

March 10, 2015

FIFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 10th, 2015, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Suzie Veatch of the Fremont County Assessor's Office.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Norden added an item as New Business #5 – Authorizing the Chairman to sign the Emergency Fire Fund Agreement.

Commissioner Bell moved to approve the Amended Agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / February 24, 2015
2. Approval of Bills for March 10, 2015 / \$630,101.98
3. Schedule Public Hearing for April 14, 2015 at 10:00 a.m.
Request approval of a Special Review Use (SRU) Permit, Department file #SRU 15-001 Play Dirty (Recreation Facility, Rural), by Jackie Tripp, to allow ATV tours into the Texas Creek Trail System through a BLM lease agreement. The property is located on the southeast side of US Highway 50, 1.67 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 69, in the Texas Creek Area. The SRU permit property contains 5.04 acres and is zoned Agricultural Forestry.

Commissioner Payne moved to approve the Consent Agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials
 - a. County Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

County Clerk Barr presented her report for February 2015. Total fees Collected were \$455,974.42 which is \$13,679.56 less than February 2014.

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Commissioner Bell moved to accept the County Clerk's Report for February 2015. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

1. In consideration of a Resolution recognizing Gary Doughty, Fremont County Facilities Department Director, for his years of service to Fremont County.

Commissioner Bell read the Resolution into the Record. The Commissioners presented the Resolution to Gary Doughty.

Commissioner Bell moved to approve the Resolution. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

2. In consideration of an appointment to the War Memorial Committee.

Commissioner Payne moved to appoint Dan Korber to the War Memorial Committee, noting there is not an expiration date for this appointment. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

3. In consideration of a Resolution approving the Fremont County Public Records General Policy.

County Attorney Jackson explained the Policy states what fees can be charged for copies and research time. Public Records are defined as non-confidential records maintained by the county. This policy will control unless an Elected Official or Department Head has an office policy that is more stringent or a statutory fee schedule may override this policy.

Commissioner Bell moved to approved Resolution #12 approving the Fremont County Public Records General Policy. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried. Resolution #12 is attached.

4. Request: Amendment to Condition of Approval for SRU 13-005 Wellsville Recreational Facility. Request approval to amend Condition F of SRU 13-005 Wellsville Recreation Facility, to allow temporary cessation for a period of time exceeding six months in a year. The property is located on the south side of Fremont County Road #45 approximately 1.2 miles southeast of the intersection of Fremont County Road #7 and Fremont County Road #45 (between the Arkansas River and the Denver Rio Grande Western Railroad) east of Wellsville (1544 Fremont County #45). The SRU permit property contains 13.26 acres and is zoned Agricultural Rural.

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Planning and Zoning Director Giordano explained the applicant did not need to be present today. The owner felt he may not be in operation for six months as this is a seasonal campground. As the dates and times of operation are specified within the SRU permit the cessation does not really apply.

Commissioner Bell said the owner does conduct business on the property year round even though the campground is used seasonally.

Commissioner Norden noted that no action by the Board is required on this item.

5. Authorizing the Chairman to sign the Annual Emergency Fire Fund Agreement

Sheriff Beicker explained there is still money available even after the numerous wildfires in Colorado the past few years. The level of contribution is approximately \$10,000. This fund will help cover the costs involved in fighting a major wildfire.

Commissioner Payne moved to authorize the Chairman to sign the Intergovernmental Agreement for Emergency Fire Fund. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

