

RESOLUTION NO. 22-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION TO UPDATE AND APPROVE EL PASO COUNTY'S POLICY FOR
COLORADO OPEN RECORDS ACT COMPLIANCE**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(e) and 30-11-107(1)(e), the Board of County Commissioners of the County of El Paso, State of Colorado (hereinafter "Board" or "County"), has legislative authority to represent the County and manage the business and concerns thereof; and

WHEREAS, the Colorado Open Records Act ("CORA"), C.R.S. §§ 24-72-200.1 et seq., has been declared to be the public policy of the State of Colorado, and that all applicable public records shall be open for inspection by any person at reasonable times, except as otherwise provided by law; and

WHEREAS, the Board is authorized to make such rules and regulations with reference to the inspection and copying of such 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 official and actual custodians of such records; and

WHEREAS, in order to balance the public interests in having reasonable access to public records, and the Board's interest in otherwise serving the general public and in preserving its public records, the Board deems it prudent and necessary to establish reasonable rules and regulations governing the production, inspection and copying of such public records; and

WHEREAS, the Board most recently adopted the El Paso County Policy for Colorado Open Records Compliance on January 14, 2020 through Resolution No. 20-20, and on July 1, 2014 through Resolution No. 14-241 and the Board desires to update the policy pursuant to the provisions in the attached Exhibit A; and

WHEREAS, the County shall post the updated policy on its website, currently identified as www.EIPasoCo.com or as may be designated in the future.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners of El Paso County, State of Colorado, hereby adopts and implements the following rules and regulations governing the access to the public records of El Paso County, as noted in exhibit A (El Paso County Open Records Act Compliance), incorporated as fully set forth herein.

BE IT FURTHER RESOLVED, that all former Board resolutions on the subject, including Resolution No. 20-20 and No. 14-241, or other adopted rules or regulations, or parts thereof, in conflict with this resolution are repealed.

BE IT FURTHER RESOLVED, that the Chair of the Board of County Commissioners, or the Vice Chair, be and is hereby authorized to execute the resolution approving this matter and

all reasonable and necessary documents on behalf of the Board in order to complete the transaction described herein.

DONE this 28th day of June, 2022, at Colorado Springs, Colorado.

ATTEST

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Chair

El Paso County Open Records Act Compliance

- I. **General Policy:** It is the policy of El Paso County to make public records available for public inspection as set forth in the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.* ("CORA").
- II. **Purpose:** The purpose of this policy is to assure prompt and equitable service to citizens requesting access to public records, including those records created by electronic mail, in accordance with the requirements of the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.* This policy does not apply to criminal justice records or public records maintained by appointed or elected officials unless adopted by said appointed or elected official.
- III. **Scope:** This policy applies to all requests for public records made to Board of County Commissioner Departments and Divisions. It shall apply to records requests made to any other elected official only if adopted by such official. A list of such officials will be published on the County's website.
- IV. **Definitions:** The definitions found in C.R.S. § 24-72-202, as amended from time to time, shall apply herein. Of particular importance, the following terms shall have the following designated meanings:
 - a. **"Public records"** means "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.
 - b. **"Writings"** 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).

Policies and Procedures

- A. **Request:** Unless otherwise named by the Board of County Commissioners, the Communications Department Executive Director, hereinafter referred to as the ("Director"), or his/her designee, is the official custodian of all records that the County maintains, unless otherwise prescribed by law. Department heads are the actual, physical custodians of all records maintained within their departments. It is the responsibility of each department head to become familiar with and to educate his/her affected employees about the standards and requirements of this policy.

The Director's designee may be reached at: (719) 520-6403 during normal business hours.

If such request relates to producing a media story, it should be referred to the Director to determine if the documents requested can be provided outside of a CORA request.

All CORA requests must be formally submitted before processing. Requests can be filed through e-mail to the Director or his/her designee, or through other common communication methods as outlined on the County's website.

The County will respond to requests made pursuant to CORA within three (3) working days after the date of receipt unless extenuating circumstances apply. If extenuating circumstances apply, then the custodian of the records will notify the requester, in writing, that access for inspection or delivery may be delayed pursuant to C.R.S. §24-72-203(3)(b).

