



RESOLUTION: 22-44

**REGULATIONS AND POLICY RELATING TO ELBERT COUNTY COLORADO OPEN RECORDS ACT ("CORA") REQUESTS**

WHEREAS, Elbert County is a governmental entity which is required to comply with the Colorado Open Records Act ("CORA"), C.R.S. 24-72-201 *et seq.*;

WHEREAS, Section 24-72-203(1)(a), C.R.S., authorizes the adoption of rules that 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, the Board of County Commissioners has determined it is appropriate to adopt rules for the uniformity and protection of Open Records requests as shown on "Exhibit A" and the Open Records Request form in "Exhibit B" attached hereto.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of the County of Elbert by the authority granted the Board by the laws of the State of Colorado and people of Elbert County, Colorado, do hereby declare adopted the Open Records Policy as set forth in "Exhibit A" and the Open Records Request Form in "Exhibit B" - attached hereto and incorporated herein by this reference.

Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote:

  
\_\_\_\_\_  
Chris Richardson, CHAIRMAN AYE

  
\_\_\_\_\_  
Rick Pettit, COMMISSIONER AYE

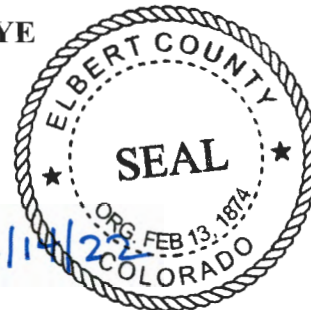
  
\_\_\_\_\_  
Grant Thayer, COMMISSIONER AYE

ATTEST: Dallas Schroeder  
COUNTY CLERK

Date:

BY:   
\_\_\_\_\_  
CLERK TO THE BOARD

Date: 12/14/22



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Rhonda Braun Recorder, Elbert County, Co

**"EXHIBIT A" – Open Records Policy**

The Elbert County Open Records Rules are adopted as set forth on "Exhibit A" attached hereto and incorporated herein by this reference. Nothing contained in such rules shall be

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deemed to modify or otherwise impose additional requirements upon the custodian of records than is required by C.R.S. 24-72- 201 *et seq.* (Colorado Open Records Act). If any rule in "Exhibit A" is interpreted to require any additional efforts by the custodian or the County, or infer additional rights to a requesting party, such rule is stricken.

**1. Purpose:** To assure prompt and equitable service to citizens requesting access to public records, in accordance with the requirements of the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*

**2. Applicability:** This policy applies to all County departments and offices under the authority of the Elbert County Board of County Commissioners (BOCC). This policy does not apply to the Sheriff's Office or criminal justice records.

**3. Proponent:** County Attorney, All County Officials and Departments, Open Records Department

**4. General Information:** In keeping with the BOCC belief that openness and transparency requires that the business of County Government should be accessible to effective public review, this policy describes our implementation of the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.* ("CORA"). Therefore, most records are public and open for inspection. Elbert County's elected officials are the official custodians of records maintained within their respective offices. This policy pertains to all County Offices and Departments, *except* for the Sheriff's Office. This document is subject to modifications to CORA, or other State Statutes, which shall supersede any conflicting provisions in this document.

### **5. Policy:**

a. CORA expressly authorizes a County to 'make such rules with reference to the inspection of such 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.' C.R.S. § 24-72-203(1)(a)." Moreover, "CORA itself expressly requires a requestor to submit a valid form of identification in conjunction with confidential information" C.R.S. § 24-72-204(3.5). This includes reasonable administrative requirement to ensure the County's efficient management of and response to Open Records requests.

b. The County Attorney should review all open records requests. The County Attorney is available to Department Heads and Elected Officials for review of each department's records requests. The County Attorney shall also review all open records requests for the BOCC unless otherwise reviewed by another designated attorney.

c. Access to Records - CORA provides the public with access to the records of government bodies at all levels in Colorado. Most records are public and open for inspection, subject to specific exceptions. Elbert County's elected officials and department heads are the official



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custodians of records maintained within their respective offices and departments unless another party is so designated.