1. Request: SRU 14-004 Thressor, LLC
Request approval of a Special Review Use (SRU) Permit, Department file SRU 14-004 Thressor LLC Medical Marijuana Infused Product Manufacturing and possibly a Marijuana Optional Premises Cultivation grow facility, which is an allowed use in the Business Zone District, by Chris Haight, for property owned by Ali Abrahamia, to allow for marijuana infused product manufacturing. The property is located on the east side of State Highway 115 and east of Fremont Street, bounded by 7th Street on the north side, 4th Avenue on the south side and Grant Street on the east side, in the Penrose Area. The SRU permit property contains 9.82 acres and is zoned Business. Representative: Matt Koch, Cornerstone Land Surveying, Inc. / Chris Haight
2. Request: MIP 14-001 Thressor, LLC (Marijuana Infused Products – Industry, Light) Request for issuance of a Marijuana Infused Products license, Department file #MIP 14-001 Thressor, LLC (Marijuana Infused Products (MIP's) – Industry, Light), by Thressor, LLC (Chris Haight), for property which is owned by Big Rocker, LLC. The property is located on the east side of State Highway 115 and east of Fremont Street, bound by 7th Street on the north side, 4th Avenue on the south side and Grant Street on the east side, in the Penrose Area. The SRU permit property contains 9.82 acres and is zoned Business. Representative: Matt Koch, Cornerstone Land Surveying Inc. / Chris Haight
3. Request: OPC 14-004 Thressor, LLC (Optional Premises Cultivation – Commercial Greenhouse) Request for issuance of an Optional Premises Cultivation license, Department file #OPC 14-004 Thressor, LLC (Optional Premises Cultivation (OPC) – Commercial, Greenhouse), by Thressor, LLC (Chris Haight), for property which is owned by Big Rocker, LLC. The property is addressed as 708 Fremont Street, which is located east of State Highway 115 and east of Fremont Street, bounded by 7th Street on the north side, 4th Avenue on the south side and Grant Street on the east side, in the Penrose Area.

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The property is zoned Business and contains 10 acres more or less.
Representative: Matt Koch, Cornerstone Land Surveying, Inc. / Chris Haight

Chairman Norden said all three of these Public Hearings will be combined into one hearing, public comment for all three applications will be heard under this public hearing. Chairman Norden opened the Public Hearings at 10:00 a.m.

Matt Koch said everything on site is existing. The property is surrounded by homes, a church, and commercial properties. This building has been vacant for the past 8 years. The majority of the building will be used for the grow facility. There is a 350 square foot room that will be used as an extract room. The applicant is ok with all of the conditions. Most of the contingencies have already been met.

Chris Haight said he will use the facility to cultivate marijuana and infuse it for medicinal purposes only. This facility will be regulated, controlled, documented and enforced per all state and local guidelines. He discussed the details of the equipment to be used at the facility. He plans to hire 5 full time employees with an additional 15-20 state approved contract employees. Based on 2014 marijuana taxes he estimates his company to produce approximately \$180,000 per year in sales tax. All operations will be conducted inside. The water used for the grow operation will be a similar amount to a regular household water usage. This is not a storefront and no direct sales to the public will be allowed at this location. The extraction system used will be a butane system with no open flame and is safer than most gas grills at a residence. His primary concern is safety and his goal is to help people with medicinal marijuana.

Planning & Zoning Director Giordano said the applicant did publish, post, and send notifications per the regulations for all three of the applications. The Planning Commission did recommend approval of the SRU with a 4-3 vote. He discussed the conditions and recommended contingencies of SRU 14-004. Mr. Giordano recommends adding contingency #10 to read "Applicant shall provide documentation of a contractor agreement to remove all hazardous waste materials from the marijuana infused production operation. He discussed the waiver requests and noted there is a six foot chain link fence with barbed wire across the top that surrounds the property. The Planning Commission did grant the waiver requests for the landscaping and buffering requirements as there will be no outdoor activity. The Planning Commission did grant the waiver request of the landscaping of the parking area as it is a small employee parking area and it is already hard surfaced.

Planning & Zoning Director Giordano discussed the department comments of MIP 14-001. He noted they will need to comply with any building permit requirements. A copy of a detailed report on the effective odor mitigation system must be provided. Proof that the air purification system was prepared or approved by a licensed engineer or other licensed professional must be provided. A copy of the State of Colorado Wholesale license must be provided. Occupational licenses for all employees must be provided.

