

R-19-38

**RESOLUTION TO ADOPT CLEAR CREEK COUNTY
PUBLIC RECORDS POLICY**

WHEREAS, the Colorado Open Records Act (C.R.S. §24-72-201, et seq.) provides the public access to public records in the custody of Clear Creek County, including its elected officers; and

WHEREAS, the Board of County Commissioners of the County of Clear Creek, Colorado, together with the other elected county officers, constitute the respective official custodians of the public records for the County; and

WHEREAS, the official custodians of records are authorized by C.R.S. §24-72-203(1)(a) to adopt rules with reference to the inspection of public records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or the custodian's office; and

WHEREAS, custodians are authorized to charge fees for research and retrieval of public records, copies of records, computer output, manipulating data and generating reports, and as otherwise provided by law, pursuant to C.R.S. §24-72-205; and

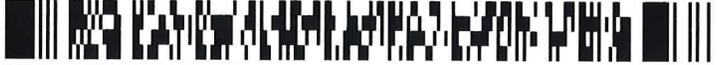
WHEREAS, on January 20, 2015, the Board of County Commissioners of the County of Clear Creek, Colorado, adopted Resolution R-15-22, a Resolution to Adopt Clear Creek County Public Records Policy; and

WHEREAS, the elected officers have conferred among themselves and with County staff and all recommend the revised Clear Creek County Public Records Policy, attached hereto, as a uniform policy for receiving and responding to requests to inspect public records pursuant to the Open Records Act which in their judgment provides public access in conformance with the Act, reasonably protects public records, and reasonably accommodates public access to records while preventing unnecessary interference with the discharge of the regular duties of the County ; and

WHEREAS, the Board accepts the recommendation of the elected officials and its staff.

NOW, THEREFORE BE IT RESOLVED, the Clear Creek County Board of County Commissioners hereby approves the Clear Creek County Public Records Policy attached hereto effective May 28, 2019.

NOW, THEREFORE, BE IT EVEN FURTHER RESOLVED, Resolution R-15-22 is hereby rescinded effective immediately.



ADOPTED, this 28th day of May, 2019 at a regularly scheduled meeting of the Clear Creek Board of County Commissioners.

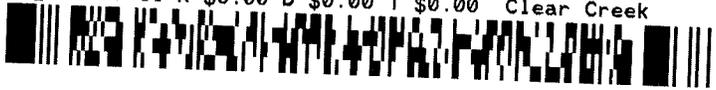

Sean C. Wood, Chairman


Randall Wheelock, Commissioner


George Marlin, Commissioner

ATTEST:


Deputy Clerk and Recorder
For Brenda L. Corbett
Clear Creek County Clerk and Recorder



Clear Creek County Public Records Policy (adopted May 28, 2019)

It is the policy of the Board of County Commissioners (BOCC) and the Elected Officials of Clear Creek County that all public records shall be open for inspection by any person at reasonable times, in accordance with the Colorado Open Records Act (CORA) (C.R.S. § 24-72-200.1, et seq.) and other applicable laws. This Policy is intended to provide guidance to people making public records inspection requests. This Policy is authorized by the Act for the protection of public records as well as to accommodate the right of the public to inspect records with the need to avoid unnecessary interference with the discharge of the duties of records custodians. This Policy will be deemed modified by amendments to CORA that conflict with the Policy.

This Policy is not applicable to a request for a “criminal justice record” governed by Part 3 of Article 72, Title 24, C.R.S.

Elected Officials may adopt additional rules not in conflict with this Policy with respect to requests for public records for which they are the “Official Custodian” under CORA.

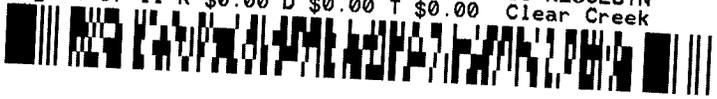
A. DEFINITIONS

The definitions found in CORA apply unless the context clearly requires a different meaning.

B. FORMAL PUBLIC RECORDS INSPECTION REQUESTS DISTINGUISHED FROM ROUTINE BUSINESS

Although any request to inspect a “public record” is literally a request pursuant to CORA, it is not practical for the County or the public to treat all requests in a formal way. Therefore, **this Policy applies only to requests** for a public record that is **not** routinely provided to the public in the day-to-day business of the County department or office to which the request is made AND that is **not** available to the public on the County’s website.

EVEN IF A REQUEST FOR A PUBLIC RECORD IS NOT OTHERWISE SUBJECT TO THIS POLICY, IT IS SUBJECT TO COPY FEES SET FORTH IN SECTION L. OF THIS POLICY, IN STATUTES OR IN DEPARTMENTAL FEE SCHEDULES.