- B. Inspection of public records:

1. In order to safeguard the integrity of the County's records, the custodian of the

records to be inspected shall retain control of the records at all times. Inspection of all public records is subject to the supervision of the records custodian. Inspection of public records will generally be scheduled during the business hours of 9:00 a.m. until 12:00 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, except on county- observed holidays or closure due to inclement weather or likewise circumstances.

2. Please note the County may require that members of the public be allowed to inspect only copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of the County or its staff or production of original records could jeopardize the condition of the requested records.

3. Requestors who have not come in to view the requested information within ten (10) working days of being notified that the records are available for review will be required to submit a new public records request.

4. If fees are charged pursuant to Section D of this policy, then transmittal of the requested records shall occur only after payment, or an acceptable payment arrangement, is made.

C. Denial of Inspection: Access to public records may be denied in accordance with the provisions of CORA. If requested by the applicant, the custodian of the records will notify the applicant in writing of the grounds for the denial.

D. Fees and Charges: Fees and charges for public records shall be as follows:

1. Copies and Research and Retrieval

a. Every effort will be made by the custodian to furnish electronic copies of documents to avoid charging copying, printing, or disk reproduction charges.

b. The fee for a paper copy of any public county record, including copies requested pursuant to CORA, shall be as follows:

8.5" by 11"	First ten pages free \$0.25 for each page after the first ten pages
11" by 17"	\$0.25 for each page
Greater than 11" by 17"	Fee not to exceed the actual cost of reproduction
Certified Copies	\$1.00 per document
Color Copies and Photographs	Fee not to exceed the actual cost of reproduction

c. The fee for an electronic copy of any public county record, including copies requested pursuant to CORA shall be as follows:

If the record exists in electronic format	Actual Cost for CD/DVD or thumb drive (if required) + Research/Retrieval Time
If the record had to be scanned	Actual Cost for CD/DVD or thumb drive (if required) + Research/Retrieval Time
If the record had to be printed and then scanned	Actual Cost for CD/DVD or thumb drive (if required) + Research/Retrieval Time + paper copy fee

d. If the request will take more than two hours to fulfill, the fee for researching, retrieving, reviewing, and, if necessary, redacting requested information, shall be as follows:

Board of County Commissioner Department or Division Research and Retrieval	2 hour or less	\$0
	Greater than 2 hours	\$29.50 / hour
Elected Official or Appointed Official	As determined by Elected or Appointed Official or Statute	

2. Data Manipulation

a. Any records custodian may set a fee for reports, maps, or products that are produced through the manipulation of data for the benefit of the requestor.

b. Any records custodian may refuse any request requiring data manipulation on the basis that CORA does not require manipulation.

3. Advance Payment

a. Any records custodian may require and collect a 50% advance deposit of estimated research, retrieval and copy fees for public records requests that will require significant staff time and resources to complete. A records custodian may require and collect 100% advance deposit of estimated research, retrieval, and copy fees for public records requests from any person who has made a previous retrieval request and not paid or not come in to view the requested information.

b. In the event advanced payment is requested and the request is voluminous requiring several hours of staff time, the County may refrain from researching and retrieving such a request until an advance deposit is received.

c. The County reserves the right to consider a request abandoned if the requestor does not respond to messages communicating a price quote or respond to requests for additional information or clarification from staff within ten (10) business days.

d. All requestors should expect to be charged for requests which take longer than two hours to fulfill. Fees may only be waived in extreme, compelling, and rare circumstances after consultation with the County Attorney.

4. Searchable and Sortable Data

- a. Any records custodian shall follow the provisions of C.R.S. 24-72-203(3.5) as it relates to requested public records stored in a native digital format which may be searchable, sortable, or both.

E. Research by Requester

Independent research by the requesting party is allowed at the discretion of the custodian provided that:

1. The records set to be researched do not include privileged documents or documents not otherwise subject to public disclosure as provided by law;
2. The research is supervised to avoid loss or damage to records. Staff time spent on supervision shall be subject to the research and retrieval fee provided above;
3. The research does not unduly disrupt the day-to-day activities of the department or office; and
4. The records/documents being researched are returned to the files in the same order as when they were removed.