

ELBERT COUNTY OPEN RECORDS REQUEST PROCEDURE AND POLICY

C.R.S. 24-72-201 *et seq.*

1. PURPOSE

To provide guidance to the Board of County Commissioners, County employees, and the public regarding the procedures for making requests pursuant C.R.S. 24-72-201 *et seq.*

This procedure embodies several of Elbert County's core organizational principles of open government, citizen involvement, and organizational accountability. The Elbert County Government, the Elbert County Board of County Commissioners, Elected Officials, and all county employees support the principles of maintaining an open and accessible governing body. Elbert County is committed to fulfilling every request for public information as efficiently and expeditiously as possible and within the statutory requirements set forth in the Colorado Open Records Act (CORA), C.R.S. 24-72-201 *et seq.*

Though "all public records are to be open for inspection by any person at reasonable times," procedures for such disclosure can be subject to rules and regulations established by the Custodian of Records. These rules and regulations are authorized, if they are reasonably necessary for the protection of such records and for the prevention of unnecessary interference with the regular discharge of the duties of the Custodian and his/her office or department. The following procedure ensures that any member of the public will be provided reasonable access to public records covered under CORA.

Any member of the public will have reasonable access to all county public records. Reasonable access is defined as allowing a person requesting public information to use available county resources to review or obtain copies of public records. In order to maintain the integrity of public records, or the effective functioning of a county office or department, and for security reasons, certain conditions for reviewing or obtaining copies of records may apply.

2. POLICY RELATED TO REQUESTING PUBLIC RECORDS

To request public records, contact the Elbert County Custodian of Records at 303-621-3126 to obtain the records request form. The County has determined that the use of an official request form to be used by the member of the public is necessary for the efficient handling of such public records requests. Requests must be submitted in writing and hand delivered, mailed by U.S. First Class mail, or emailed to "openrecords@elbertcounty-co.gov" Each request must be made with specificity to the greatest extent possible as to the records sought, using the **Elbert County Open Records Request Form**. *Requests must also include the requestor's full name, a physical address, as well as a phone number and an email with which the requestor may be contacted.* Requests for Public Records which do not include a name, physical address, phone number and email may not be responded to.

If any member of the public is uncertain about which records contain the information desired, a reasonably specific description of the type of information being sought shall be provided in writing on the Open Records Request Form and every attempt will be made to locate the relevant records.

Please be advised that vague, broadly stated, or voluminous requests may be returned to the requestor and the County may require additional clarification in order to provide the County with appropriate limiting criteria which can be used to narrow the search parameters.

3. APPLICABILITY

This policy applies to all open records request the fall under the Colorado Public Records Act, C.R.S. 24-72-203. Public Records include all writings made, maintained, or kept by the County for purposes as otherwise stated pursuant to C.R.S. 24-72-202(6)(a).

This policy does not apply to records which fall under the Colorado Criminal Justice Records Act, C.R.S. 24-72-301. Criminal justice records include all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule. C.R.S. 24-72-302. Requests for Criminal Justice Records must be made to the respective law enforcement agency that is the subject of such a request.

4. PROPONENT

County Clerk, County Attorney, and each County Department.

5. GENERAL INFORMATION

By statute, items which qualify as public records which are kept by Elbert County and which are not exempted, barred, or have a basis for denial of release pursuant to C.R.S. 24-72-204, should be released upon a request conforming with Elbert County's policy, and Colorado Statute. Policies adopted by the board are the basis of authority required for staff and other employees to make decisions and execute operations on behalf this elected board during periods when the board is not in formal session. Furthermore, policies provide predictability for citizens and ensure standardization in addressing recurring issues and employee matters.

6. COUNTY RESPONSE TO REQUEST FOR PUBLIC RECORDS

Elbert County will respond to requests made pursuant to the Colorado Open Records laws within three working days of the date of receipt of the records request. The Custodian of Records shall set a date and time when the records will be available for inspection.

The period of providing requested records for inspection may be extend up to ten days if the Custodian of Records determines that one of the following conditions exists and states such condition in writing to the requestor within in the first three working days that the request was received:

- a) A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the three-day period; or
- b) A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the three-day period because:

- i. The custodian or department needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
 - ii. A request involves such a large volume of records that the custodian cannot reasonably prepare or gather records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.
- c) If a public record is stored in a digital format that is neither searchable, nor sortable, the County will provide a copy of the digital format.
 - d) If a public record is stored in a digital format that is searchable, but not sortable, the County will provide a copy of the record in a searchable format.

In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.

If the public records requested are not in the custody or control of the Custodian of Records or the County, the Custodian of Records shall notify the requestor of this fact in writing. In such notification, the Custodian of Records shall state in detail to the best of his/her knowledge and belief the reason for the absence of the records, the location of the records, and what person then has custody or control of the records.

