



## **ARCHULETA COUNTY POLICY AND PROCEDURES REGARDING PUBLIC RECORDS UNDER THE COLORADO OPEN RECORDS ACT**

### **I. Purpose**

It is the policy of the Archuleta County Board of County Commissioners that all public records shall be open to inspection by any person at reasonable times, except as provided by the Colorado Open Records Act, C.R.S. § 24-72-201 *et seq.* (“CORA”), as may be amended from time to time, or as otherwise specifically provided by law.

### **II. Policy**

The following procedures are intended to facilitate requests for public records responsibly and efficiently, to maintain the integrity of Archuleta County’s records, and to ensure the effective functioning of Archuleta County departments. In addition to this Policy, the custodian of an Archuleta County department may, following approval by the County Manager, establish a more specific policy as may be necessary under certain circumstances for the protection of particular records and for the prevention of unnecessary interference with the regular discharge of the Custodian of Records’ duties. Elected officials may also develop their own policies and procedures regarding public records in their custody. This Policy is subject to interpretation by the Archuleta County Attorney’s Office.

### **III. Definitions**

The definitions contained in C.R.S. § 24-72-201 *et seq.*, as may be amended from time to time, shall apply to this Policy and procedures, unless the context clearly requires a different meaning. Three definitions of particular relevance are included below:

- a. “Custodian” means and includes the official custodian or any authorized person having personal custody and control of the public records in question.
- b. “Public records” means and includes all writings made, maintained, or kept by . . . a political subdivision of the state . . . 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. “Writings” means and includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. “Writings” includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.

### **IV. Applicability**

This Policy applies to the Archuleta County Board of County Commissioners and all the Archuleta County departments that report to the County Manager, unless said department has adopted a

different policy with County Manager approval. This Policy applies to the other elected officials of Archuleta County but only if that elected official chooses to adopt this Policy. The other elected officials of Archuleta County may also develop their own policies and procedures regarding public records in their custody as those elected officials may have to comply with certain statutory and/or regulatory requirements.

This Policy does not apply to the Archuleta County Sheriff's Office ("ACSO") as public records requests to the ACSO may be governed by the Colorado Criminal Justice Records Act ("CCJRA"). Production of criminal justice records pursuant to CCJRA is governed by a separate policy issued by the ACSO. For more information, please contact the ACSO.

## **V. Procedure**

### **a. Requests for Public Records:**

All requests for public records shall be to the Custodian of Records, as defined by CORA, for the department or office that maintains such records, and shall be as specific as possible. Archuleta County has determined that the use of an official request form to be used by persons is necessary for the efficient handling of such public record requests. Any request to Archuleta County for public records must be made on the official request form. Any request not submitted on the official request form will not be processed. The official request form should be provided to any person submitting a public records request that is not on this form and the person should be informed that Archuleta County requires the use of the official request form in order to process their public records request.

### **b. Timing for Inspection/Production of Public Records:**

If the requested public records are available for inspection and/or production pursuant to CORA, Archuleta County will produce the public records requested for inspection, or copies of the records, within three (3) business days of when the Custodian of Records received a public records request that meets the requirements of this Policy. Public record requests received after business hours or on days when Archuleta County is not open for normal business will be deemed received no sooner than the next business day when Archuleta County resumes normal business hours.

If extenuating circumstances exist that prevent Archuleta County from providing the records within three (3) business days, the Custodian of Records will notify the applicant in writing of the extenuating circumstances and that more time, up to an additional seven (7) business days, may be needed to provide the requested records.

Extenuating circumstances may include but are not limited to:

- Where a broadly stated request encompasses a large category of records and the request is without sufficient specificity to allow the Custodian of Records reasonable time to prepare or gather the records within the three-day period;

- Where the Custodian of Records must devote all or substantially all of its resources to meet an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
- Where a request involves such a large volume of records that the Custodian of Records cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the Custodian of Records' obligations to perform his or her other public service responsibilities.

c. Inspection of Public Records:

If the requestor wishes to inspect available records in advance of or in lieu of receiving copies of such records, such inspection shall be by appointment only during the normal business hours at the office of the Custodian of Records, unless the Custodian of Records deems it appropriate for the inspection to take place in another location. In no event shall a requestor remove records or add records to those provided for inspection, nor will photography, copying or scanning be allowed of such records, unless such is being conducted by the Custodian of Records and/or third-parties on behalf of the Custodian of Records. Should the requestor desire to obtain copies of the records, the requestor shall notify the Custodian of Records and copies will be made at the rates set forth in Section VI.

