



RESOLUTION #15-22

RESOLUTION TO ADOPT CLEAR CREEK COUNTY PUBLIC RECORDS POLICY

WHEREAS, the Colorado Open Records Act (C.R.S. §24-72-201, et seq.) provides the public access to public records in the custody of Clear Creek County, including its elected officers; and

WHEREAS, the Board of County Commissioners of the County of Clear Creek, Colorado, together with the other elected county officers, constitute the respective official custodians of the public records for the County; and

WHEREAS, the official custodians of records are authorized by C.R.S. §24-72-203(1)(a) to adopt rules with reference to the inspection of 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 custodian or the custodian's office; and

WHEREAS, custodians are authorized to charge fees for research and retrieval of public records, copies of records, computer output, manipulating data and generating reports, and as otherwise provided by law, pursuant to C.R.S. §24-72-205; and

WHEREAS, the elected officers have conferred among themselves and with County staff and all recommend the Clear Creek County Public Records Policy attached hereto as a uniform policy for receiving and responding to requests to inspect public records pursuant to the Open Records Act which in their judgment provides public access in conformance with the Act, reasonably protects public records, and reasonably accommodates public access to records while preventing unnecessary interference with the discharge of the regular duties of the County ; and

WHEREAS, the Board accepts the recommendation of the elected officials and its staff.

NOW, THEREFORE BE IT RESOLVED, the Clear Creek County Board of County Commissioners hereby approves the Clear Creek County Public Records Policy attached hereto effective January 20, 2015.

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ADOPTED, this 20th day of January, 2015 at a regularly scheduled meeting of the Clear Creek Board of County Commissioners.

Phil Buckland, Chairman

Thomas S. Hayden, Commissioner

Timothy J. Mauck, Commissioner

APPROVED AS TO FORM:

County Attorney Robert Loeffler

ATTEST:

Deputy Clerk and Recorder

**Clear Creek County
Public Records Policy
(excluding Criminal Justice Records)
(adopted January 20, 2015)**

It is the policy of the Board of County Commissioners (BOCC) and the Elected Officials of Clear Creek County that all public records shall be open for inspection by any person at reasonable times, except as provided by the Colorado Open Records Act or by other laws. This Policy is intended to provide guidance for employees handling, and for people making, public records requests. This policy is authorized by the Act for the protection of public records and to accommodate the right of the public to inspect records with the need to avoid unnecessary interference with the discharge of the duties of records custodians. This policy will be deemed modified by amendments to the Colorado Open Records Act, C.R.S. § 24-72-201, et seq.

This Policy is applicable to a request made to the Clear Creek County Sheriff to the extent it is not a request for a "criminal justice record," which is governed by Part 3 of Article 72, Title 24.

This Policy is subject to interpretation by the County Attorney's Office. The County Attorney also may approve exceptions in individual cases for the convenience of the County.

Elected Officials may adopt additional rules and regulations not in conflict with this Policy with respect to requests for public records for which they are the "Official Custodian" under the Colorado Open Records Act. A copy of all such rules and regulations must be provided the BOCC and County Attorney when adopted (or revised). The BOCC will endeavor to keep all such rules and regulations current on the County's website.

Custodians should promptly consult with the County Attorney's Office with respect to all Public Records requests.

A. DEFINITIONS

The definitions found in the Colorado Open Records Act apply unless the context clearly requires a different meaning. Two definitions of particular importance are:

1. Public Records: ". . . all **writings** made, maintained, or kept by . . . any political subdivision . . . for use in the exercise of functions required or authorized by law . . . or involving receipt or expenditure of public funds." [NOTE: **There are many provisions in the Act which clarify and make exceptions to this definition. Persons preparing a response to a request must consult with the County Attorney's office about what are "public records" in the context of the request.**]
2. Writings: ". . . 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 e-mail messages, but does not include computer software.”

B. CUSTODIANS

NO ONE EXCEPT A PERSON IDENTIFIED AS A “CUSTODIAN” OR “OFFICIAL CUSTODIAN” IS AUTHORIZED TO RESPOND TO A FORMAL PUBLIC RECORDS INSPECTION REQUEST.