Planning & Zoning Director Giordano discussed the request for OPC 14-004. As the SRU allows for 6 months for the applicant to meet the contingencies, they would also have six months on the MIP application and the OPC application. The applicant has provided a copy of the state issued OPC license. A copy of the odor mitigation report must be provided. Documentation must be received from the Environmental Health Officer as to use of an On Site Wastewater Treatment System. Documentation must be received as to compliance with any requirements of the Colorado Division of Water Resources as per the letter dated February 2, 2015.

Commissioner Norden said documentation has been received from the state marijuana enforcement division that the MIPS license and OPC license have been issued pending local approval.

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Commissioner Bell asked the applicant if the fence has a locked gate. Mr. Haight said it will be a locked gate that requires a key code to unlock it. Bell asked what kind of infused products he would be manufacturing. Mr. Haight said he has no intention of manufacturing edibles at this time.

If in the future he decides to manufacture edibles he will come back to the Board for permission. He will be producing the oil that the dispensaries are in need of to be used in a pill form or through a syringe. The different plants have different strains for specific patient needs. Commissioner Bell asked what dispensaries he will be selling to. Mr. Haight said he has spoken with dispensaries in Fremont County, Pueblo, and Colorado Springs. He is not on any dispensary registers at this time as he does not have State approval. Bell asked what happens if the butane pressure valves release gas into the room. Mr. Haight explained there are two exhaust ducts with a fan that turn on with the light switch in that room. Commissioner Bell asked how many plants he will have in the facility. Mr. Haight plans to do a perpetual harvest with 250-300 mature plants, and up to 1000 total plants. The average grow time is 13 weeks with the ability for a perpetual harvest every 2-3 weeks.

Commissioner Payne stated the lease is in their packet and appears to be fine. Payne asked how many pounds of butane will be on site. Mr. Haight said he will not be storing any additional butane on sight as he has access to get the butane in Canon City. The only butane on site at any one time will be the 8-10 pounds required for the process.

Commissioner Norden asked if the estimated \$180,000 in sales tax is generated from his facility or the dispensary. Mr. Haight said he has a wholesale state tax license and will be paying state tax and county tax on the wholesale side. Commissioner Norden asked if there have been any problems with the 160 machines that are in use in the United States. Mr. Haight replied there were not problems to date. Norden asked if the employees are exposed to any chemicals or gases during the extraction process. Mr. Haight said only one person is allowed in that room at a time. This employee will be trained and certified on the machine. An alarm would sound if a gas leak occurs and there is an automatic fire suppression system installed in that room. Commissioner Norden asked what impurities they are looking for when testing the product. Mr. Haight explained there are 16-17 impurities with the most common one being pesticides. His company will be one of the first to test his product in a laboratory for any impurities. The product has to be 100% safe for the patient. The machine he uses will even extract the butane from the oil. This machine is the only state approved machine for extracting the oil from the plants. Norden asked about security at the facility. Mr. Haight has a 70 page security plan in place. He will use 23 cameras that record 24 hours, seven days a week. There are bars on the windows and a six foot fence in place. Commissioner Norden asked how much odor there will be during the manufacturing process. Mr. Haight said there will be very little odor from the manufacturing process, the odor comes from cultivation. There will be two charcoal filters and two ionizing filters in each cultivation room. He intends to exceed the requirements of the Department of Environmental Health for odor mitigation.

Public Comments:

Glenna Herod lives within 500 feet of The Apple Shed in Penrose and is against the applications. She is concerned with the marijuana products being transported from his facility using the Grant Street access. The fumes will be detrimental to her health.

Rich Bandlow lives in Cotopaxi and is against the applications. He believes the proximity of the facility to the Church and park should be enough to disqualify use at this location. Even though this is a legal industry it should not be allowed at this location.

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Jay Gleiforst lives within one mile of the proposed facility in Penrose and is against the applications. Per statute the local licensing authority is required to investigate the reasonable requirements of the neighborhood, the desire of the adult inhabitants of the neighborhood, consider the number, type, and availability of marijuana facilities located near the new location being considered, and the conduct of the business proposed. Seven other marijuana facilities already exist within a five mile radius of this location.