C. CUSTODIANS

NO ONE EXCEPT A PERSON IDENTIFIED AS A “CUSTODIAN” OR “OFFICIAL CUSTODIAN” IS AUTHORIZED TO RESPOND TO A PUBLIC RECORDS INSPECTION REQUEST THAT IS SUBJECT TO THIS POLICY.

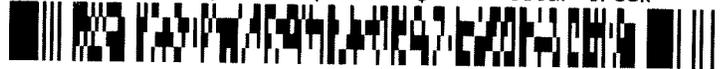
1. The Clear Creek County Clerk & Recorder is the Official Custodian of all records made and maintained by divisions, departments, commissions and agencies reporting to the BOCC (including as it acts as the Social Services Board, Board of Health, Local Licensing Authorities, and the Clear Creek Emergency Services District) – excluding records maintained by the County Attorney – including all records kept on the computers and network any of them maintain. Requests for records for which the Clerk & Recorder is the Official Custodian but is not the actual custodian, will be referred by the Clerk & Recorder to the actual custodian.
2. The Assessor, Clerk & Recorder, Coroner, Sheriff, Surveyor and Treasurer/Public Trustee are the Official Custodians of the records made and maintained by their respective offices.
3. The Deputy Clerk who serves as the Administrative Assistant to the BOCC is the actual custodian of the records made and maintained directly by BOCC.
4. Division Directors and Department Heads are the actual custodians of their respective records, unless they have decided otherwise.
5. Custodians may delegate tasks for responding to public records inspection requests to others in their offices as they deem appropriate.

D. PUBLIC RECORDS INSPECTION REQUESTS

1. **ALL PUBLIC RECORDS INSPECTION REQUESTS MUST BE IN WRITING.** The use of the official County Public Records Inspection Request form is preferred for the efficient handling of requests. The current form is attached. (It may be updated occasionally; updates will be found on the County’s website.)
2. A writing containing all of the information required on the County Public Records Inspection Request form may be accepted at the discretion of the custodian to whom it is directed. A written request not containing that information will be rejected.

E. TIME LIMITS APPLICABLE TO PUBLIC RECORDS INSPECTION REQUESTS

1. Time to deliver records – Within up to 3 Working Days



If the requested records are readily available to the custodian and providing them for inspection will not unduly interfere with the discharge of their other public duties, the records will be made available for inspection promptly.

If the requested records are in active use, in storage, or will require time to research and prepare for inspection which the custodian does not have immediately, as soon as reasonably possible the custodian will notify the requester of the time when the records will be made available for inspection, which will be within no more than three working days.

2. Extension of time –Additional 7 Working Days

The period for providing requested documents for inspection may be extended an additional 7 working days in extenuating circumstances. The requester will be informed if the custodian needs more time to respond to your request.

3. Additional Extensions of Time

In the event of a very broad request, or a request for voluminous records, it may not be possible to complete a response even within ten working days. The requester will be kept informed of the progress of the response.

4. When the Time Period for Delivering Records Begins

The time period to deliver records does not begin before the custodian to whom it is directed receives and reviews the request. The original deadline is the 3rd working day after that day.

5. The Time Period for Delivering Records is Suspended While Fees are Due
THE TIME PERIOD FOR DELIVERING RECORDS OR OTHER RESPONSE WILL BE SUSPENDED WHEN THE CUSTODIAN GIVES NOTICE OF FEES DUE, AND WILL RESUME AFTER PAYMENT OF THE FEES.

F. THE CUSTODIAN'S RESPONSE TO A REQUEST

1. Response Fees

The requester is entitled to one free hour of staff time to respond to the request. If the custodian cannot readily locate and provide for inspection of all the records requested, the custodian must evaluate what effort and how much time will be required. If, based on that evaluation, research fees are applicable, the custodian will estimate the fees due, notify the requester, and shall not process the request further until the estimated fees are paid. See Section J - FEES.

2. The Scope of the "Research" Effort

"Researching" a request is everything required to be done to deliver all the public records in the custodian's custody that are responsive to the request, including, but not limited to, the work of (a) identifying physical and digital records possibly responsive to the request, (b) retrieving those records, (c) reading/reviewing the identified records in order to determine whether they are (i) responsive to the request, (ii) subject to full inspection; (iii) subject to partial inspection which



allows or requires deleting certain information from the record; or (iv) not subject to inspection. If records responsive to a request consist of a “file” or other collection of records, the custodian must review all components of the file or collection, whether physical or digital, because individual parts of the file or collection, or even individual parts of a single record, may not be “public records” or may not be subject to inspection. If records include material that must or will be withheld from inspection, “research” includes the time required to exclude (“redact”) that material from the records.

3. Requesters are Not Allowed to Do Their Own Research of Our Records

Under no circumstances will requesters be granted access to original records or to computers to research the existence of the records they seek.