1. The Clerk to the Board of County Commissioners is the Official Custodian of all records maintained by divisions, departments, commissions and agencies reporting to the BOCC (including as it acts as the Social Services Board, Local Licensing Authorities, and board of the Clear Creek Emergency Services District) – excluding records maintained by the County Attorney – and of all records maintained on the computers and network any of them maintain. The Clerk to the Board of County Commissioners is the Clear Creek County Clerk & Recorder, who has delegated her authority for purposes of responding to Public Records requests to the Deputy Clerk who serves as the Administrative Assistant to the BOCC.

2. The Deputy Clerk who serves as the Administrative Assistant to the BOCC also is the custodian of the records maintained by BOCC.

3. Division Directors are custodians of their respective records, excluding those maintained within departments in their divisions.

4. Department Heads are custodians of all records maintained within their departments.

5. The Information Services Manager is the custodian of digital records stored on the County’s computer systems, including e-mails. His custodianship may be shared to the extent that other custodians also have access to digital data.

6. The Assessor, Clerk & Recorder, Coroner, Sheriff, Surveyor and Treasurer/Public Trustee are the Official Custodians of the records generated and maintained by their offices. To the extent that the County has custody of any public records of an Elected Official the County shall meet any requirement of the Colorado Open Records Act as it applies to documents in the County’s custody in consultation with the Elected Official.

7. It is the responsibility of each Elected Official, Division Director and Department Head to become familiar with and to educate their affected employees about the standards and requirements of the Colorado Open Records Act and this Policy.

8. Custodians may delegate tasks for responding to public records requests to others in their departments as they deem appropriate to a request.



C. FORMAL RECORDS REQUESTS DISTINGUISHED FROM ROUTINE BUSINESS

Although any request for a “public record” is literally a request pursuant to the Open Records Act, it is not practical for County staff or the public to treat all requests in a formal way.

Therefore, **this Policy applies only to requests:**

1. For a record that is **not** routinely provided to the public in the day-to-day business of the County department or office to which the request is made; OR
2. Identified by the requester as being made in accordance with the Colorado Open Records Act (or “Freedom of Information Act” or “pursuant to law”).

If a request is made for a public record that is accessible on the County website, the requester should be referred to the website. Only if the requester cannot use access to the internet will this policy apply to the request.

If there is any doubt whether this Policy applies to a request, the person receiving the request must consult with the County Attorney’s Office. If the request is not clearly excepted from the Policy it will be treated formally, as though this Policy fully applies.

Note that even if a request for a record is not otherwise subject to this Policy, it is subject to copy fees for copying established in Section L.3 or in statutes.

D. PUBLIC RECORDS REQUESTS

ALL REQUESTS TO WHICH THIS POLICY APPLIES MUST BE IN WRITING.

1. The use of the official County Public Records Inspection Request form is preferred for the efficient handling of public records requests. The current form is attached. The Public Records Inspection Request form should be given to any individual who makes a request that is not on the form, or the individual should be directed to the County’s website or the County Attorney’s Office to receive a Public Records Inspection Request form.

2. A writing containing all of the information required on the County Public Records Inspection Request form will be accepted if a requester refuses to use the form. A written request not containing at least that information will be rejected.

E. RECORDS OF PUBLIC RECORDS REQUESTS

Keep the request. It is rare that a custodian must respond to requesters in writing (usually only if they ask for a response in writing), but it is a good practice to do so. At least make a written record of when you responded and what your response was. A copy must be kept of all written



communications with a requester. Notes of all non-written communications with a requester should be made as nearly contemporaneously with the communication as practical and should be maintained with the record of the request.

F. INITIAL RESPONSE AFTER RECEIVING REQUESTS

ORDINARILY, WE MUST PROVIDE PUBLIC RECORDS FOR INSPECTION WITHIN THREE BUSINESS DAYS OF RECEIVING A REQUEST. PROCESSING OF ALL REQUESTS MUST BEGIN IMMEDIATELY UPON THEIR RECEIPT.

1. If a request is received by someone who is not the custodian of the record(s) requested, but the record(s) are in their department, the request should be transmitted to the Department Head (or the designated custodian, as applicable) immediately.

2. When a request is received by the custodian, a copy should be transmitted to the County Attorney's Office immediately. The County Attorney's Office will consult with the custodian to determine the appropriate response. The request will be reviewed to determine whether the requested records are (a) subject to full disclosure; (b) subject to disclosure which requires deleting certain information; or (c) not subject to disclosure. The custodian will compile the available records and respond to the request.

