

**RESOLUTION
BOARD OF DIRECTORS
EVANS FIRE PROTECTION DISTRICT**

A RESOLUTION ESTABLISHING A POLICY FOR REQUESTS FOR PUBLIC RECORDS AND ASSESSING CHARGES FOR THE PRODUCTION OF PUBLIC RECORDS

WHEREAS, the Evans Fire Protection District ("*District*") is a political subdivision of the State of Colorado, organized pursuant to C.R.S. § 32-1-101 *et seq.* ("*Special Districts Act*"), to provide fire and emergency services to the citizens and property within its jurisdiction, and to individuals passing through its jurisdiction;

WHEREAS, pursuant to the Special Districts Act, C.R.S. § 32-1-1001(1)(h) and (m), the District's Board of Directors ("*Board*") is vested with the management, control, and supervision of all the business and affairs of the District, and is authorized to adopt, amend, and enforce rules and regulations for carrying out the District's business and affairs;

WHEREAS, the Board is authorized by statute to charge a reasonable fee for copies, printouts, and photographs made at the request of an individual or entity pursuant to the Colorado Public (Open) Records Act, C.R.S. § 24-72-205 ("*Open Records Act*"), and the Regulations promulgated by the Colorado Department of Public Health and Environment ("*CDPHE Regulations*");

WHEREAS, the District has a current policy for responding to requests for public records and assessing charges for the production of public records. As a result of subsequent legislative amendments to the Open Records Act, the Board desires to amend its policy; and,

WHEREAS, the Board determines that the fees it establishes by this Resolution are reasonable, cost-based fees, as required by the regulations implementing the Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated by the U.S. Department of Health and Human Services interpreting and implementing HIPAA, 45 CFR 164.524(c) (collectively, "*HIPAA*"), and in compliance with the requirements and restrictions of the Open Records Act and the CDPHE Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE EVANS FIRE PROTECTION DISTRICT:

A. Procedure

1. The term "public records" shall have the meaning set forth in the Open Records Act.
2. All requests for public records shall be in writing using the District's *Records Request Form*. Anyone making a verbal request will be asked to submit the request in writing, and no action related to the request will be taken until a completed and signed *Records Request Form* is received. The *Records Request Form* is available on the District's website at <http://www.evansfiredistrict.org/> or at its administrative offices, 1100 37th Street, Evans, Colorado 80620.
3. All requests for public records shall comply with the requirements of the Open Records Act, CDPHE Regulations, HIPAA, and any other applicable federal, state, or local laws, rules, and regulations (collectively, *Applicable Law*). The District will comply with Applicable Law with respect

to whether it must, may, or cannot produce public records and the fees it charges for producing the public records. If the public records contain health information protected from disclosure under HIPAA, an *Authorization to Release Medical Information* pursuant to 45 C.F.R. 164.508 must be submitted before the District will produce the public records.

4. Upon receipt of a completed and signed *Record Request Form* and *Authorization to Release Medical Information*, if required, the District will prepare the public records for inspection at the District's administrative offices, or, at the record requester's direction, delivery by (a) in-person pick-up, (b) mail, (c) fax, or (d) email. The District will not transmit Requested Records containing Protected Health Information (as defined by HIPAA) via fax or email unless the record requester also submits an *Authorization to Release Medical Information* specifically authorizing transmission via electronic means.

B. Fees and Charges

5. Where the fee for a certified copy or other copy, printout, or photograph of a public record is established by Applicable Law, that fee shall be charged. If a fee is not established by Applicable Law, the District shall furnish copies, printouts, or photographs of a public record for 25¢ per standard page, or at the District's actual cost for any non-standard page. The District shall charge the actual costs it incurs in having an outside copying facility make the copies off-site.

6. In accordance with the CDPHE Regulations, if the District produces copies, printouts, or photographs of medical or mental health records pursuant to C.R.S. § 24-72-204(3)(a)(1), the District shall charge the following fees:

- a. For requests made by the patient or patient's personal representative (as defined under HIPAA § 164.502(g)):
 - i. \$14.00 for the first 10 or fewer pages;
 - ii. \$0.50 per page for pages 11-40; and
 - iii. \$0.33 per page for every additional page.
- b. For requests made by a representative of the patient, other than the patient's personal representative (as defined under HIPAA § 164.502(g)), with the patient's written authorization:
 - i. \$16.50 for the first 10 or fewer pages;
 - ii. \$0.75 per page for pages 11-40; and
 - iii. \$0.50 per page for every additional page.

The per-page fee for records copied from microfilm is \$1.50 per page. The District may present a justification to the Colorado Department of Public Health and Environment to charge additional sums for one or more specific classes of medical records or services, but will not charge such additional sums unless approved by the Board and the Colorado Department of Public Health and Environment.

7. If, in response to a request, the District performs a manipulation of data so as to generate a record in a form not used by the District (including a privilege log), the District shall charge a \$30 per hour administrative fee. An individual or entity making a subsequent request for the same or similar records shall be charged the same fee.

8. If the amount of time required to research and retrieve the public records exceeds 1 hour (including the time required to identify, segregate, and/or redact records that cannot or may not be

produced, or to prepare a privilege log), the District shall charge a \$30 per hour research and retrieval fee. The District will not impose a charge for the first hour of time expended in connection with the research and retrieval of public records.

9. If the District transmits the public records by U.S. mail or other delivery service, the District will charge the actual mailing/delivery costs it incurs. A transmission fee will not be charged for public records transmitted by fax or email.

10. The District may require the record requester to pay, or make satisfactory arrangements to pay, all fees and costs incurred in responding to the records request before the District releases the public records. Unless extenuating circumstances exist, the District shall transmit the public records within three business days following its receipt of, or making satisfactory arrangements to receive, such payment. Payment may be made by exact cash, personal check, cashier's check, or money order.


11. This Resolution shall supersede and replace any other written or unwritten policies or procedures for responding to requests for public records and assessing charges for the production of public records.

ADOPTED this 22nd day of September, 2014.

BOARD OF DIRECTORS
EVANS FIRE PROTECTION DISTRICT.



Director




Director



Director



Director



Director