La Donna Green owns a business in Canon City and is in favor of the applications. Her company provides licensed trim operators to marijuana facilities. She is an advocate for medical marijuana and all of the benefits it provides to patients. She believes he will operate a safe facility that will benefit the community.

Richard Neidermyer is the President of the Penrose Park and Recreation Board and is against the applications. He objects to the business being located across the street from the park. He is concerned with property values decreasing in Penrose as it is becoming saturated with marijuana facilities.

Timme Pearson lives in Canon City and is against the applications. She said the FDA and the AMA have not approved marijuana as medicine. She is concerned with the level of enforcement that needs to be in place for these facilities and that enforcement not become relaxed in the future.

John Sandefur lives in Penrose and is against the applications. He is concerned that the youth in our community will be endangered by marijuana use. He does not want to see another grow operation in Penrose, especially that close to the church. The employees that work at these facilities do not live or vote here.

Clarice Roney lives in Penrose between two other grow operations and is against the applications. She knows of one resident who has closed their business and are moving away because of the marijuana operations in Penrose. Others will move away as well.

Keith Bates lives in Penrose and is the Pastor of Penrose Baptist Church. He is against the applications. He is concerned with loss of water, loss of safety, loss of agriculture, loss of a good reputation, and loss of the children's futures.

Charlie Newlon lives in Penrose and is against the applications. The Commissioner's decisions regarding marijuana have changed the landscape of Penrose. He moved here from Denver to enjoy a rural lifestyle in Penrose which is now gone.

Donald Taton lives in Canon City and is a licensed engineer. He stated that systems just like the one that will be used at the facility have been in use for more than 50 years and have never failed. Marijuana is legal and it helps people, it just needs to be regulated.

Marsha Cox lives in Penrose and is in favor of the applications. She said this facility is not a retail facility and not like the other marijuana facilities in Penrose. Medical marijuana is far more effective than prescription pain killers and does not have the side effects.

Jen Fagin lives in Penrose and is in favor of the applications. She is concerned with the lack of businesses in Penrose and believes this business will benefit the community. She is thankful for the work on the property the applicant has already done. The ability of marijuana to stop epileptic seizures is helpful to children, adults, and Veterans.

Patrick Slawson lives in Penrose and is on the Penrose Park and Recreation Board. He is against the applications. He said other business uses located within 1000 feet of this facility include a church, public park, and a community center which should disqualify the property for marijuana manufacturing.

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Commissioner Norden noted that it is too late for a petition as the written comment period has passed. The public comment period will be done once the public hearing is closed today.

Lee Fidel lives in Colorado Acres and is against the applications. He explained that the pressure relief valves on the system that will be used need to be tested at least once per year.

Marjorie Johnson lives in Penrose and is against the applications. She is worried about the air quality and water use in Penrose. She hopes the Commissioners will do what is best for the community.

Sally Nicholson lives in Penrose and is against the applications. She said location should be the final consideration.

John Engel lives in Cotopaxi and is against the applications. He has ministered in the prisons for 10 years and said many of the inmates who used drugs started with marijuana. He does not believe there are enough controls in place to regulate marijuana.

Vernon Thompson lives in Canon City and is against the applications. He believes the slight increase in home values is because of the improving economy, not because of the legalization of marijuana.

Chairman Norden closed the Public Hearing at 12:12 P.M.

Chris Haight addressed some of the concerns from the citizens. Every item that is a regulatory requirement has been given to the Zoning Department. He plans on helping to restore the park and has taken his children there to play. He would not do anything that will harm the community and needs their support. The PSI testing on the system will be performed as required. He had been using the access off Grant Street. If the application does get approved he will permanently close off that access with a locked gate.

Commissioner Bell moved to table all three decisions for the SRU 14-004, MIP 14-001 and OPC 14-004 to a Special BOCC Meeting at 9:30 a.m. on Thursday April 2nd, 2015. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

Chairman Norden adjourned the meeting at 12:25 P.M.