7. REVIEW OF PUBLIC RECORDS

The Custodian of Records may set the location where the records may be viewed for inspection by the requestor. In no event shall a requestor remove records or add records to those provided for inspection. Should the requestor desire to obtain copies of the records, the request shall notify the Custodian of Records and copies will be made at the rates set forth in the section entitled Applicable Fees.

During the inspection of records, the Custodian of Records may request the requestor to follow certain procedures to protect the integrity of the public record. Inspection may:

- a) Be supervised by a county employee within the area where the records are stored and/or maintained;
- b) Need to review records in a designated area or schedule for a particular time of day as to not unduly disrupt the day-to-day activities of that specific office or department;
- c) Be required to submit the request in writing if the records custodian believes it is reasonable and appropriate based on the specific and unique circumstances of the request or will help us to better serve your needs for identifying the records you are requesting.

Unless producing such record would violate a copyright or licensing agreement between the record custodian and a third party, or it is not technologically or practically feasible to remove information that the custodian is required or allowed to withhold within the requested format, or is not practically feasible to provide a copy of the record in a searchable or sortable format, or if it would require the County to purchase software or create additional programming or functionality in its existing software to remove information –

- a) If a public record is stored in a digital format that is neither searchable, nor sortable, the County will provide a copy of the digital format.

- b) If a public record is stored in a digital format that is searchable, but not sortable, the County will provide a copy of the record in a searchable format.
- c) If a public record is stored in a digital format that is sortable, the County will provide a copy of the record in a sortable format.

In fulfilling a request, the County may alter an existing public record, or excise fields of information. In the event the County is not able to comply with a request for public record subject to disclosure in a requested format as specified within the Colorado Open Records (CORA) statute, the County will attempt to produce the record in an alternate format, or will issue a written declaration attesting to the reasons the County is not able to produce the record in the requested format

Records that are prohibited from inspection under CORA and other statute(s) shall not be made available for public inspection. Requests may be also be denied pursuant to C.R.S. 24-72-204 and will provide a specific basis for such denial as listed in C.R.S. 24-72-204 *et.seq.*

APPLICABLE FEES

Costs for standard photocopies will not exceed the limit set by CORA (currently \$1.25 per page) unless actual costs exceed that amount. Pursuant to C.R.S. 24-72-205

Current amounts are as follows:

- 1. Copies (legal or letter) .25 per page
- 2. Color Copies 1.00 per page
- 3. Copies of Meetings (CD) 5.00 per CD
- 4. Copies of Meeting Minutes 1.00 per page
- 5. Applicable fees incurred from any third party (i.e., outside vendor).
- 6. Processing fee for credit or debit card of up to 3% if applicable

Costs for delivery of a record, including by U. S. mail may be required prior to delivery of such record (s) pursuant to 24-72-205(1)(b).

Elbert County seeks to meet public information requests in the most economical fashion possible. When applicable, an estimated cost of the requested information may be provided when requesting a substantial number of copies or research by the Custodian is required. In the event research or retrieval of records is required, the fee for researching and retrieving requested information shall be **\$30.00 per hour** for employee time utilized beyond one hour’s time, but there will be no charge for the first hour of time expended in connection with the research and retrieval of public records. The requestor may be required to pay all or a portion of the estimated cost before compilation of the information is performed.

If applicable, a “reasonable fee” may be charged for costs associated in performing a “manipulation of data” so as to generate a record in a form not otherwise used by the Governmental entity, and such “reasonable fee” shall not exceed the actual cost of generating the record pursuant to C.R.S. 24-72-205(3).

At such time that Elbert County is able to accept Credit Card or Debit Card payments to fulfill the costs associated with an open records request, any fee associated with processing such payment by a Credit Card or Debit Card will also be a fee that is charged, not to exceed three percent (3%).

The most recent recorded version of all BOCC policies will be made readily available online to all employees and citizens of Elbert County. Recorded copies of previous versions of policies will be made available upon receipt of an Open Records Request. The process for such requests is provided in Elbert County Policy B-01, *Open Records Requests*.

The County may refuse any request requiring data manipulation on the basis that CORA does not require manipulation. However, if a public record is stored in a digital format that is neither searchable, nor sortable, the County will provide a copy of the digital format. If a public record is stored in a digital format that is searchable, but not sortable, the County will provide a copy of the record in a searchable format.

A great deal of information concerning Elbert County is available on the County web site, www.elbertcounty-co.gov. This information may help formulate an open records request or may provide the information being sought.

Contact Information

Elbert County Open Records Request
303-621-3126
215 Comanche Street
PO Box 07
Kiowa, CO 80117
openrecords@elbertcounty-co.gov

Business hours: 7:30 a.m. - 5:00 p.m. Monday – Thursday

References.

Policy B-00

7. Adopted: August 9, 2017. Previous versions of policy regarding this subject are rescinded