(1) Public records. Public records are defined as "all writings made, maintained, or kept by the state or any agency, institution, or political subdivision for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds." C.R.S. § 24-72-202(6). Criminal justice records are not included in this definition (Contact the Sheriff's Department for such records).

(2) Writings. Writings are further defined to include "all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation electronic mail messages, but does not include computer software." C.R.S. § 24-72-202(7).

(3) General Information and Interpretation of Records. While the CORA does not require that any new public record be produced in response to a request, the County recognizes that altering a public record to remove information that can't be disclosed under CORA will not constitute the creation of a new record, nor does it require the County to interpret the meaning of documents provided in response to a request. However, the BOCC does expect that reasonable requests for assistance to better understand our county and its operations made by citizens will be addressed. Such requests, however, cannot be allowed to unduly disrupt the day-to-day activities of that specific office or department.

(4) Restricted Records. Certain records that are prohibited from disclosure under CORA or other statute(s) cannot be made available to the public. The County may also withhold privileged records, records prohibited from release by statute, and/or certain private, personal, medical, financial, and other information about individuals that will not be released except upon the approval of that individual.

- a. Records Custodian. The custodian of records for Elbert County is as designated by each department head or elected official.
- b. If you are unable to find what you need online, please submit an open records/CORA request to one of the following:
  - All CORA requests must be emailed to the County by one of the following methods for all County departments (excluding Sheriff or Human Services) to [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov). Criminal Justice Records must be requested from the Elbert County Sheriff's Office, and Human Services records must also be separately requested from the Elbert County Human Services Department.



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- Requests for Open Records from the Sheriff, pursuant to the Colorado Criminal Justice Records Act (CCJRA) may be made by referring to the following:  
<https://www.elbertcounty-co.gov/sheriff/records.php>
  - Open Records requests must may be delivered via U.S. Mail or hand-delivery to “Open Records, 215 Comanche St. Kiowa, PO Box 7, CO 80117 or a scanned copy of the completed request including all necessary information may be mailed to [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov);
  - **All Elbert County open records requests must be accompanied by a copy of a valid Colorado Identification** along with the CORA request pursuant to *Frank Sturgell v. Elbert County*, Et. al. Elbert County District Court case 2018CV007.
- c. “Recorded” Records:
- In addition to documents recorded with the County Clerk and Recorder such as marriage and property records, the Office of the Clerk and Recorder is the custodian of various County and municipal records including:
- County Ordinances, Resolutions, Proclamations, and Minutes
  - County Contracts and Agreements
  - County Rules and Regulations
  - Oaths of Office for City and County officials
  - Miscellaneous documents placed in the public record as “County Clerk Files”

These documents are available by direct request of the Elbert County Clerk and Recorder’s Office. Copies of **“recorded” records do not require a formal request through the Colorado Open Records Act (CORA)**.

1. Copies of recorded documents may be obtained from the Clerk and Recorder's Office by copying and pasting this link in your browser and signing up for a fee to do online searches at: <http://records.elbertcounty-co.gov/recorder/web/>, or you may utilize the computers located at the Clerk and Recorder’s Office for in person searches for free, however, copies of any records to be printed by the Clerk and Recorder’s Office will be **\$.25 cents per page**.

2. Requests for Quotations and Requests for Proposals are available at [www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com). In addition, the site handles bid opportunities, RFPs, and RFQs for other member governmental agencies throughout Colorado. It is free to view but one must register in order to do so.

Instructions on how to create a login are on our website at:  
<https://www.elbertcountyco.gov/Notices/purchasing.php>



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3. To make a CORA request for records that fall outside of the examples listed above, please email [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov). The research, retrieval, and review fee for CORA requests is **\$33.00 per hour**, after the first free hour.