Clerk and Recorder

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**RESOLUTION NO. 12, SERIES OF 2015
A RESOLUTION APPROVING THE FREMONT COUNTY
PUBLIC RECORDS GENERAL POLICY**

WHEREAS, Fremont County is required under the provisions of §24-72-201, et. seq., C.R.S., the Colorado Open Records Act, to make all public records open for inspection by any person at reasonable times, and to adopt a policy regarding inspection and copying of public records; and

WHEREAS, the County has considered the requirements of the Colorado Open Records Act, and what the policy of Fremont County should be under the Act; and

WHEREAS, the proposed Public Records General Policy, attached hereto and incorporated herein by reference, has been reviewed by the elected officials for Fremont County and no objections have been raised to any of the proposed provisions of the policy; and

WHEREAS, the Elected Officials for Fremont County are free to adopt specific office policies for public records that vary from the provisions of the Public Records General Policy, provided that such office policies are supported and authorized by Colorado Revised Statutes; and

WHEREAS, adoption of a general policy for public records is in the best interests of the citizens of Fremont County and informs citizens of the process and procedure for requesting inspection and copying of public records.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the FREMONT COUNTY, COLORADO PUBLIC RECORDS GENERAL POLICY (Current as of March 10, 2015), attached hereto and incorporated herein by reference is hereby adopted as the official policy for inspection and copying of public records maintained by the various custodians of public records for Fremont County, Colorado.

BE IT FURTHER RESOLVED, that the Policy shall be posted on the website for Fremont County, Colorado in its entirety for viewing and reference by the public.

Commissioner Bell moved the adoption of the foregoing Resolution with a second by Commissioner Payne.

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Edward H. Norden	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Timothy R. Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: March 10, 2015

Edward H. Norden Chairman Attest: Jody Blausen Clerk

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**FREMONT COUNTY, COLORADO
PUBLIC RECORDS GENERAL POLICY
CURRENT AS OF MARCH 10, 2015**

WHEREAS, the Colorado General Assembly has declared that it is the policy of this state that public records shall be open for inspection by the public pursuant to C.R.S. §24-72-201; and

WHEREAS, pursuant to C.R.S. §24-72-201 et seq., the Board of Commissioners has authority to implement a policy containing rules and regulations with regard to the inspection and copying of such public records 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, the Board of County Commissioners has reviewed such policy, discussed it with department heads and other elected officials, and has determined that it is in the County's best interest to adopt such policy.

OVERVIEW

Generally, records that constitute "public records" as defined by the Public Records Act or by other laws should be open for inspection by any person at reasonable times. This policy is intended to provide a guideline for employees handling public records requests and will be deemed modified by additional or new language added to the Colorado Public Records Act C.R.S. 24-72-201 et seq. (the "Act")

This Policy only extends to "public records" as the same are defined under the Act. Questions regarding whether a particular request constitutes a public record that may be disclosed to the public should be forwarded to the County Attorney's Office. This Policy only applies to public records under Part 2 of the Act and does not extend to Criminal justice records which are covered by Part 3 of the Act.

PROCEDURE

The County Manager shall act in the role as the official custodian of all records centrally maintained by County Administrative Offices. Department Heads and Elected Officials (other than the County Commissioners) are the official custodians of all records maintained within their departments. It is the responsibility of each Department Head/Elected Official to become familiar with and to educate his/her affected employees about the standards and requirements of this policy.

If the public records requested are not in the custody or control of the person to whom application is made, such person shall promptly notify the applicant of this fact, in writing if requested by the applicant. In such notification, the person shall state in detail to the best of the person's knowledge and belief the reason for the absence of the records from the person's custody or

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control, the location of the records, and what person then has custody or control of the records. C.R.S. 24-72-203(2)(a). When feasible, the records request shall be transferred to the proper custodian by the person receiving the request.

With respect to public meeting agendas, the Clerk and Recorder shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings, provided, however, that unintentional failure to provide such advance notice will not nullify actions taken at an otherwise properly published meeting.

