Open Records Policy

Policy

It shall be the policy of Boulder Housing Partners to make public records available for public inspection and copying at reasonable times, consistent with the provisions of the Colorado Open Records Act, C.R.S. § 24-72-201, et seq. (the 'Act'), and all other applicable state and federal laws. Public records include all writings made, maintained, or kept by BHP, regardless of physical form or characteristics, including but not limited to paper, electronic mail (e-mail), and other recorded media.

Purpose

The purposes of this policy are to:

- Establish a clear, consistent, prompt, and equitable procedure for providing public access to BHP records in accordance with the Act.
- Foster open and accessible government and enhance public trust.
- Allow members of the public to access information regarding the manner in which BHP resources are allocated and its functions are discharged.
- Facilitate appropriate access to public records while safeguarding confidential information, avoiding unwarranted interference with critical BHP operations, and ensuring the efficient discharge of official duties.
- Establish reasonable and legally permissible charges for records production, including research, retrieval, and necessary redaction, as authorized by the Act.

Scope

This policy shall apply to all BHP records requested pursuant to the Act, with the exception of records covered under the Criminal Justice Records Act (C.R.S. § 24-72-301, et seq.) or otherwise specifically exempted by law.

Definitions

The definitions found in C.R.S. § 24-72-202, as amended from time to time, shall apply when interpreting this policy, unless the context clearly requires a different interpretation. Key terms include:

- **'Act' or 'CORA':** The Colorado Open Records Act, C.R.S. § 24-72-201, et seq.
- **'Official Custodian':** Any officer or employee of BHP who is responsible for the maintenance of public records, as designated in this policy.
- **'Public Records':** All writings made, maintained, or kept by BHP, as defined in C.R.S. § 24-72-202(6).

Procedures for Requesting Records

Responsibility

Each department head is responsible for becoming familiar with, and educating affected employees about, the standards and requirements of this policy.

Official Custodians

The official custodians of BHP records are as follows:

- The Executive Director or designee is the official custodian of all records centrally maintained by BHP.
- Department heads are the official custodians of all records maintained within their respective departments.
- The BHP Office Manager is the official custodian of electronic mail (e-mail) records.

Information Already Available

Many BHP records, including governing documents and policies, are posted at www.boulderhousing.org. Members of the public may ask any BHP staff member where to find publicly posted information. Such questions are not requests under the Act.

Submitting a Request

All requests to inspect or copy BHP public records under the Act must be submitted on the BHP Open Records Request Form, available at www.boulderhousing.org. Completed forms must be sent to BHP's official custodians at officials@boulderhousing.org or by mail or hand delivery to Boulder Housing Partners, Attn: Official Custodians, 4800 N. Broadway, Boulder, CO 80304.

A request that is not submitted on the form is not considered received under this policy. BHP will respond to such a request within three working days by providing the form and these instructions. Requests sent to any other BHP staff member or address will be forwarded to the appropriate official custodian.

Date of Receipt

A completed form is considered received on the working day it is received at the email or mailing address listed in "Submitting a Request," as calculated under "Calculation of Due Date." If a form is incomplete, BHP will notify the requester within three working days of the missing information, and the request will be considered received once the missing information is provided.

Specificity and Narrowing

Requests should describe the records sought with as much specificity as possible, including subject matter, types of records, and date ranges. BHP may contact the requester to clarify or narrow a broad or general request, which may reduce associated costs. If a request is narrowed, the requester may be asked to submit a revised form, and the request will be considered received upon receipt of the revised form.

Assistance and Accommodation

BHP staff will help any person who needs assistance completing the form. BHP will accept a request in an alternative format as a reasonable accommodation for a person with a disability. Requests for accommodation may be directed to BHP's 504/ADA Coordinator at 720-564-4610.

Routing of Requests

BHP's official custodians monitor the officials@boulderhousing.org inbox and the mailing address listed in "Submitting a Request." Upon receipt of a completed form, the official custodians will route the request to the official custodian or custodians who maintain the requested records. That official custodian will coordinate BHP's response, including legal review, cost estimates, and deposits, within the timelines in this policy.

Legal Review

BHP shall notify its attorney, typically the assigned city attorney from the Boulder City Attorney's Office, immediately of all records requests received under this policy. BHP's attorney may advise staff about the need to review records with regard to confidentiality, official privilege, and related matters prior to their release, and will assist in determining applicable exemptions.

Response Timelines

If immediate production of requested records is not feasible, the custodian will set a date and time for inspection or production of the records within three working days of the date on which the request was received. This time period may be extended by seven additional working days in the event of extenuating circumstances as described in C.R.S. § 24-72-203(3)(b). Production of records within these time limits shall be excused if such production is a physical impossibility or when such production would significantly and adversely impact critically important or previously scheduled BHP work.

Calculation of Due Date

For purposes of calculating the response deadline, a request received after 5:00 p.m. on a working day, or on a weekend or holiday, will be considered received on the next working day. The day the request is received is not counted in the response time calculation.

Electronic Records and Format

BHP will endeavor to provide information in the form that is most convenient and practical, consistent with the Act. A request for information in electronic form will be forwarded to the BHP Office Manager for determination about whether such information can be generated, retrieved, and released in electronic form. The BHP Office Manager, in consultation with any necessary Information Technology service providers, shall determine feasibility of recovery and format. Documents may be available in their native format if they do not need to be redacted or if they can be readily accessed. Documents such as databases or spreadsheets that can be sorted or searched will be available in a similar format. BHP will not provide documents in a format that requires providing software or that would violate the terms of any agreement or rights held by a third party.