3. If the public record(s) requested normally are in the custody or control of the custodian to whom the request is made, but at that time are not in their custody or control, the custodian shall promptly notify the requester of that. The notice shall state the location of the records, and what person then has custody or control of the records. The notice should be in writing (must be if the requester asks for a writing), given to the requester even if notice is given orally. A copy of the response also should be given to the County Attorney's Office.

4. If the public record(s) requested are not normally in the custody or control of the person to whom the request is made, they shall promptly notify the requester of this fact. The notice should state who has custody of the record(s) if the responder knows, but responders should not research whether or where records exist that are not in their custody. The notice should be in writing, given to the requester even if notice is given orally. A copy of the response also should be given to the County Attorney's Office.

G. TIME LIMITS APPLICABLE TO PUBLIC RECORDS REQUESTS

1. Time for inspection of records – **Immediately, when reasonably possible**
If the requested record(s) are readily available to the custodian and providing them for inspection will not unduly interfere with the discharge of their other public duties, the record(s) should be made available for inspection promptly.



2. Time for inspection of records – Up to **3 Working Days**

If the requested records are in active use or in storage, or will require time to research and prepare for inspection which the custodian does not have immediately, the custodian shall promptly notify the requester. The notice shall set a date and hour within no more than three working days when the records will be made available for inspection. The notice should be in writing (must be if the requester asks for a writing), given to the requester even if notice is given orally. A copy of the response also should be given to the County Attorney's Office.

3. Extension of time – Up to an **Additional 7 Working Days**

The period for providing requested documents for inspection may be extended an additional 7 working days if the custodian determines that one of the following conditions exists, and makes a "finding" that such condition exists, in a writing given to the requester within the first 3 working days after the request was received:

- a. A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the 3-day period; or
- b. A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the three day period for a statutorily prescribed reason.

When custodians recognize they may not be able to prepare and gather the records within 3 working days they should consult with the County Attorney's Office immediately to determine if an additional extension is allowed.

4. Another Extension of Time

If the request is so broad, speculative or voluminous, or other circumstances prevent the custodian from researching and offering the records for inspection within 10 working days, the custodian must consult with the County Attorney's Office immediately upon recognizing that more time may be necessary.

5. When the Time Period for Response Begins

The time period for response does not begin to run until the County receives a complete request. If the form is sent by:

- a. E-mail or Fax, it will be deemed received when it is viewed by the custodian to whom it is directed.
- b. U.S. Mail, it will be deemed received when its seal is broken by the addressee.

The time period for response will be suspended when the custodian gives notice of fees due, and will resume upon payment of the fees.

H. RESEARCHING A REQUEST

1. "Researching" a request is not only identifying physical and digital records responsive to the request and retrieving the records, but also includes the custodian reading/reviewing the records with care in order to (a) determine whether they are "public



records,” and (b) determine whether they are subject to inspection or are required or permitted to be withheld from inspection. If record(s) responsive to a request consist of a “file” or other collection of records, the custodian must review all components of the file or collection, whether physical or digital, because individual parts of the file or collection, or even individual parts of a single record, may not be “public records” or may not be subject to inspection. If records include material that must or will be withheld from inspection, “research” includes the time required to exclude that material. “Researching” also includes the time spent in consulting with the County Attorney about the request.

2. **A custodian must not “guess” whether a record is responsive to a request. A custodian must not “guess” whether a requester wanted something different than the records they identified in their request. The requester must describe the record(s) they want with sufficient specificity that a custodian does not need to guess, or the request is inadequate and must be denied for that reason.**

3. If research fees are applicable, the request will not be processed further until the custodian receives payment of the fees. See Section L.

4. Under no circumstances will requesters be granted access to original records or archives systems (including computer systems other than “public access” computers) to research the existence of the record(s) they seek.

I. RESPONDING TO THE SUBSTANCE OF THE REQUEST

1. If it is determined that records are responsive to a request and may be inspected, the custodian must promptly notify the requester of their availability for inspection, stating when and where they will be available. The notice must set a date and hour – within no more than three working days of the request – when the records will be made available for inspection. The notice should be in writing (must be if the requester asks for a writing), given to the requester even if notice is given orally.

2. If it is determined that no records are responsive to a request, the custodian must promptly notify the requester of that. The notice should be in writing, given to the requester even if notice is given orally.

