

# **TOWN OF SPRINGERVILLE**

## **Public Records Policy**

### **I. PURPOSE**

The Arizona Public Records Law (ARS §39-121, et. seq.) permits any person to inspect any public records. As a public institution, the Town is subject to the Public Records Law. This regulation shall serve to provide general guidelines for a uniform policy approach to disclosure and inspection of public records. Any questions regarding this matter should be directed to the Office of the Town Clerk.

The Freedom of Information Act (FOIA) is the federal version of the public records law. It is not applicable to local entities such as the Town. Courts have stated, however, that the FOIA and the cases interpreting it are helpful in construing the state public records law.

### **II POLICY**

The Town of Springerville will fully comply with the intent, spirit and provisions of the Arizona Public Records Law by providing access to public records in good faith and with due diligence. Exceptions are made for records that are clearly privileged and confidential or detrimental to the best interests of the Town, in which case the requesting party shall be provided an analysis and reason for not disclosing the information.

### **III. SCOPE**

The Public Records Law is applicable to all town employees and all public records in all Town departments, with the exception of the Springerville Police Department, which will comply with specific policy. The law includes all records regardless of physical form or characteristics.

### **IV. PUBLIC RECORDS**

A. The Arizona Supreme Court has defined a public record as any record that is required by law to be kept or necessary to be kept in the discharge of a duty imposed by law or directed by law to serve as a memorial in evidence of something written, said or done. To be a public record, the document must relate to the official duties of a public officer or public agency. Examples of public records determined to be subject to disclosure by statute, the Arizona courts, or opinions of the Attorney General's Office include:

1. Permits and application forms for permits.
2. Official minutes and records of governmental bodies, boards, and commissions.

3. Records of expenditures of public monies
4. Books of accounts and audits of the Town.
5. All products of electronic databases made or received by any governmental agency in connections with the transaction of public business.
6. Preliminary, tentative, and final Town budgets.
7. Final selection list of applicants for a public-employment position.
8. Utility records with exceptions as noted below.
9. Delinquent utility charges of elected officials.
10. Written legal opinions that determine existence or absence of a conflict of interest.

B. Exclusions. Most records of the Town are deemed to be public records. There are, however, certain exceptions to the Public Records Law, which would exempt some records from being public. Such exclusions may include, but are not limited to, the following:

1. Names and resumes of applicants for public employment positions until finalists are determined.
2. The following portions of employee records:
  - a. Home address, telephone number, Social Security number and birth date of Town employees.
  - b. Any other material in the personnel file where there are specific facts:
    - (1) which justify the possibility of specific risks to the employee if the information is disclosed; or
    - (2) whereby the privacy or confidentiality interests of the employee would outweigh public disclosures of the document or information.
3. Specific information regarding the Town's medical insurance program as it relates to the specific employees.
4. Financial statements of contractors.
5. Responses to a request for a proposal (RFP), except for the name of the proposer. Notwithstanding, once a proposer is identified as the final choice for selection, then all of the proposals become public records.

6. Trade secrets and proprietary information contained in a bid or proposal. These will generally be identified as such by the bidder or proposer.
  7. A document originally created or maintained as a memorial of the business activities of a third party.
  8. Preliminary or draft reports.
  9. Legal work product of attorneys. This does not include actual briefs or memoranda files with the court.
  10. Letters, memos, and e-mail to and from the Town Attorney Department with other Town Staff, appointees, or Council, which are attorney-client privileged information.
  11. Memoranda and documents not otherwise public, which are provided to the Town Council in an executive session.
  12. Correspondence and other documentation relating to economic development contracts and negotiations, until such times that said negotiations have been completed or have broken off.
  13. Utility customers' Social Security number, date of birth, and if identified as an unlisted number, the telephone number.
  14. In addition to the exclusions noted in paragraph 13, the customer home address and telephone number contained in the utility records of the police officers.
  15. In Town employees and other utility customers can request that their address and telephone number be kept confidential if they can provide a reasonable basis for the confidentiality thereof.
  16. Records, or other information, which identifies a user of library services as requesting or obtaining specific materials or services or as otherwise using the library services.
  17. Other records made confidential by Arizona Statutes.
- C. Custom Requests. A Custom Request is a request for data that does not currently exist as requested. Custom data requests include requests to generate new data, perform research projects, create new report formats, or perform custom programming or extraction.

1. The Town is not required to create a new record to meet a public records request. This means that the Town is not obligated to obtain new data, perform research projects, create new report formats, convert data to different medium or formats, nor perform custom programming or extraction.
2. Requestors only have a right to the data that is already maintained and in the format in which it is currently kept. A public entity is not required to convert data to a different format or to convert the magnetic media to one that the public entity does not use.
3. Custom requests may be declined. However, the Town may choose to fulfill a request for nonexistent information or for existing information in a different format or medium when it is in the Town's best interest to do so.
4. Factors to consider in evaluating whether to fulfill a custom request:
  - a. availability of resources (personnel, equipment etc.)
  - b. the data subject to disclosure
  - c. production costs
  - d. maintenance costs
  - e. impact on the department and on the Town of Springerville.
5. Once a "custom" document is created, it then becomes a public record subject to the normal public records requests guidelines.

