



Resolution 10-06

A RESOLUTION OF THE TOWN OF TAOS REPLACING AND SUPERSEDING TOWN OF TAOS RESOLUTION 06-50A TO MAKE PUBLIC RECORDS AVAILABLE FOR INSPECTION AND COPYING AND ESTABLISH REASONABLE FEES FOR COPYING OF PUBLIC RECORDS TO COMPLY WITH STATE LAW AND TOWN ORDINANCE.

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 1241 (1977) (quoting with approval MacEwan v. Holm, 359 P.2d 413, 418 (Or. 1961);

WHEREAS, It is the right of the public to inspect records, subject to certain exceptions, and included in the right to inspect is the right of making copies as provided in statute enacted by the New Mexico State Legislature, NMSA 1978, § 14-2-1 (1993);

WHEREAS, NMSA 1978, § 3-13-1(4) 1965) requires that a municipal clerk, "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 Clerk has been designated the Town's custodian of records;

WHEREAS, The Town Council hereby delegates the function of custodian of records for arrest and other police records to the Chief of Police;

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 a different fee is prescribed by law;
 - 2. Shall not charge fees in excess of one dollar (\$1.00) 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, upon request.

WHEREAS, The Town Council desires to provide public records to the public, set up procedures for the public obtaining such records 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 or state law or policy that classifies as confidential information contained in records or databases, records used, created, received, maintained, or held by the Town of Taos shall be considered information available to the public. The Town shall allow the disclosure in printed, typed, audio, video or digital format as applicable, by the custodian of records in accordance with the Inspection of Public Records Act and the Taos Municipal Code upon the payment in advance for copies of such records at a reasonable fee for the records. The custodian of records shall cause a copy to be made of a record, whether the record is a paper record, a digitally computerized disc, or other medium upon payment of the proper fee. If the record requested constitutes only a portion of a computerized database, or if some of the record requested is exempt from disclosure, then the appropriate portion shall be copied for the requester.

- B. 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. letters of reference concerning employment, licensing or permits;
 3. letters or memorandums which are matters of opinion in personnel files;
 4. law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime. Law enforcement records include evidence in any form received or compiled in connection with any criminal investigation or prosecution by any law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed above;
 5. as provided by the Confidential Materials Act;
 6. trade secrets, attorney-client privileged information and long-range or strategic business plans of public hospitals discussed in a properly closed meeting;
 7. public records containing the identity of or identifying information relating to an applicant or nominee for the position of president of a public institution of higher education;
 8. tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack; and
 9. discharge papers of a veteran of the armed forces of the United States filed with the county clerk before July 1, 2005 that have not been commingled with other recorded documents. These papers will be available only to the veteran who filed the papers, the veteran's next of kin, the deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney or a person designated in writing by the veteran to receive the records;
 10. discharge papers of a veteran of the armed forces of the United States filed with the county clerk before July 1, 2005 that have been commingled with other recorded documents if the veteran has recorded a request for exemption from public disclosure of discharge papers with the county clerk. If such a request has been recorded, the records may be released only to the veteran filing the papers, the veteran's next of kin, the deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney or a person designated in writing by the veteran to receive the records;
 11. discharge papers of a veteran of the armed forces of the United States filed with the county clerk after June 30, 2005. These papers will be available only to the veteran who filed them, the veteran's next of kin,

- the deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney or a person designated in writing by the veteran to receive the records; and
12. as otherwise provided by law.
- C. The custodian of records shall separate exempt from non-exempt records prior to inspection;
 - D. The custodian of records 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 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 custodian of records will consult with the Human Resources Director on all requests for personnel information to determine whether such information is confidential. Other forms prescribed by or consistent with the Arrest Record Information Act (NMSA 1978, Sections 29-10-1) may be utilized for such information;
 - E. Copies in most cases will be furnished within three business days of the custodian actually receiving a request, 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 the period may be longer consistent with the Inspection of Public Records Act, NMSA 1978 Sections 14-2-8.D. which states "A custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request. The three-day period shall not begin until the written request is delivered to the office of the custodian." and 14-2-10 which states "If a custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request. The requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time.";
 - F. Records that contain numerous pages, or that may require research to obtain, may not be immediately available for duplication. The custodian of the records will, within three (3) days of receiving the request, advise the requester as to the date and time the record may be available or disclose that the records does not exist or is included in an exception;
 - G. A requester may review a public record not subject to an exception. The custodian of records will arrange for the citizen to review the record in the

presence of a staff member. The requester may take notes or request a copy, but under no circumstance will the staff allow the requester to remove a public record from the premises. If the record is not readily available, the custodian of records will advise the citizen as to the date and time the record will be available for review.

- H. The portion of any record containing the home address or telephone number of any individual 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;
- I. By making available public records, 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;
- J. 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 requester;
- K. No fee will be charged to determine whether any of the information covered by a public records request is subject to disclosure;
- L. The Town has no duty to create a record that does not exist;
- M. The following is a schedule of fees for 11x17 or smaller copies. These costs may be changed from time to time as cost for such items increase or decrease (2-sided copies are considered 2 pages);

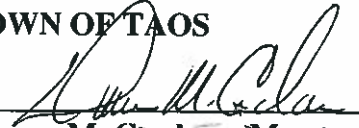
Accident Reports, Police Reports, etc.	\$.15 per page
Ordinances, Resolutions, and Policies	\$.15 per page
Minutes of Council/Commission Meetings	\$.15 per page
Land Use Development Code Book	\$35.00 each
Public Works Construction Manual	\$15.00 each
Vision 20/20 Master Plan	\$30.00 each
Annual Operating Budget (GFOA)	\$20.00 each
Audit	\$20.00 each
Contracts, Agreements, Leases, Etc.	\$.15 per page
Computer Generated Records Hard Copy	\$.15 per page
Faxes	\$.25 per page
Colored Copies	\$.25 per page
Compact Discs (CDs)	\$5.00 each
DVDs	\$10.00 each

- N. The custodian of records, at his or her discretion, may waive fees for minimal requests (up to 10 pages); for requests for electronic copies that are already in electronic (pdf) format; or for requests from public information media organizations.

PASSED, ADOPTED, AND APPROVED this 23rd day of March, 2010 at the Regular Meeting of the Town Council.

Councilmember Rudy C. Abeyta	<u>yes</u>
Councilmember A. Eugene Sanchez	<u>yes</u>
Councilmember Amy J. Quintana	<u>yes</u>
Councilmember Michael A. Silva	<u>yes</u>

TOWN OF TAOS



Darren M. Cordova, Mayor

ATTEST



Renee Lucero, Town Clerk

APPROVED AS TO FORM:



Allen Ferguson, Town Attorney