3. If it is determined that records are responsive to a request, but the custodian is denying inspection because the law requires it or because the law authorizes a discretionary denial of inspection (See Section M), the custodian must promptly notify the requester of that. The notice must include the legal authority for the denial. The notice should be in writing (must be if the requester asks for a writing), given to the requester even if notice is given orally. Custodians shall not deny a request when the requested records exist and are in their custody without first consulting with the County Attorney’s Office.



J. INSPECTING RECORDS

1. Inspections will take place during regular business hours of, and only in, the office of the custodian or in the County Attorney's Office.
2. A requester shall not bring and shall not use photocopiers, fax machines, cameras, cell phones or any other copy, scanning or reproduction device to copy records.
3. **No one will be permitted to inspect original records unless the inspection is supervised by the custodian or staff at all times.** If original records are provided, a requester shall not remove or add anything to the records provided, and shall not write on or otherwise deface the records. A requester may inspect **copies** of records without supervision. Copying records for the purpose of allowing unsupervised inspection is at the custodian's discretion and expense (except to the extent that copy fees would apply because the requester requests copies).
4. The County will not allow requesters access to County computers to inspect records (other than those made available to the public in the County's day-to-day business, and then only to access the records routinely available via those public computers).
5. The County will not provide digital records for inspection in their native format.
6. If a request is for a digital or paper copy of records in lieu of an inspection, the custodian must promptly tell the requester the cost for researching (if applicable), preparing and transmitting the records. The notice should be in writing, given to the requester even if notice also is given orally. The custodian shall not prepare the records for physical or digital transmission, or transmit them, until the fees have been paid.

K. COPIES OF PUBLIC RECORDS

1. In all cases where requesters have the right to inspect a public record, they have the right to request copies of the record. Requesters may request copies instead of inspecting the records except as explicitly provided in this policy.
2. After inspecting the records, requesters may identify records they want copied. (Records may be identified for copying in a manner which does not deface or damage the record itself, preferably by "sticky notes.")
3. Copies will be made within a reasonable time at the custodian's convenience, but not before the copy fees due have been paid.
4. The custodian may elect to provide copies in digital form, but is not required to do so. **No digital copy of a digital record will be provided in its native format.** If a digital copy of a computer file is provided, it must first be converted to an image format, or printed and then



scanned; requesters must pay the applicable copy fees for copies made for this purpose even though eventually they will receive a digital copy. **Digital copies will not include the software required for reading the file. Copies will never be copied to the requester's storage device, but only on a storage device supplied by the County.** When custodians elect to supply copies in a digital form, they must collect the applicable fees before preparing the copies.

5. Copies, whether on paper or digital storage device, will be mailed or sent by delivery service only if the cost of the container and postage or delivery fees are paid in advance. Copies that are requested to be transmitted by e-mail, that can be transmitted that way from the County's computer system, will be transmitted without transmission fee.

L. FEES

1. Time Charges: Requesters must pay staff time for researching their request, supervising the inspection, making copies of records and as otherwise provided in this Policy. Time will be charged at the rate \$27.50 per hour (subject to change).

- A. Research time up to a total of one hour per request is free. (If a series of requests is made, they will not each be given the free hour.)
- B. Time supervising an inspection, up to the total of the unused free "research" time, is free.
- C. Staff time for preparing and, when applicable, transmitting, copies, whether digital or physical, for which a charge is made per image or per digital file, is included in the copy fees when the total copy fees exceed the value of one-quarter hour time.

2. Redacted records: If records must be redacted before being provided for inspection because they contain information that is not subject to being disclosed or which is to be withheld in the discretion of the custodian, the cost of making copies in order to redact the withheld material without defacing the originals shall be paid by the custodian. Time charges for redacting are to be included in research fees, and must be paid before redacting is started.

3. Copies:

- A. The fee is \$0.25 per page (letter or legal size, black and white) for paper copies of records. The fee is \$0.50 per page (11x17 size, black and white) for paper copies of records. The fee is doubled for color (of those sizes).
- B. The fee for larger paper copies is actual costs (including staff time) as reasonably as those can be determined, not less than \$5.00 per page.
- C. The fee for digital copies is actual costs (including staff time) as reasonably as those can be determined, not less than \$1.00 per file.
- D. If copy fees are less than \$6.90, a minimum one-quarter hour staff time will be charged in lieu of copy fees to copy physical or digital records.
- E. The fee for CD and DVD discs is \$1.00 each. The fee for other storage media is cost, or \$1.00, whichever is less.

