

**RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
DONALD WESCOTT FIRE PROTECTION DISTRICT**

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

WHEREAS, the Donald Wescott 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 bylaws and 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**"); 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 DONALD WESCOTT FIRE PROTECTION DISTRICT:

1. The term "public records" shall have the same meaning as set forth in the Open Records Act.
2. All requests for public records shall be in writing, and shall comply with the requirements of the Open Records Act, CDPHE Regulations, HIPAA and any other applicable federal or state laws.
3. The District will comply with the requirements of the Open Records Act, CDPHE Regulations, HIPAA, and any other applicable federal or state laws, with respect to whether it must, may, or cannot produce public records, or other documents or information requested, and the fees it charges for producing such public records, or other documents or information.
4. Where the fee for a certified copy or other copy, printout, or photograph of a public record is specifically prescribed by law, the specific fee shall be charged. If a fee is not specifically prescribed by law, the District will furnish copies, printouts, or photographs of a public record for a fee of \$0.25 per standard page. The District shall charge a fee not to exceed

the actual cost of providing a copy, photograph, or printout in a form other than a standard page. The District shall charge the actual costs it incurs in having the copies made off-site by an outside copying facility.

5. 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. Actual postage or shipping costs and applicable sales tax, if any, also may be charged. 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.

6. If, in response to a specific request, the District's custodian of records performs a manipulation of data so as to generate a record in a form not used by the District (including a privilege log), an administrative fee of \$30.00 per hour shall be charged the person or entity making the request. An individual or entity making a subsequent request for the same or similar records shall be charged the same fee.

7. If the amount of time required by the District to research and retrieve the documents necessary to fulfill a specific request exceeds 1 hour, including the time required to identify and segregate records that must or may not be produced, the person or entity making the request shall be charged a research and retrieval fee of \$30.00 per hour. The District will not impose a charge for the first hour of time expended in connection with the research and retrieval of public records.

8. Upon request for transmission of the public record, the District will transmit the public record by United States mail, other delivery service, facsimile, or electronic mail. If transmitting the public record pursuant to this paragraph, the District may notify the record requester that a copy of the public record is available, but will be sent only when the District receives payment or makes satisfactory arrangements for payment of all costs associated with transmitting the public record and for all other fees lawfully allowed; provided, however, that no transmission fees will be charged for transmitting the public record via electronic mail. The

District will transmit the public record within three business days following its receipt of, or making satisfactory arrangements to receive, such payment.

9. This Resolution shall supersede and replace all prior Resolutions previously adopted by the Board with respect to responding to requests for public records and assessing charges for the production of public records, which prior Resolutions are hereby rescinded and null and void for all purposes.

Adopted this 21st day of March, 2017 by the Board of Directors of the Donald Wescott Fire Protection District.

William D. McAlister
Director

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Director

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Director

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Director

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Director