4. Physical Review of Public Records. Citizens may request to physically review publicly available county documents that are physically available, subject to applicable restrictions, including required redactions. The Custodian of Records and/or responding parties 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, nor will photography or scanning be allowed of such records, unless such is being conducted by the Custodian of Records and/or responding parties on behalf of the County. 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.

In order to protect the integrity of original public records, citizens may:

(a) Be supervised by a County employee within the area where the records are stored and/or maintained;

(b) Be required to review records in a designated area or be asked to schedule for a particular time of day in order 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.

(d) Records that are prohibited from inspection under CORA and other statute(s) shall not be made available for public inspection. The denial of inspection shall be specific and based on reasons provided under CORA as listed in C.R.S. 24-72-204.

### 6. Citizen Request Procedures.

(a) To request public records, individuals may obtain the County's records request form at the County Administrative Offices, or download the request form from the County website (<https://www.elbertcounty-co.gov/441/Open-Records-Request-CORA>) completing the form as required, and thereafter submitting the completed Open Request Form along with a copy of a currently valid governmental ID to [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov). Questions can be directed to Elbert County Administrative Offices. The County has determined that the use



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of an official request form, completion, and submittal of such form prior to processing an Open Records Request is necessary for the efficient handling of public records requests.

- (b) Completed request forms must be legible, with the records request form completely filled out, to include the individual's full **name, address, and contact information** including phone number, email address, the signature of the requesting party, and a **copy of a current and valid governmental identification**.
- (c) All requests involving the potential for electronic records or emails must include enough information so the record(s) being requested can be identified. Without sufficient information to search for and identify the records being requested, the request may be deemed incomplete and returned to the requesting party as an incomplete CORA request. Due to the extraordinary number of electronic mail communications generated by County business, all requests for electronic mail records must include *"key words," specific dates or date ranges, subject titles, specific parties or departments that may be the originator or subject of records, as well as other discriminators* that may narrow the parameters. Without key word(s) and other criteria listed in this paragraph, public records requests for electronic email may be deemed incomplete and returned to the requesting party as too broad, vague, or otherwise insufficient.
- (d) If an Open Records request relating to emails is deemed incomplete and cannot be processed – such requests will be returned to the requestor, and the requestor will be invited to submit a new request with additional information and specificity that sufficiently narrows the parameters of the request such that a reasonable search for records is possible.
- (e) In the event the requested documents are “confidential” under C.R.S. § 24-72-204(3.5) or may only be provided to a “person in interest” as that term is defined in C.R.S. § 24-72-202(4) as determined by the County Attorney, the custodian shall require the person requesting the information to pick the documents up in person and produce a valid Colorado driver's license or identification card and any other information required by CORA in order to obtain such documents. Because of the complexity of CORA, it is not possible to give an exhaustive list all of the categories of documents which may be “confidential” or may only be made available to a “person in interest.” Therefore, applicants are encouraged to review CORA, including but not limited to, C.R.S. §§ 24-72-204(3)(a), (7) and (8), to properly determine whether documents may be made available to individuals other than the person in interest.



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### 7. Point of Contact

- a) In certain circumstances a single point of contact for specific individuals or organizations to submit Open Records requests may be designated beyond submittal to [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov). In such circumstances the individual or organization shall be notified that future Open Records requests shall be sent to a single point of contact and provided contact information for the single point of contact.

Once notified, Open Records requests from the individual or organization are not deemed received until received by the single point of contact. The designation of a single point of contact shall not modify other provisions of these rules and the single point of contact shall act as the Custodian's designee. If a single point of contact is designated, such requirement shall continue for twelve (12) months from the date of notification to the individual or organization. The circumstances for designation of a single point of contact include, but are not limited to:

1. If an organization or individual makes three or more Open Records requests within any 30-day period and such requests interfere with County operations or services and/or can be more efficiently or effectively responded to using a single point of contact;
2. If an organization or individual has been harassing, threatening, or demonstrated otherwise inappropriate conduct to County employees; or
3. If a Custodian of Records determines an organization or individual may present a safety risk to County employees.

