk, or other custodian of records that has custody of such record may authorize a copy to be made of a record, digitally computerized disc, other medium of a record or portions, of the record to exclude the whole database, any computer software and programming information for any person if the person agrees to the following:
- B. That the following are exemptions and are not considered available to the public:
1. records pertaining to physical or mental examinations and medical treatment of persons confined to any institution,
 2. letter of reference concerning employment, licensing or permits,
 3. letter or memorandums which matters of opinion in personnel files
 4. as provided by Federal Law including the Privacy Act,
 5. as provided by the State Confidential Materials Act,
 6. as provided by State case law or Attorney General Opinion, and

7. as provided by policy of the town classifying certain documents as confidential;
- C. The Clerk, Deputy Clerk, or custodian of records shall separate exempt from non-exempt records prior to inspection;
 - D. The Town Clerk shall prepare a request form for the general public and this form will be available to the public at the Town Clerk's Office as required for every individual, group or other entity to complete all information required on the form. The Town Clerk, Deputy Clerk, or other custodian of records will review the form to ensure the form is complete, and advise the applicant if the information is available and the cost per page and or per item as listed below. The Clerk will consult with the personnel administrator on all requests for personnel information to determine whether such information is confidential. The Chief of Police is authorized to utilize other forms as may be prescribed by the Arrest Record Information act;
 - E. Copies in most cases will be furnished immediately, however depending on the nature of the request, the medium requested, the amount of research required to obtain the record(s) and other priorities that may be involved with at the time of the request. Records that contain numerous pages, or that may require research to obtain, may not be immediately available for duplication. The Clerk, Deputy Clerk, or other custodian of the record(s) will advise the citizen as to the date and time the record may be available within three (3) days of the request or disclose that the records does not exist or is included in an exception;
 - F. That citizens may review a public record, if such record is readily available, the Town Clerk or custodian or record will arrange for the citizen to review the record in the presence of a member of the staff. The citizen may take notes, request a copy if practical, but under no circumstance will the staff allow the citizen to remove a public record from the premises. If the record is not readily available, the Clerk or custodian of record will advise the citizen as to the date and time the record will be available for review. The regular functions of this office shall not be interrupted. The citizen must wait until personnel is available to search for a public record, or make a copy of a public record;
 - G. Not to allow the use of any portion of the information disclosed to the citizen by any other person unless the use is approved in writing by the Town department that created the record;
 - H. Not to use all or any portion of the disclosed information for any political or commercial purpose unless the purpose and use is approved in writing by the Town department creating the database;
 - I. Any record containing the name, address or telephone number of any person will be deleted if possible or the record will be considered confidential. If a record contains such information the Town of Taos does not authorize its use for solicitation or any political purpose unless such use is otherwise specifically authorized by law;

- J. To a disclaimer that by making available portions of the public information, the Town of Taos is providing a community service and is not to be held liable for any error or liability associated with the inaccuracy or use of the data;
- K. Converting disclosed public information to formats other than the format used by the Town of Taos, and providing media on which to store and transmit such information, is the responsibility of the citizen;
- L. No fee will be charged to determine whether any of the information contained in this database is subject to disclosure;
- M. The Town has no duty to create a record that does not exist;
- N. The following is a schedule of fees that may be changed from time to time as cost for such items increase or decrease (2-sided copies are considered 2 pages);

Accident Reports, Police Reports, etc.	\$1.00 per page up to the first three (3) pages and then \$0.55 each
Ordinances, Resolutions, and Policies	\$.25 per page
Minutes of Council/Commission Meetings	\$.25 per page
Land Use Development Code Book	\$40.00 each
Public Works Construction Manual	\$15.00 each
Comprehensive Plan	\$20.00 each
Annual Operating Budget (GFOA)	\$40.00 each
Audit	\$20.00 each
Contracts, Agreements, Leases, Etc.	\$.25 per page
Computer Generated Records Hard Copy	\$.35 per page
Computer Discs	\$5.00 each
GIS Information	Refer to Resolution 98-36
Audio Cassettes	\$5.00 each
Videos	\$25.00 each
Faxes	\$.50 per page
Colored Copies	\$1 per page
Research fee	\$10.00 per hour for electronic records ONLY.

Authorized timetable for responding to requests for copies of municipal records:


Copies of publications on hand and available for sale	Immediate
Copies of publications that must be reproduced	30 working days
Copies of Ordinances, Resolutions, and Policies	3 working days
Copies of Minutes of the Council/Commissions	3 working days after council approval
Police Reports, Accident Reports	3 working days
Copies of Maps and Aerial photos	refer to Resolution 98-36
Computer Generated Records	3 working days
Copies of Contracts, Agreements, Leases	3 working days
Copies of Records Requiring Research	3 working days or more based on a case by case review

PASSED, ADOPTED, AND APPROVED this 15th day of August, 2006 at the Regular Meeting of the Town Council.

TOWN OF TAOS

By 
Bobby F. Duran, Mayor

ATTEST:

By 
Renee Lucero, Town Clerk