FEES

In all cases where a person has the right to inspect any public record, s/he may request a copy, printout or photograph of such record.

Each official custodian of records may develop their own policies and procedure regarding the fee for providing copies, printouts or photographs (including a faxed or emailed image) of a public record, but such fee shall not exceed \$.25 per standard page (8 ½ " x 11"). For requests for public records in a format other than a standard page, including without limitation copies of tapes, cds, and maps, the fee may not exceed the actual cost of providing the copy, printout or photograph. Where the fee for a certified copy or other copy, printout or photograph of a record is specifically prescribed by law, the specific fee shall apply.

A reasonable fee that reflects actual costs may be charged for research and retrieval time in responding to an open records request after the first hour (which is free). Generally, staff time may be charged at \$30/hour. Any fees charged shall include the cost of redacting documents to excise privileged material. Fees may be waived or reduced with prior approval of the official custodian.

In the case of a request for a computer printout other than word processing, the fee may be 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.

Each official custodian of records may also charge a reasonable hourly fee for the manipulation of data in order to generate a record in a form not used by County, if the County elects to provide information in this manner. The County is not required to manipulate any data or create any record, including formatting existing data, that is not regularly maintained in the normal course of business

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All payments for copies etc. must be received in advance of releasing the requested records. Such fee may be reduced or waived by the custodian if the electronic services and products are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

Special rules/policy apply to Geographic Information Systems (GIS) requests.

TIME FOR ACCESSING PUBLIC RECORDS

Time for inspection of records – Three Working Days. If the requested records are in active use or are in storage and, therefore, are not available right away, this fact shall be communicated to the requestor promptly, in writing if requested. The custodian shall set a date and hour within three working days when the records will be available for **inspection**. The records are not required to be copied and produced within three days. A reasonable amount of additional time shall be allowed for copying and production, if requested.

Extension of time to 10 working days. The custodian may extend the period of providing requested documents for inspection for up to ten days if the custodian determines that one of the following conditions exists, and, states such condition in writing to the requestor within the first three days that the request was received:

The request is broadly-stated and 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 three day period;

The request is broadly-stated and encompasses all or substantially all of a large category of records and the department is unable to prepare or gather the records within the three day period because:

The department needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

A request involves such a large volume of records that the custodian cannot reasonably prepare or gather records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.

If the request is too broad, speculative or voluminous to prepare in ten days the County may request relief from the court, including attorney's fees, as provided by law. In such a case, the County Attorney's Office should be contacted immediately.

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Special rule regarding open records demands during an election. If an unduly broad or voluminous demand for access to public records is received by the Clerk and Recorder within 20 days of an upcoming election, such request will not be processed until 20 days after the election or until final certification of results, whichever occurs first. In such a case, the requestor should be supplied a copy of this special rule. This rule is necessary because of the limited staff and amount of statutorily-mandated duties in proximity to an election. This special rule is authorized pursuant to C.R.S. 24-72-203 which allows the custodian 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.

An extension of time shall not apply to a request that relates to a single, specifically-identified document.

REVIEWING RECORDS

The custodian of the records may set the location where the records may be viewed by the requestor. In no event may a requester remove documents, make markings or notes on documents, or add documents to those provided for review. The requestor shall not bring and shall not use photocopiers, fax machines, cameras or any other copy, scanning or reproduction device to copy County records. Upon completion of the review, the requestor must mark the pages s/he wishes to have copied with adhesive tabs. Copies will be made at a later time, depending upon volume. The requestor will be notified when the copies are available for pick-up.

If the custodian has the capability to make reproduction she/he shall do so at the rates set in the section entitled FEES, above. If the custodian does not have the facilities for making copies, printouts, or photographs of the records, the custodian may make arrangements for the services to be rendered at another facility. If other facilities are necessary, the person desiring a copy, printout or photograph of the record shall pay the cost of providing them. In no event shall the records leave the custody and possession of a County employee during this process (other than providing the items to the third party facility for reproduction.) The County is under no obligation to allow citizens access to County computers nor is the County obligated to provide records in electronic format.

