

RESOLUTION

**REGULATIONS RELATING TO LARIMER COUNTY
COLORADO OPEN RECORDS ACT ("CORA") REQUESTS**

WHEREAS, Larimer 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" attached hereto.

NOW, THEREFORE, BE IT RESOLVED:

The Larimer 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 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 additional rights to a requesting party, such rule is stricken.

Effective this 20th day of June, 2017



(SEAL)

ATTEST:

Jan Vally

BOARD OF COMMISSIONERS OF
LARIMER COUNTY, COLORADO

By:

Steve Johnson
Chair Pro Tem

DATE 6/15/17
APPROVED AS TO FORM

[Signature]
SENIOR COUNTY ATTORNEY

EXHIBIT "A"

LARIMER COUNTY RELEASE OF PUBLIC RECORD RULES

I. PROCEDURE:

- A. The County has determined that the use of an official request form to be used by members of the public promotes the efficient handling of public records requests. The Public Records Request Form (Attachment 1) should be used by all parties making an open records request to a County Office or Department. The custodian of records may waive the use of the Public Records Request Form, but any such waiver should be uniform and consistent for all parties in similar circumstances.

- B. If a requesting party can determine who the appropriate custodian of record is, they must forward their request to the appropriate custodian of record. The following is a partial list of custodians within Larimer County:
 - 1. The Clerk to the Board of County Commissioners is the official custodian of all records centrally maintained by the County Commissioners.
 - 2. Department Heads or their designee are the official custodian of all records maintained within their departments.
 - 3. Elected Officials, excluding the County Commissioners, or their designee are the official custodian of all records maintained within their offices.
 - 4. The Director of the Facilities Information Technology Department ("FITD") or their designee is the official custodian of electronic mail.
 - 5. The Director of Finance or their designee is the custodian of accounting records, except Human Services non-commercial card transactions, which are in the custody of the Director of Human Services or their designee.

- C. All requests must include enough information so the record(s) being requested can be identified, including a date or date-range. Without sufficient information to search for and identify the records being requested, the request may be deemed incomplete and returned to the requesting party. Due to the extraordinary number of electronic mail communications generated by County business, all requests for electronic mail records must include "key words" that will enable the County to search for and locate the requested records. When possible, the sending and receiving parties to electronic mail should also be listed in the request. Without key word(s), public records requests for electronic email may be deemed incomplete and returned to the requesting party as too broad, vague, or otherwise insufficient.

- D. In certain circumstances a single point of contact for specific individuals or organizations to submit Open Records requests may be designated. 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.
- E. An Open Records request is not deemed "received" for purposes of the response period beginning, until the custodian of record receives a complete request as identified by these rules or related statutes on the Public Request Form if required, as follows:
1. Email, it is deemed received when the custodian of record opens the email.
 2. U.S. Mail, it is deemed received when the custodian of record breaks the seal.
 3. Hand-delivered, it is deemed received when it is personally received by the custodian of record.
 4. No other method of transmission shall constitute a valid Open Records Request.

II. FEES:

- A. **Copy Costs:** The fee shall be \$.25 per printed page for standard size pages. Documents excluded from copy costs include agenda materials which have been prepared in advance and which are in support of items scheduled for consideration by the Board of County Commissioners at a future date, or records which are normally produced for public information, such as the current year budget document, or brochures on county services.
- B. **Staff Time:** When County employees must expend time to research, redact, retrieve, review, supervise, copy, process 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 (\$30) per hour, unless the elected official or department head has set a lower hourly rate. No staff time shall be billed for the expenditure of time of one (1) hour or less.
- C. **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.

- D. Deposits: If a request may be large or require staff time resulting in a possible charge to the requesting party in excess of fifty dollars (\$50), 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.
- E. Fee/Cost Waivers: Any charges under these rules may be waived or reduced by the elected official or department head, if the requested documents are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Reduction and waivers shall be uniformly applied among persons who are similarly situated.
- F. Payment may be made by cash or check. Checks shall be made out to "Larimer County".

III. 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, the custodian shall set the location 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 similar medium, the requesting party may elect to 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.

IV. ELECTRONIC/DIGITAL INFORMATION, DATA AND RECORDS

- A. Public records may be stored in a digital document, record or structured data format.
- B. The custodian shall determine what the native format of the record is and whether such format is searchable. The preference is to release data in its native format when such format is searchable.

- C. 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 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.
- D. If the custodian cannot produce the records in a searchable format as outlined above, the custodian shall produce the records in an alternate format and shall provide a written statement as to why the custodian is unable to produce the records in the requested searchable format.
- E. 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.
- F. **Summary:** Larimer County uses various types of computer and electronic systems to maintain data and information. If Larimer 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, Larimer County will produce a record for the requesting party. If the requesting party wants the resulting record in a searchable format, Larimer 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, Larimer 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 Larimer 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, Larimer 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.