

RESOLUTION NO. 2023 - 31
(Rescinding Moffat County Resolutions 2007-70 & 2018-106)

**REGULATIONS RELATING TO MOFFAT COUNTY, COLORADO
OPEN RECORDS ACT (“CORA”) REQUESTS**

WHEREAS, Moffat County is a governmental entity which is required to comply with the Colorado Open Records Act (“CORA”), § 24-72-201 *et seq.*;

WHEREAS, § 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, Moffat County receives a significant number of requests pursuant to CORA, leading to hours of time spent by Moffat County employees who research and retrieve public documents; and

WHEREAS, , § 24-72-205(6)(b), C.R.S. provides that the maximum hourly fee for the research and retrieval of public records may be adjusted for inflation. Effective on July 1, 2019, the maximum hourly rate was increased to \$33.58 per hour after the first hour expended in connection with the research and retrieval of public records; and

WHEREAS, it is appropriate and necessary for Moffat County Resolution No. 2007-70 and Moffat County Resolution No. 2018-106 to be rescinded with the adoption of this Resolution; and

WHEREAS, the Board of County Commissioners has determined it is appropriate to adopt a written policy that specifies the applicable conditions concerning the research and retrieval of public records and sets forth rules for the uniformity and protection of Open Records requests as shown on **Exhibit “A”** attached hereto.

NOW, THEREFORE, BE IT RESOLVED:

Moffat County Resolution No. 2007-70 and Moffat County Resolution 2018-106 are hereby rescinded. The Moffat 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.

Adopted and effective this 28th day of February, 2023.

MOFFAT COUNTY BOARD OF COUNTY COMMISSIONERS

By:

Tony Bohrer, Chair

[illegible]

I, Erin Miller, the Deputy County Clerk and Ex-Officio to the Board of County Commissioners, do hereby certify that the above and foregoing is a true and complete copy of the resolution as adopted by the Moffat County Board of County Commissioners on the date stated.

By:

Erin Miller, Deputy Clerk and Ex-Officio to the
Moffat County Board of County Commissioners,
Moffat County, State of Colorado

(SEAL)

Approved as to form:

Rebecca Tyree, Esq., Moffat County Attorney

Date: Feb. 28, 2023



EXHIBIT "A"

MOFFAT COUNTY RELEASE OF PUBLIC RECORD RULES

I. PROCEDURE.

A. Pursuant to the Colorado Open Records Act ("CORA"), § 24-72-201, *et seq.* and Resolution 2023-31, the County has determined that an official request form be used by members of the public who request public records. This 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. The paralegal position in the Moffat County Attorney's Office is designated as the official custodian of records for Moffat County. Any requests for records must be forwarded to the Moffat County paralegal.

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. When possible, the sending and receiving parties to electronic mail should also be listed in the request. Unclear requests for public records may be deemed incomplete and returned to the requesting party as too broad, vague, or otherwise insufficient.

D. The time limitations of the Open Records Act require an immediate response by the department head, elected official, and County Attorney. Under the Open Records Act, the County generally has three (3) working days to respond to a request for information. This time can be extended to seven (7) working days under extenuating circumstances, as specified in the Open Records Act. The County Attorney will consult with the department head or elected official to determine if extenuating circumstances exist.

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 is deemed received when the custodian of record breaks the seal.
3. Hand-delivered 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 twenty-five cents (\$0.25) per printed page for standard size pages unless the cost of a copy of a record is prescribed by statute, in which case the statutory fee shall apply. 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, records which are normally produced for public information, such as the current year budget document, or brochures on county services, or records sent by email.

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-three dollars and fifty-eight cents (\$33.58) 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 (\$50.00), 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, check or credit card (MasterCard, Visa, and Discover). Checks shall be made out to "Moffat County". All credit card transactions are subject to transaction fees as set by the Moffat County Finance Department.

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: Moffat County uses various types of computer and electronic systems to maintain data and information. If Moffat 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, Moffat County will produce a record for the requesting party. If the requesting party wants the resulting record in a searchable format, Moffat 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, Moffat 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 Moffat 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, Moffat 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.



REQUEST FOR RECORDS PURSUANT TO THE COLORADO OPEN RECORDS ACT

Name: _____
(Full Name)

Date of Request: _____

Phone No. (daytime): (_____) _____
Area Code

Address: _____
Physical and/or Mailing address

Your Email Address: _____

City / State / Zip Code

Specific Description of the Record Desired: _____

If you are requesting for search(es) of email, please provide email address(es) and dates to be searched in the table below:

Search #:	Email address "From":	Email address "To":	Dates to be Searched:	Keywords to Searched:
Search # 1				
Search # 2				

Do you wish to have the documents/information transmitted to you by email?

☐ Yes

☐ No

Signature

Please return completed form to:

Moffat County Attorney's Office, 1198 W. Victory Way, Ste. 202, Craig, CO 81625

OR fax it to: 970-826-3408

***Pursuant to Resolution # 2023 - 31*

Public: Twenty-five cents (\$0.25) per standard page or a fee not to exceed the actual cost of providing a copy, printout or photography of a public record in a format other than a standard page, or the fee established by department, office or board, whichever is less.

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 this Open Records Request, such employee's time shall be payable by the requesting party and billed at **\$33.58 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.

DO NOT write below this line – this section is to be completed by Moffat County.

Date & Time Received: _____

Date & Time Due: _____

Response Date: _____

Response Time: _____

Method of Delivery: _____

Number of Pages: _____

Amount Paid: \$ _____

By: _____

Deposit Required: _____

Denial of Request and Basis of Denial: _____

Pursuant to the Colorado Open Records Act, Moffat County normally has three (3) working days to respond to this request. Upon a written finding made within three (3) working days that extenuating circumstances exist, Moffat County may extend the response time to seven (7) working days.