- F. Fees prescribed by statute (for example, certifying a record) are additional to or, when applicable, in lieu of these copy fees.
 - G. Copy fees apply to printouts of digital records printed from the computer system.
 - H. Statutorily-prescribed fees will apply and may be in lieu of or in addition to other fees, depending on the terms of the statute.
4. Transmission fees: There is no transmission fee if records are transmitted digitally via e-mail. Otherwise, the requester will be charged the cost of transmitting the records by US Mail, delivery service or fax.
5. Computer fees: In the case of a request for a computer output other than word processing, the custodian may charge a fee based on the recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system of which the record is a part.
6. Payments: Fees are payable to "Clear Creek County," in cash or check (or credit card when the County can accept credit cards for such payments). If payment is made by check, the custodian may suspend the response until the check has cleared before beginning or resuming processing the request.

IN NO CASE WHEN FEES ARE DUE WILL A CUSTODIAN BEGIN THE WORK (TIME OR COPYING) BEFORE THE FEES ARE FULLY PAID. If during the course of the work it is determined that the fees are not adequate to complete the research or copying, the custodian will estimate the fees for completing it and notify the requester of the additional fees. Further processing of the request will be suspended until the additional fees are paid.

8. Requests for copies of records which fit the following criteria may, in the judgment of the custodian, be provided free of charge:
- A. For a single Request Form, records which in the aggregate would require a copying fee of \$5.00 or less, and which are retrievable and provided for inspection within the free research and inspection periods. (If a series of requests is made, they will not each be given the fee waiver, but will be treated in the aggregate.)
 - B. Records which are routinely produced for public information, such as brochures about County services or procedures. (However, a fee may be charged for copies of County regulations and ordinances.)
9. Requests for administrative records from the Mapping Department fall within this Policy. The Mapping Department has separate charges for time and copies with respect to mapping data and representations, which do not fall within this Policy.

M. DENIAL OF INSPECTION OF RECORDS

1. The Act provides specific and detailed circumstances for the denial of, or limited release, of public records. Denial of inspection must be specific and can only be based on reasons provided in the Colorado Open Records Act.
2. Ordinarily, the County will not manipulate data to generate a record which is not used by the County in the regular course of its business. Custodians may, after consulting with the County Attorney's Office, agree to manipulate data to generate such a record for the convenience of the County. Staff time always shall be charged, together with copy fees per page of output in those cases.

N. CLOSURE OF REQUEST

A records request will be deemed closed:

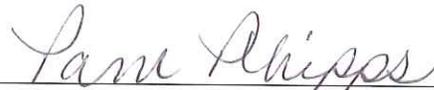
1. After records have been made available for inspection for five (5) business days and the requester has either (i) failed to actually inspect them, or (ii) failed to make and keep arrangements for inspection at a later time;
2. After the requester has been given notice of a fee and the fee is not paid within ten (10) business days of the notice (or when the notice is first attempted to be given);
3. When notice is given of the denial of the request.

A requester whose request has been closed under this provision and who still wishes to inspect records included in the request must submit a new request.

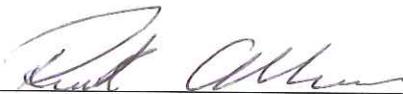
APPROVED, effective January 20, 2015.



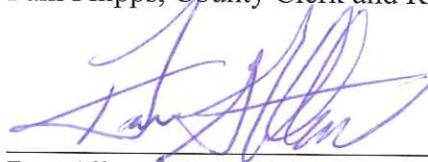
Phil Buckland, Chairman
Board of County Commissioners



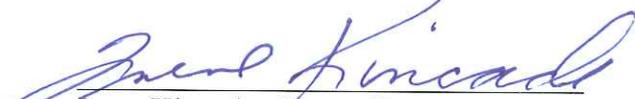
Pam Phipps, County Clerk and Recorder



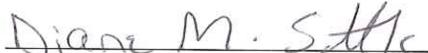
Rick Albers, County Sheriff



Don Allan, County Coroner

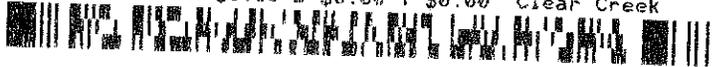


Irene Kincade, County Treasurer



Diane Settle, County Assessor

Greg Markle, County Surveyor



1. The Act provides specific and detailed circumstances for the denial of, or limited release, of public records. Denial of inspection must be specific and can only be based on reasons provided in the Colorado Open Records Act.