### 8. Making a Request

- a) Individuals requesting documents may do so in person, via U.S. Mail, or via email. All mailed or emailed requests must contain a copy of the Elbert County records request form completely filled out (all requested fields completed and information provided) and include the individual's full name, address, and contact information including phone number, email address, and signature of the requesting party, as well as a copy of a current valid governmental ID. Such electronic requests must be sent to [openrecords@elbertcounty-co.gov](mailto:openrecords@elbertcounty-co.gov).

An Open Records request is not deemed received" for purposes of the response period beginning, until the custodian of record receives a complete



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request as identified by these rules or related statutes on the Public Request Form, as follows:

1. Email of a completed Open Records Request Form to [OpenRecords@elbertcounty-co.gov](mailto:OpenRecords@elbertcounty-co.gov) will be deemed received when the custodian of record opens the email during days normal operating hours of the County during which Elbert County is open for business.
2. Requests made via U.S. Mail must be mailed to the attention of “*Open Records Department*” at 215 Comanche St. PO Box 7, Kiowa, CO 80117. Any mailed request will be deemed received when delivered and opened by the Open Records Department. Open Records requests received via U.S. Mail is deemed received when the custodian of record breaks the seal of the envelope.
3. Hand-delivered Open Records requests are deemed received when a completed request form is personally received by the custodian of record.

No other method of transmission for Open Records requests other than the 3 listed above shall constitute a valid Open Records request.

For a request made in any of the 3 listed formats, if the required Open Record Request form is missing necessary information, fields, or is otherwise incomplete and does not conform with this policy, the inquiry will not constitute a valid Open Records request.

Elbert County will make reasonable efforts to respond to requests made pursuant to the Colorado Open Records laws within three working days of the date of receipt of the records request unless criteria exists for an extension of that time or such as a request being deemed voluminous or other extenuating circumstances exist.

### **9. Response to Requests for Records.**

- a) Pursuant to C.R.S. § 24-72-203 the period of providing requested records for inspection may be extended to ten working days if the County determines that one of the following conditions exists and states such condition in writing to the requestor within the first three working days that the request was received:
  - If a request is extensive, broad, and/or voluminous request, the County may extend the response time frame (seven additional business days) to respond once a deposit has been received by Elbert County from the





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requestor if a request is broadly stated such that it encompasses all or substantially all of a large category of records without sufficient time to prepare or gather the records within the three-day period; or because:

1) 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

2) 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.

3) If the public records requested are not in the custody or control of the Custodian of Records or the County but has knowledge that another entity subject to Colorado Open Records Law is in possession, the party responding to the request to the Custodian of Record for that entity shall notify the requestor of this fact in writing.

4) Substantial review or redactions of responsive records must be conducted prior to release.

### **10. Format and Media for Delivery of Records.**

a) Computer/Information Systems: If a document, record, or structured data is maintained on a computer or other information system and is releasable under CORA rules and this policy, fees for a printed copy shall be replaced by a fee for the actual or incremental costs of complying with the request, including a reasonable portion of the cost associated with building and maintaining the computer/information system. If the public record requested is stored in "sortable" or "searchable" formats, the County will provide the record in this format requested if possible. The County may refuse any request requiring data manipulation on the basis that CORA does not require manipulation. Additionally, the County will not create a record that does not already exist in response to a CORA request.

b) Responses to requests will be made via email of attached documents (if possible) in order to reduce expenditure of County resources and reduce costs to citizens.

c) If requested, paper copies of records will be provided and fees will be charged in accordance with the paragraph below.

### **11. Applicable Fees.**



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a) CORA permits the State Legislative Council to review and increase the CORA hourly fee every 5 years. The Legislative Council has previously increased the state fee to \$33.58 at the time of this document drafting. For ease, the County will go to \$33.00 per hour after the first free hour.