4. We Will Not Guess at what a Request Means

A custodian will not “guess” what record is being requested. The requester must describe the records they want with sufficient specificity that a custodian does not need to guess, or the request is inadequate and must be denied for that reason.

5. We Will Not Guess at What a Requester Wants

A custodian will not “guess” that the requester intended to request some records different from or additional to those they identified in the request.

6. A Request for a Record that Requires Manipulation of Data. Ordinarily, the County will not manipulate data to generate a record which is not used by the County in the regular course of its business. Custodians may agree to manipulate data to generate such a record for the convenience of the County, but staff time always will be charged for that.

G. INSPECTING RECORDS

1. Inspections will take place during regular business hours of, and only in, the office of the custodian or in the County Attorney’s Office.

2. A requester may not bring and may not use any copy, scanning or reproduction device to copy records.

3. **NO ONE WILL BE PERMITTED TO INSPECT ORIGINAL RECORDS UNLESS THE INSPECTION IS SUPERVISED BY THE CUSTODIAN OR STAFF AT ALL TIMES.** If original records are provided, a requester shall not remove or add anything to the records provided, and shall not write on or otherwise deface the records. A requester may inspect copies of records without supervision. Copying records for the purpose of allowing unsupervised inspection is at the custodian’s discretion and at the requester’s expense.

4. The County will not allow access to County computers to inspect records.



H. COPIES OF PUBLIC RECORDS

1. After, or in lieu of, inspecting the records, requesters may identify records they want copied.

2. Copies will be made and delivered (or offered for pick-up) within a reasonable time at the custodian's convenience after the copy fees due have been paid, ordinarily within 3 working days after payment.

I. DIGITAL COPIES OF PUBLIC RECORDS

1. A request for a copy of a digital public record in a searchable or sortable digital format will be provided in such a format if the record is stored in that format, unless it is not technologically or practically feasible to do so or as otherwise provided herein or by law. If a custodian cannot produce a record in the requested (searchable or sortable) format, they will produce it in an alternate format or deny the request.

2. Digital copies will be made and delivered (or offered for pick-up) within a reasonable time at the custodian's convenience after the copy fees due have been paid, ordinarily within 3 working days after payment.

3. **DIGITAL COPIES WILL NEVER BE COPIED TO THE REQUESTER'S STORAGE DEVICE, but only to a storage device supplied by the County.** Digital copies may be transmitted by e-mail or the internet by the custodian when that is deemed feasible.

J. FEES

1. Time Charges: Requesters must pay staff time for researching their request (including all the tasks defined in Section F.2.), supervising the inspection, making copies of records and as otherwise provided in this Policy. Time will be charged at the rate \$27.50 per hour (subject to change).

- A. Research time up to a total of one hour per request is free. (If a series of requests is made, they will not each be given the free hour.)
- B. If there is any unused part of the free "research" time, it will be applied to supervising an inspection.
- C. Staff time for preparing and, when applicable, transmitting, copies, whether digital or physical, for which a charge is made per image or per digital file, is included in the copy fees when the total copy fees exceed the value of one-quarter hour time.
- D. If, in response to a specific request, the custodian performs a manipulation of data so as to generate a record in a form not used by the County, the custodian will charge for the time to manipulate the data and generate the record.



- E. Time charges will be a minimum of one-quarter hour and in increments of one-tenth hour thereafter.

2. Redacted records: If records must be redacted before being provided for inspection because they contain information that is not subject to being disclosed or which is to be withheld in the discretion of the custodian, the cost of making copies in order to redact the withheld material without defacing the originals will be borne by the custodian. Time charges for redacting are to be included in research fees, and must be paid before redacting is started.

3. Copies:

- A. The fee is \$0.25 per page (letter or legal size, black and white) for paper copies of records. The fee is \$0.50 per page (11x17 size, black and white) for paper copies of records. The fee is doubled for color (of those sizes).
- B. The fee for larger paper copies is actual costs (including staff time) as reasonably as those can be determined, not less than \$5.00 per page.
- C. The fee for digital copies is the cost of staff time.
- D. The fee for CD and DVD discs is \$1.00 each. The fee for other digital storage media is cost, or \$1.00, whichever is more.
- E. Fees prescribed by statute (for example, certifying a record) may be in lieu of or in addition to other fees, depending on the terms of the statute.
- F. Copy fees apply to printouts of digital records printed from a computer.

4. Transmission fees: There is no transmission fee if records are transmitted digitally via e-mail (or any other internet digital delivery service available to the custodian at no charge). Otherwise, the requester will be charged the cost of transmitting the records by US Mail, delivery service, fax or other means selected by the custodian.