Please note, Archuleta County may require the requestor 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 Custodian of Records or their staff or production of original records could jeopardize the condition of the requested records.

d. Manipulation of Data:

Archuleta County is not obligated in any way to manipulate data in response to a public records request in order to generate a record in a form not used by the County. However, if Archuleta County elects, at its sole discretion, to do so in response to a specific request, the Custodian of Records may charge the requestor a reasonable hourly fee associated with the request. The fee shall not exceed the actual cost of manipulating the data and generating the record in accordance with the request. Persons making subsequent requests for the same or similar records may be charged a fee not in excess of the original fee. Archuleta County has no duty to redact portions of a record in order to render it available for inspection/production under CORA, but the County may do so at its sole discretion. If the County decides to redact portions of a record(s), the requestor will be charged for the time it takes to redact the record(s).

e. Format and Media for Delivery of Records:

If the public record requested is stored in "sortable" or "searchable" formats, the County will provide the record in this format if requested unless producing the record in native format would violate the terms of any copyright or licensing agreement between the County and a third party or result in a release of a third party's proprietary information, or where the native format renders it

technologically or practicably infeasible to redact information the County is required or allowed to withhold.

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. If records requested exceed 5MB of data, requestors will be provided the records on a USB Thumb Drive or an alternative method provided by the County at the cost indicated herein. In order to preserve the security of the County data network, under no circumstances shall a memory device or other media not authorized by the County IT Department be used to transfer data to a requester nor shall requestors be allowed to provide their own USB Thumb Drive or other storage device to receive copies of the requested records. Archuleta County has no obligation to upload requested public records to a “cloud” service to allow for their access by a requestor.

f. Denial of Requests for Public Records:

In accordance with CORA, certain Archuleta County records are either prohibited from disclosure or may be withheld from public inspection. Reasons for denial may include but are not limited to that disclosure is contrary to statute, court order or the public interest. Any denial of inspection or copies of records will be specific and the justification for such denial, as authorized by CORA, will be provided in writing upon request.

## **VI. Fees and Charges**

a. Hourly Rate for Research and Retrieval:

Archuleta County charges an hourly fee, as set forth in the Archuleta County Fee Schedule, for the actual time the Custodian of Records and/or staff spends responding to an open records request. Research and retrieval time may include, but is not limited to: actual costs involved in the gathering of documents, costs associated with specialized IT support, and staff time required to research, locate, retrieve, review and redact records, and create or run records in electronic or digital format. The nature of the request dictates the potential fees and costs incurred. There is no charge for the first hour of Custodian of Records and/or staff time. If a requestor’s research and retrieval of records must be supervised by another employee, or the request is large and requires multiple staff to respond, the supervisor’s and other staff’s time will also be charged at the hourly rate.

b. Reproduction Costs:

There is no charge for delivering public records by electronic mail. Costs for standard black and white photocopies will not exceed the limit set by state statute. For color or other non-standard format copies (e.g., media on CD, DVD or USB Thumb Drive), the County charges a fee not to exceed its actual cost for producing those copies, as set forth in the Archuleta County Fee Schedule. The per-page cost for producing the hard copies, and/or the actual cost of producing non-standard format copies, is in addition to the hourly rate for staff time devoted to gathering, preparing, reviewing, redacting to excise confidential or privileged material, and copying available documents.

c. Advance Deposit of Costs:

Whenever the cost of staff time and/or the production of documents is estimated to exceed \$50, the County may require a deposit of 50% of the anticipated total cost to fulfill the request. Whenever the cost of staff time and/or the production of documents is anticipated to exceed \$200, the County may require a deposit of 100% of the anticipated total cost to fulfill the request. Payment of the deposit shall be required prior to the County processing the public records request and the timelines set forth in Section V.b. shall not begin to run until such time as the requestor pays the Custodian of Records the required deposit.

d. Payment in Full:

Payment of the total, actual cost of staff time and/or production of documents is required before the requestor may inspect or receive copies of the records requested. Only actual costs will be charged, and if a required deposit exceeded the actual expense of fulfilling the request, the excess will be refunded to the requestor.

## **VII. Closed Requests**

An open records request will be considered closed and a new request must be submitted under any of the following circumstances:

- The records have been made available for inspection, the records have been inspected and no copies of the records were requested;
- After the records have been made available for inspection, have been inspected by the requestor and copies of the records have been provided consistent with this Policy;
- If the requestor fails to appear for the scheduled review of the records; or
- If the requestor fails within ten business days to a) make arrangements for review of the records after request; b) pre-pay a deposit required; or c) does not pay the total of actual costs after receiving notice of such costs.