

Resolution No. 61-2012

**RESOLUTION
OF
THE BOARD OF COUNTY COMMISSIONERS
FOR MONTROSE COUNTY, COLORADO
TO
ADOPT POLICY AND PROCEDURES
REGARDING
PUBLIC REVIEW OF RECORDS UNDER THE
COLORADO OPEN RECORDS ACT**

WHEREAS, the Colorado Open Records Act ("CORA") is codified at Part 2 of Article 72 of Title 24 of the Colorado Revised Statutes (CRS 24-72-200.1, et seq.) and establishes the obligations and requirements by which state and local government entities are to make public records available for inspection to the public; and

WHEREAS, CRS 24-72-203(1)(a) authorizes the custodian of any public record 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; and

WHEREAS, the Board of County Commissioners finds that it is necessary to the efficient operation of the County offices under its charge and control to adopt policies and procedures for the review of public records; and

WHEREAS, the Board of County Commissioners finds that the Policy and Procedures Regarding Public Review of Records Under the Colorado Open Records Act, attached hereto and incorporated into this Resolution by this reference, is reasonably necessary to protect Montrose County public records and to prevent unnecessary interference with the duties and operations of the records custodians and their respective offices under the authority of the Board.

NOW, THEREFORE, the Board of County Commissioners for Montrose County Colorado hereby resolves as follows:

1. That Policy and Procedures Regarding Public Review of Records Under the Colorado Open Records Act attached hereto are hereby adopted for responding to all public records requests directed to any public county office under the control or authority of the Board of County Commissioners.
2. Should any one or more sections or provisions of the Policy and Procedures be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or

MONTROSE COUNTY

Policy and Procedures Regarding Public Review of Records Under the Colorado Open Records Act

The Board of County Commissioners for Montrose County, Colorado hereby adopts the following policy for Public Review of Records Policy under the Colorado Open Records Act (Section 24-72-201 *et seq.*, Colorado Revised Statutes) ("CORA"), as amended.

This Public Review of Records Policy is intended to provide the public with timely, orderly, and efficient access to all public records maintained by Montrose County in accordance with CORA; to ensure that all requests are handled uniformly and equitably under the law; to provide procedures adequate to ensure the integrity and safety of the records; to ensure adherence to County policy; and to define the process for the public to review public records kept and maintained by offices under the authority of the Montrose County Board of County Commissioners.

CORA requires a local government to make public records maintained by and held in that local government's custody or control available for inspection and review by the public. What constitutes a public record available for public inspection and under what circumstances is defined by CORA. Records that are not public records under CORA or are not otherwise available for public inspection under CORA are not subject to public inspection or copying under this Policy.

This Policy does not apply to Criminal Justice Records as defined and governed by the provisions of CRS 24-72-301, *et seq.*, as amended.

I. Public Records Available for Inspection:

In accordance with CORA, all public records shall be open for inspection by any person at reasonable times during the regular business hours of the custodian holding such public records. CORA requires the County to make available for inspection only those public records that are maintained by the County. Neither CORA nor this Policy require Montrose County to create a record in response to a records request. Moreover, neither CORA nor this Policy require the County to make special compilations, manipulate information or prepare analyses of information it might have in order to respond to a request. Also, CORA does not require the County to answer interrogatory type questions about County business. If, however, public records are available that respond to or provide information relevant to such question, the custodian will provide such records for inspection in accordance with this Policy.

Further, this Policy shall not require Montrose County or any records custodian to maintain any public records for any period of time beyond what is required by law or other County records retention policy. If, however, the data is kept by the County and is a public

record available for public inspection under CORA, such record shall be available for inspection in accordance with CORA and this Policy.

II. Process for Filing a Request:

1. All requests shall be in writing and shall specifically identify the records requested for inspection. Written requests may be made in person, or may be sent by U.S mail or other courier service, or may be submitted by electronic mail or by facsimile transmission to the records custodian of the record requested. The date and time the request is actually received by the County office to which it is directed shall be endorsed on the request and such date and time shall commence any response time specified under this policy and CORA. In addition to specific identification of the record requested, the request should contain the following information:
 - Date
 - Requestor's name and signature
 - Company name, if applicable
 - Address
 - Telephone number
 - Such reasonable accommodation as the requestor may need to inspect records
 - An e-mail address and fax number may be provided, if requestor desires.
2. Each request will be responded to within the time requirements and in the manner specified under CORA. If a public record requested is specifically identifiable and readily available to the custodian, the record shall be made available for inspection on the day it is requested. The date and hour set for the inspection of records not readily available at the time of the request shall be within a reasonable time of the date of the request, not to exceed three working days unless otherwise permitted by CORA. Such period may be extended by up to an additional seven working days if extenuating circumstances exist as same are defined under CORA. The basis for claiming extenuating circumstances shall be communicated in writing to the person making the public records request within three days of the date of the request.
3. If no public records responsive to the request and within the custody or control of the custodian exist, the person making the request shall be notified of that fact as soon as possible or within three working days of the date of the request unless the search period has been extended for extenuating circumstances as permitted under CORA. If there is another records custodian within the County to whom the records request should have been submitted, the person or office receiving the original request shall transmit the request to the appropriate records custodian and notify the person making the request, in writing if the original request asks for a written response. If records requested are publicly available on the County website or from another such publicly accessible source, the person making the request will be so advised and directed to that source.
4. While the custodian will endeavor to provide timely responses to public records requests, the continued operation of the business of the County is of paramount concern.