Costs for standard photocopies will not exceed the limit set by CORA (currently \$.25 per page) unless actual costs exceed that amount. Current amounts are as follows:

- (a) Copies (legal or letter) \$.25 per page
- (b) Color Copies \$1.00 per page
- (c) Copies of Meetings (CD/USB) \$10.00 per USB
- (d) Copies of Meeting Minutes \$1.00 per page
- (e) Applicable fees incurred from a third party (i.e., outside vendor).
- (f) USB drive or other media distribution method (\$10.00 for USB drive, or the cost of alternative distribution method), and the cost of postage for mailing such if applicable.
- (g) Staff search and/or administrative fee associated with fulfilling a request (\$33.00/hr. after one hour's time has been surpassed)
- (h) Reasonable costs associated with specialized equipment, technology, or other resources needed to fulfill a request (\$ the cost associated with procuring the equipment, technology, or other resources) should such accommodation be reasonable and not impose undue burden to the County.

### **12. Payment, Time and Cost Estimates, and Deposits**

- a) Staff Time: When County employees must expend time to research, redact, retrieve, review, supervise, copy, process, mail, or otherwise take time away from their normally assigned duties in response to an Open Records request, such employee's time shall be payable by the requesting party. Such time shall be billed at thirty (\$33.00) per hour. No staff time shall be billed for the expenditure of time of one (1) hour or less.
- b) Computer/Information Systems: If a document, record or structured data is maintained on a computer or other information system and is releasable under CORA and these rules, fees for a printed copy shall be replaced by a fee for the actual or incremental costs of complying with the request, including a reasonable portion of the cost associated with building and maintaining the computer/information system.
- c) Deposits: If a request may be large or require staff time resulting in a possible charge to the requesting party, the requesting party may be required to submit a deposit for the estimated cost of responding to their request. If a deposit is required, the requesting party will be asked to confirm they acknowledge and desire to have their request processed; and a CORA request shall not be deemed received for purposes of triggering a response under C.R.S. 24-72-203(3)(b) until the deposit is received. It is not always possible to estimate



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the time required to fulfill a request, however, if it is clear the request is likely to take more than 1 hour, the County may provide the requester with a time and cost estimate if possible.

### **13. Record Format**

- a) Documents may be available in their native format if they do not need to be redacted or if they can be readily accessed. Documents such as databases or spreadsheets that can be sorted or searched will be available in a similar format. The County will not provide documents in a format that requires providing software or that would violate the terms of any agreement or rights held by a third party, such as licensing agreements or copyrights.
- 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 time 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 \$33.00 per hour for employee time utilized (but there will be no charge for the first hour of time expended in connection for the research and retrieval of public records by a County employee), or the cost associated with any labor and fees required for an outside entity to complete such a request. The requestor may be required to pay all or a portion of the estimated cost before compilation of the information is performed.

### **14. Delivery/Inspection of Records**

- a) If no copies of public records are requested, but rather the individual or organization desires to inspect the public records on the County premises, the custodian may set the location and schedule where the records may be viewed. In no event shall a requesting party remove documents or add documents to those provided for review. The requesting party shall not bring and shall not use cell phones, cameras, photocopiers, fax machines or any other copy, scanning, photography or reproduction device to copy public records. Upon completion of the review, the requesting party may mark the pages they wish to have copied with removable adhesive tabs. Copies will be made at a later time, depending upon volume and the requesting party will be notified when the copies are available for pick-up, at which time the requesting party shall pay all required fees.
- b) If physical copies of public records are requested, the custodian shall set the location and reasonable time period when the records may be picked up by the requesting party. If fees are due, the requesting party shall pay all such fees prior to the records being released.
- c) If printed copies of public records are requested, the requesting party may elect to have the documents sent by U.S. Mail. Likewise, if records are available in electronic format and are stored on a transportable medium, such as CD, DVD, Flash drive or



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similar medium, the requesting party may elect to pick the medium containing such records in person, or have the transportable medium sent by U.S. Mail. The requesting party must pay all fees prior to the records being released. Such fees shall also include the cost of postage and the cost of any transportable medium.