5. Computer fees – Database Costs: In the case of a request for a computer output other than word processing, the custodian may charge a fee based on the recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system of which the record is a part.

6. Mapping Data and Representations: Requests for these do not fall within this Policy. The Mapping Department has separate charges for them.

7. Payments: **IN NO CASE WHEN FEES ARE DUE WILL A CUSTODIAN CONTINUE TO WORK ON THEIR RESPONSE (RESEARCHING, COPYING OR DELIVERY) UNTIL THE FEES ARE FULLY PAID.**

If, during the course of responding, it is determined that the fees are not adequate to complete the research, copying, or delivery, the custodian will estimate the fees for completing the response and notify the requester of the additional fees; further work on the response will resume after the additional fees are paid.



8. Fee Waivers:

- A. Requests for copies of records which fit the following criteria may, in the judgment of the custodian, be provided free of charge: For a single Request Form, records which in the aggregate would require a copying fee of \$5.00 or less, and which are retrievable and provided for inspection within the free research and inspection periods. (If a series of requests is made, they will not each be given the fee waiver, but will be treated in the aggregate.)
- B. Records available for inspection under CORA are available regardless of the reason for the request. Accordingly, fee waivers will not be made based on the purpose for the request.

K. CLOSING A REQUEST

A records request will be deemed closed:

- 1. After records have been made available for inspection for five (5) working days and the requester has either (i) failed to actually inspect them, or (ii) failed to make and keep arrangements for inspection at a later time;
- 2. After the requester has been given notice of a fee and the fee is not paid within five (5) working days of the notice (or when the notice is first attempted to be given);
- 3. When notice is given of the denial of the request.

A requester whose request has been closed under this provision and who still wishes to inspect records included in the request must submit a new request.

APPROVED, effective May 28, 2019.

Sean C. Wood, Chairman
Board of County Commissioners

Brenda L. Corbett
County Clerk and Recorder

Rick Albers, County Sheriff

Chris Hegmann, County Coroner

Carol Lee, County Treasurer

Diane Settle, County Assessor

Greg Markle, County Surveyor



**CLEAR CREEK COUNTY, COLORADO
 PUBLIC RECORDS INSPECTION REQUEST**

Please provide all requested information completely. An incomplete request will be rejected.

Printed Name (first, middle, last)		
Organization represented (if any)		
Mail & Delivery Address		
Telephone and e-mail	Tel	E-Mail
Records or information requested – Please be as specific as possible (attach separate sheet if necessary)		
I request (Choose One): <input type="checkbox"/> To inspect before requesting copies. <input type="checkbox"/> Copies in lieu of inspection		
Signature		

FOR COUNTY USE ONLY

Date Submitted	Name of Custodian or Staff Member to whom submitted	
Date Received by Custodian	Name of Custodian	
Estimated Fees	Research	Copies
Disposition		
Disposition Date	Name of Custodian Making Disposition	



INSTRUCTIONS & INFORMATION FOR A PUBLIC RECORDS INSPECTION REQUEST

Description of Records:

If the record name is unknown, provide a brief, but specific, description of the document or information you are requesting (including the date of issuance and location of document or information, if known). A request which is vague, broad or which seeks voluminous records, may cause a delay in the time in which the County can produce the records or prevent it from producing anything.

Submitting a Request:

Public Records Inspection Requests may be submitted in person, or via mail, e-mail or facsimile. A request is deemed received only when the custodian of the records requested views the request.

Time for County's Response to Your Request:

The custodian of records has a reasonable period of time, not to exceed three working days, to make the records available for inspection. The custodian will notify the applicant when additional time is required to make the records available for inspection.

Inspection:

Normally original records will not be provided. If original records are provided, a requester shall not remove or add anything to the records provided for inspection, and shall not write on or otherwise deface the records. A requester shall not bring and shall not use any copy, scanning or reproduction device to copy records.

Request for Copies:

You may request copies of some or all of the records you inspect. You may ask to have copies sent to you after or instead of inspecting the records; there will be a minimum fee of ¼ hour time and the delivery cost.

Fees:

See the current Fee Schedule available in most County offices and at www.co.clear-creek.co.us .

The fee for Research (determining what records might be responsive, locating them, reviewing them to determine whether they are subject to the Open Records Act, preparing them for your inspection) is \$27.50 per hour. The first hour is free. You will be given an estimate of research charges and the research will be done only when the research fee is paid.

The fee for copies varies. For 8-1/2 x 11 inch black and white paper copies, the charge usually is \$0.25 per page. Time charges for copying are included in paper copy fees. The fee for digital copies is the costs of staff time preparing them and digital media. You will be given an estimate of the copy fees and the copies will be prepared only when the copy fees are paid.

County Public Records Act Policy:

This policy (including all fees) may be found on the County's website at www.co.clear-creek.co.us .