The custodian must not allow copies to be made of public records subject to trademark and copyright protections, except that this prohibition should not restrict public access to or fair use of copyrighted materials and does not apply to writings which are merely lists or other compilations. C.R.S. 24-72-203(4).

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DENIAL OF INSPECTION OF RECORDS

Denial of inspection must be specific and can only be based on justification as provided in the Act. The Act provides that documents may be withheld from disclosure:

If inspection would be contrary to any state statute.

If inspection would be contrary to federal statute or regulation.

If inspection is prohibited by a rule of the Supreme Court or by order of any court.

If inspection is denied, the requestor may request a written statement of the grounds of denial and that statement shall cite the law or regulation which is the basis for denial. C.R.S. 24-72-204(4).

Basic rules regarding grounds for denial are set out below. Denial of access to a public record is PERMITTED (but not required) in the following situations, if disclosure would be contrary to the public interest:

1. Any records of the investigation conducted by any sheriff, prosecuting attorney, or police department, any records of intelligence information or security procedures of any sheriff, prosecuting attorney, or police department or any investigatory files compiled for any other law enforcement purpose. C.R.S. 24-72- 204(2)(a)(I).
2. Test related data listed in C.R.S. 24-72-204(2)(a)(II).
3. Contents of real estate appraisals relative to acquisition of property for public use until title passes to the County. C.R.S. 24-72-204(2)(a)(IV).
4. Records and information relating to the identification of persons filed with, maintained by or prepared by the Department of Revenue pursuant to 42-2-121 C.R.S. C.R.S. 24-72-204(2)(a)(VI).
5. Electronic mail addresses provided by a person for the purposes of future electronic communications to the person from the County. C.R.S. 24-72-204(2)(a)(VII).
6. Specialized details of security arrangements or investigations as provided in C.R.S. 24-72-204(2)(a)(VIII).
7. If such records are given to one news agency, they shall be available to all news agencies.

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Inspection of the following public records shall be denied, unless otherwise provided by law or unless requested by the person in interest (C.R.S. 24-72-204(3)(a)):

1. Medical, mental health, sociological, or scholastic achievement data on individuals. If such information is requested by the person in interest, a release should be obtained.
2. Personnel files (except for applications, employment agreements, benefits, performance ratings, salaries and expense allowances are public). C.R.S. 24-72-204(3)(a)(II) & C.R.S. 24-72- 202(4.5).
3. Letters of reference (which are also not disclosable to the person in interest, if they concern employment, licensing, or issuance of permits).
4. Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person.
5. Certain material contributed to libraries or museums.
6. Addresses and phone numbers of school children.
7. Names, addresses, telephone numbers, and personal financial information of past or present users of public facilities or recreational or cultural services that are owned and operated by the County (subject to exceptions).
8. Records indicating that a person has obtained distinguishing license plates or an identifying placard for persons with disabilities or any other motor vehicle record that would reveal the presence of a disability.
9. Home addresses, telephone numbers and financial information of County employees.

In addition to the above described documents, the Act provides specific and detailed circumstances for the denial of, or limited release, of records related to:

1. Sexual harassment complaints and investigations.
2. Applicants for an executive position at the County.
3. Records protected by common law privileges such as the deliberative process privilege, work product privilege, or attorney-client privilege.

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4. Military records filed with a county clerk and recorder's office concerning a member of the military's separation from military service.
5. The constitutional right of privacy may, in very limited circumstances, be a basis for resisting disclosure, particularly for the person in interest.
6. In certain circumstances, an individual may request his/her address in any public record be kept confidential.
7. The official custodian may petition the District Court for an order restricting disclosure of records otherwise subject to inspection, if disclosure would do substantial injury to the public interest. C.R.S. 24-72-204(6).
7. Even records which must be kept confidential are subject to subpoena, discovery requests, etc., but such requests can be resisted under the balancing tests set up in Martinelli vs. District Court 612 P.2d 1083 (1980).