### **15. Electronic/Digital Information, Data, and Records**

- a) The custodian shall determine what the native format of a requested record is and whether such format is searchable. The preference is to release data in its native format when such format is searchable.
  
- b) If the native format is not searchable and the requesting party has requested the release of electronic records in a searchable format, the custodian shall provide a copy of the record in a format that is searchable when requested, however such request may be denied if the custodian:
  1. Concludes it is not technologically or practically feasible to produce a copy of the requested information in a searchable or structured format, or
  2. Producing the data in the requested format would violate the terms of any copyright or release proprietary or confidential information, or
  3. In order to accommodate the request it would require the purchase of software, hardware or the creation of additional programming or functionality, or
  4. It is not technologically feasible to remove information that is required or allowed to be removed, or the custodian would be required to purchase software or create additional programming or functionality to remove the information.
  
- c) If the native format is searchable, but is a format that is uncommon, industry specific or otherwise unlikely to be used by the general public, the custodian shall notify the requesting party and determine if an alternative format is both possible for the custodian to produce and for the requesting party to use/read. If an alternative searchable format is available without additional cost to the custodian and requires a minimal amount of time to convert into such format, the records shall be released in such alternative format. If the custodian does not receive a response from the requesting party the custodian shall release the records in the native format.



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- d) Summary: Elbert County uses various types of computer and electronic systems to maintain data and information. If Elbert County can run a standard report on existing systems/programs to generate the requested document/information, and the resulting record does not contain any protected information or such protected information can be redacted/removed, Elbert County will produce a record for the requesting party. If the requesting party wants the resulting record in a searchable format, Elbert County will initially try to provide it in the record's native format if such format is searchable and does not violate another law or requirement. However, if the native format is not searchable and the requesting party wants the electronic record in a searchable format, Elbert County will work with the requesting party to try to identify if there is another format that will work. Sometimes, the record may be searchable in its native format, but the native format is one that is specific to a proprietary system used by Elbert County or specific industry and as such most people will not be able to use/read the record in its native format. In such a situation, Elbert County will work with the requesting party to identify if there is another format that will work. However, if a requested record cannot be produced using the standard capabilities of the system or program without additional coding or manipulation of the system, the requesting party will be informed there is no responsive document.

16. Periodic Review of Public Record Requests. On a quarterly basis, the Custodian of Records will review all requests made for records in order to identify such records which may be appropriate for regular publication on the County website in an effort to preemptively provide requested records. This will ensure that records of high interest to our citizens are easily available and reduce the workload associated with responding to individual requests for records.

- Telephone: 303-621-3171
- Physical Address: 215 Comanche Street, Kiowa, Colorado, 80117
- Mailing Address: Open Records, 215 Comanche Street, PO Box 07, Kiowa, Colorado 80117
- Email Address: [openrecords@elbertcounty-co.gov](mailto:openrecords@elbertcounty-co.gov)

### **17. References.**

- a. Colorado Revised Statutes 24-72-201 et Seq, *Colorado Open Records Act*
- a. Colorado Revised Statutes 24-72-301 et seq, *Criminal Justice Records*
- b. Policy B-00, *Policy on Transparency in Local Government.*

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*d. Policy B-03, County Document Archives Policy*

**18. Adopted** Dec 14<sup>th</sup>, 2022. This policy supersedes all prior policies on these matters in their entirety.

**19. Reservation of Authority:** The Board of County Commissioners reserves the right to alter, amend, add to, and/or revoke all or part of this policy at any time.



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**EXHIBIT B – Open Records Request Form**