## V. PROCEDURE

- A. Request Submittal. Requests for public records will be submitted to the Town Clerk by using the Request for Public Records form (refer to Appendix A) and shall be specific in nature. Town Employees involved in taking requests for public records should seek specific information concerning each request before responding to each request. If copies of public records are to be used for commercial purposes, the requesting party shall, upon submitting the request, provide a certified statement setting forth the commercial purpose for which the copies will be used.
- B. Town Attorney Approval. Requests for records shall promptly be forwarded to the Town Attorney for review and approval.

- C. Department Review. Upon approval of the Town Attorney, the request for records shall be forwarded to the appropriate department(s) for retrieval of said records. If the requested information is not available in the requested format, the request will be returned to the Town Clerk's Office, and the Town Clerk's office will, in turn, request additional information from the requesting party.
- D. Prompt Disclosure. Disclosure will be made of any records or portions of records that are plainly subject to public records disclosure. If a record is partly confidential, the town will promptly disclose the part that is subject to disclosure. Records should be available for review or copies available for purchase within a reasonable period of ten (10) business days. Additional time may be needed for substantial requests, and in said case, the requesting party will be notified of additional time needed. The cost of copies (and postage, if applicable) will be collected from the requesting party prior to the release of records.
- E. Explanation of Withholding. In the event the Town withholds a record or part thereof, clear and explicit reasons will be provided in writing to the requesting party expressing the Town's reason for withholding information and the detrimental impacts disclosure would have upon the Town or its public interests.
- F. Balancing Test. In doubtful cases, the Town will apply a balancing test, according to the Arizona courts. That is to answer the question; **Would *release of the information requested have an important and harmful effect on the official duties of the public officer or public agency?***
- G. Seek Judicial Intervention. In the event there is a substantial issue of confidentiality, the Town may file a special action against the party requesting the confidential records and request the Superior Court to make an in camera review of the confidential material and make a decision as to whether it is a public record subject to disclosure.
- H. Fees: Copy fees will be collected in accordance with a resolution adopted, from time to time, by the Springerville Town Council.
- I. Appeal. To appeal the Town's decision not to disclose a record, a person or entity may file a written appeal to the Town Clerk within ten (10) business days of the date the request for records was denied. The Town Manager, Town Attorney, and Town Clerk shall consult with one another and jointly conduct the balancing test to determine whether the interests of the public disclosure outweigh the privacy rights of the individuals(s) affected.

**TOWN OF SPRINGERVILLE**  
**REQUEST FOR PUBLIC RECORDS**

The following policies apply to all requests for materials/documents:

1. After receipt of request, you will be notified when the materials are available for review or pickup.  
 Payment is due for copies when they are picked up.
2. Materials can be faxed after payment has been received (including cost of telephone call, if applicable) If materials are requested to be mailed, they will be sent first class mail after receipt of payment (including cost of postage). (Make checks payable to Town of Springerville)
3. Charges for copies will be applied pursuant to resolution of the Springerville Town Council.

**REQUESTED BY:**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ (HOME) \_\_\_\_\_ - \_\_\_\_\_ (Wk) \_\_\_\_\_ - \_\_\_\_\_

RECORDS REQUESTED: (Please include time period):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ACTION REQUESTED (**Check all that apply**): INSPECT \_\_\_\_\_ COPY \_\_\_\_\_ MAIL \_\_\_\_\_  
 CERTIFICATION \_\_\_\_\_ NONCOMMERCIAL USE \_\_\_\_\_ COMMERCIAL USE \_\_\_\_\_

\_\_\_\_\_  
 Signature Printed Name Date

<u>ROUTING</u>	FOR OFFICIAL USE ONLY	DATE STAMP – RECEIVED
TOWN CLERK	<input type="checkbox"/> DATE: _____	
TOWN ATTORNEY	<input type="checkbox"/> _____	
DEPARTMENT _____	<input type="checkbox"/> _____	
_____	<input type="checkbox"/> _____	
_____	<input type="checkbox"/> _____	
PAYMENT TOTAL/REC'D	<input type="checkbox"/> _____	
PICKED UP/MAILED	<input type="checkbox"/> _____	
Staff Hours (Research)	<input type="checkbox"/> _____	Received By _____

CURRENT FEES: Paper copies: \$0.50 per copy per page.  
US POSTAGE FEES IF APPLICABLE CD's: \$7.50 each copy