Accordingly, preparation of responses to public records requests shall not take priority over the records custodian's previously scheduled work activities, especially when broadly stated requests for large or potentially large categories of records are requested.

III. Process for Viewing Public Record(s):

1. Records may only be inspected on County premises and will be viewed only in the room designated by County staff.
2. No records, documents, or pages are to be removed from or added to the public records.
3. All copies of records must be made by County staff.
4. No person will be permitted to bring or use photocopiers, fax machines, or any other copying, scanning or reproduction devices to copy public records.
5. A County employee must be present in the room at all times during the review of public records by any person.

IV. Fees and Charges:

1. Copies

The custodian shall furnish copies of public records to a person requesting copies of public records upon payment of the appropriate fee in accordance with CORA and any other applicable County Resolution setting fees for copies of public records and, as applicable, for the cost of searching for, retrieving and/or analyzing requested records as provided herein. CORA specifies that public records be made available for inspection within certain times following a request. CORA does not require that copies be furnished within any particular time from the date of a request. Accordingly, the records custodian shall endeavor to furnish copies of public records within a reasonable time following the date of the inspection of public records. However, what constitutes a reasonable time will depend on the amount and size of the documents requested for copies and the current availability of staff to make copies.

2. Research by County Staff

If a request for information requires more than one-half (1/2) hour of research, retrieval and/or analysis activity (e.g., to determine if a document is a public record or subject to a privilege) by County staff, the person requesting the information will be charged for all costs associated with fulfilling the request, including staff time at a rate of \$20 per hour. Estimates of the time required will be provided to the person making the request, and the money shall be collected in advance. Staff will document the time actually spent on the request and will provide an itemized statement upon request. The County will adjust the charges to account for any difference between the estimate and the actual time spent. For purposes of calculating

whether the research will take more than 1/2 hour, requests received from the same person, persons, or entity making multiple requests within a calendar month will be aggregated.

3. Mailing of Records

CORA does not impose any obligation to mail or deliver copies of public records to any particular location. Accordingly, any person seeking copies of public records is obligated to make their own arrangements to pick up such copies when they are available.

4. Miscellaneous Provisions

- a. The County will hold copies for a person requesting copies of public records for ten (10) business days. After that, the copies will be destroyed and the person will have to pay for a new set of copies to be made, if they desire copies.
- b. Special requests for records in electronic format will be reviewed to determine the volume of the request, the staff time required to produce the record, and the type of format in which to deliver the record, before setting a fee for production.
- c. Where certification of a public document is available, additional charges for certification of copies will apply.
- d. Montrose County reserves the right to waive any, part or all of the requirements outlined above, in its sole and absolute discretion, for requests made by governmental entities.
- e. Please note that independently elected officials, including the District Attorney, Sheriff, Clerk and Recorder, and Assessor may have their own separate and distinct policies. Individuals filing a request to view those records should do so with those respective offices.
- f. This policy is intended to supplement that policy adopted by the Montrose County Board of County Commissioners by Resolution No. 95-2007 pertaining to the costs for copies of public records.

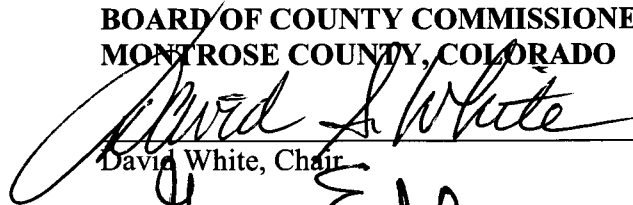
Adopted this 3rd day of December 2012

invalidate the remaining sections or provisions of the Policy and Procedures, it being the intent of the Board that such invalid or unenforceable provisions are severable.

3. That the Board declares this Resolution to be an emergency measure to preserve the public health, safety, and welfare and shall take effect immediately upon adoption hereof.

Adopted this 3rd day of December, 2012.

**BOARD OF COUNTY COMMISSIONERS
MONTROSE COUNTY, COLORADO**



David White, Chair




Gary Ellis, Vice Chair



Ron Henderson, Commissioner





Marie Simons, Clerk to the Board