2. Ordinarily, the County will not manipulate data to generate a record which is not used by the County in the regular course of its business. Custodians may, after consulting with the County Attorney's Office, agree to manipulate data to generate such a record for the convenience of the County. Staff time always shall be charged, together with copy fees per page of output in those cases.

N. CLOSURE OF REQUEST

A records request will be deemed closed:

1. After records have been made available for inspection for five (5) business days and the requester has either (i) failed to actually inspect them, or (ii) failed to make and keep arrangements for inspection at a later time;
2. After the requester has been given notice of a fee and the fee is not paid within ten (10) business days of the notice (or when the notice is first attempted to be given);
3. When notice is given of the denial of the request.

A requester whose request has been closed under this provision and who still wishes to inspect records included in the request must submit a new request.

APPROVED, effective January 20, 2015.

Phil Buckland, Chairman
Board of County Commissioners

Pam Phipps, County Clerk and Recorder

Rick Albers, County Sheriff

Don Allan, County Coroner

Irene Kincade, County Treasurer

Diane Settle, County Assessor



Greg Markle, County Surveyor



**CLEAR CREEK COUNTY, COLORADO
 PUBLIC RECORDS INSPECTION REQUEST**

Please provide all requested information completely. An incomplete request will be rejected.

Under the Open Records Act, Clear Creek County charges research fees to locate and deliver the records for inspection and copy fees. You will be informed of the fees before you incur them.

Printed Name (first, middle, last)		
Organization represented (if any)		
Mail & Delivery Address		
Telephone and e-mail	Tel	E-Mail
Records or information requested – Please be as specific as possible (attach separate sheet if necessary)		
I request (Choose One): <input type="checkbox"/> To inspect before requesting copies. <input type="checkbox"/> Copies in lieu of inspection		
Signature		

FOR COUNTY USE ONLY

Date Request Received	Name of Custodian or Staff Member Receiving Request	
Fees	Research	Copies
Disposition		
Disposition Date	Name of Custodian or Staff Member Making Disposition	



INSTRUCTIONS & INFORMATION FOR A PUBLIC RECORDS INSPECTION REQUEST

Description of Records:

If the record name is unknown, provide a brief, but specific, description of the document or information you are requesting (including the date of issuance and location of document or information, if known). A request which is vague, broad or which seeks voluminous records, may cause a delay in the time in which the County can produce the records or prevent it from producing anything.

Submitting a Request:

Public Records Inspection Requests may be submitted in person, or via mail, e-mail or facsimile. A request is deemed received only when the custodian of the records requested views the request.

Time for County's Response to Your Request:

Under the Open Records Act (CRS §24-72-201, et seq.), the custodian of records has a reasonable period of time, not to exceed three (3) working days, to make the records available for inspection. If the record custodian is unable to respond within three (3) working days, the custodian will notify the applicant in writing, and will have an additional seven (7) working days to make the records available for inspection.

Inspection:

Normally original records will not be provided. If original records are provided, a requester shall not remove or add anything to the records provided for inspection, and shall not write on or otherwise deface the records. A requester shall not bring and shall not use photocopiers, fax machines, cameras, cell phones or any other copy, scanning or reproduction device to copy records.

Request for Copies:

You may request copies of some or all of the records you inspect. You may ask to have copies sent to you after or instead of inspecting the records; there will be a minimum fee of ¼ hour time. There will be a fee if the copying exceeds more than 5 pages of 8-1/2 x 11 paper.

Fees:

See the current Fee Schedule available in most County offices and at www.co.clear-creek.co.us.

The fee for Research (determining what records might be responsive, locating them, reviewing them to determine whether they are subject to the Open Records Act, preparing them for your inspection) is \$27.50 per hour. The first hour is free. You will be given an estimate of research charges and the research will be done only when the research fee is paid.

The fee for copies varies. For 8-1/2 x 11 inch black and white copies, the charge usually is \$0.25 per page. Ordinarily time charges for copying are included in the copy fees. You will be given an estimate of the copy fees and the copies will be prepared only when the copy fees are paid.