Electronic Records Exemptions

When a request for electronic records is received, it shall be the responsibility of the department in possession of such records, after consulting with the BHP attorney, to determine whether or not the records should be released in view of the deliberative process and work product exemptions that are set forth and defined in the Act.

Multiple, Repeated, or Duplicative Submissions

BHP reserves the right to manage multiple or duplicative requests to prevent undue interference with other duties. Similar requests from the same requester may be consolidated at BHP's discretion, with fees charged for the consolidated request. For similar requests from multiple requesters, BHP may choose to publish the information on a publicly available website to fulfill its CORA responsibilities and direct requesters to that resource.

Charges for Records

General Fees

BHP may charge reasonable fees for research, retrieval, and necessary redaction in connection with producing public records, as well as for copies, printouts, or photographs, in accordance with the Act.

Copy Charges

Each department having custody of requested records shall charge for any copies, printouts, or photographs requested. Charges for reproduction of records will be standard throughout BHP for similar items. The cost for a standard size photocopy shall be **$0.25 per page**. No sales tax will be charged.

Commercial Copy Service

When a commercial copy service is utilized to produce copies, the person or party requesting the records will be responsible for paying the actual charges for that commercial copy service. The decision about when outside commercial copy services will be used shall be made by the Director of the department that maintains the requested public records. Such a decision by a department Director is final and is not reviewable.

Staff Time Charges

Departments may charge for time spent responding to large or complex requests, including, without limitation, requests that require the searching of voluminous files for specific information, manipulating data, or redacting documents to excise confidential or privileged information. The charge for these kinds of services shall be up to the maximum hourly fee permitted by the Act, which is currently **$41.37 per hour** (as of July 1, 2024). This hourly charge applies after the first hour of staff time, which shall be provided free of charge. A time-log will be maintained describing the time spent in responding to the request.

Deposits

If research and retrieval charges are anticipated to exceed $10, BHP will provide the requester with an estimated cost. The requester must pay this estimated cost in full as a deposit before BHP commences work on the request. The timeframe for completing the request will be paused until the deposit is received. Should BHP determine during processing that the time or number of responsive records exceeds initial estimates, an additional deposit may be requested to continue fulfilling the request. All deposits will be credited towards the total fee owed, and full payment is required before any records are sent to the requester.

Consistency of Fees

All persons making a subsequent request for the same record or records shall be charged the same fee as was the initial requestor.

Electronic Records Fees

BHP, at its discretion, may respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a copy, disk or printout. The fee charged for providing records in electronic form will be based on recovery of the actual incremental costs associated with building and maintaining the relevant database in providing the responsive electronic records, as determined by the BHP Office Manager. BHP shall not allow access to a computer terminal connected to internal BHP computer systems that is not ordinarily available for general public use. The exception to this restriction is public information provided by BHP on the Internet.

Fee Waivers

At its discretion, the department head may waive charges for the following:

- Requests from other governmental entities (cities, states) or from professional organizations to which BHP as a whole pays membership dues or participates in, such as the National Association of Housing and Redevelopment Officials.
- Requests from students for documents needed in conjunction with specific educational projects. However, if compliance with such requests requires extensive staff time, research charges may be imposed at the discretion of the affected department head.

Media Inquiries on Fees

Questions about producing records at the request of representatives of the news media should be referred to BHP Executive Director.

Access Denied

General Denial

Access to public records may be denied in accordance with the provisions and exemptions of the Act, C.R.S. § 24-72-204, and other applicable state and federal laws.

Privileged or Prohibited Disclosure

No records shall be produced when, after consultation with BHP's attorney, a custodian determines that the records are privileged or otherwise inappropriate for disclosure based upon the application of a City of Boulder ordinance, state statute, federal statute, or pursuant to any regulation issued pursuant to any such provision of law, or where production of documents is prohibited by a court order, court decision, or court directive. This includes, but is not limited to, applicant or tenant file information that contains personally identifiable information or other data protected by law.

Records Not Subject to Disclosure (Mandatory Denial)

The following records, or portions thereof, shall not be produced pursuant to an open records request, as they are specifically exempted from disclosure by law:

- The contents of personnel files, specifically including but not limited to, social security numbers, home addresses, home telephone numbers, and personal medical, psychological, and sociological data (C.R.S. § 24-72-204(3)(a)(I)).
- Scholastic achievement data.

- Letters of reference.
- Identities of job applicants.
- Criminal justice records (governed by the Criminal Justice Records Act, C.R.S. § 24-72-301, et seq.).
- Names, addresses, telephone numbers, or financial data of past or present users of BHP services, where such information is confidential or protected by privacy interests.
- Correspondence between BHP staff and housing applicants and housing residents where it is clear that there was an expectation of confidentiality.
- Trade secrets, privileged information, or confidential commercial or financial information furnished or obtained from a person that cannot be accessed by the general public (C.R.S. § 24-72-204(3)(a)(IV)).
- Correspondence sent or received by an elected official without consent of that elected official (C.R.S. § 24-72-204(3)(a)(II)).
- Sexual harassment investigations.
- Any information discussed or recorded during Executive Session of the BHP Board of Commissioners meeting (C.R.S. § 24-6-402(2)(d.5)).

Records That May Be Denied Disclosure (Discretionary Denial)

The following records, or portions thereof, may not be produced pursuant to an open records request if, in the opinion of an official custodian after consultation with BHP's attorney, disclosure would be contrary to the public interest:

- Test questions and scoring keys (C.R.S. § 24-72-204(3)(a)(V)).
- Work product and drafts (C.R.S. § 24-72-202(6)(a)(I), (II)).
- Deliberative process materials (C.R.S. § 24-72-202(6)(a)(III)).
- Investigatory files compiled for any law enforcement purpose (C.R.S. § 24-72-204(3)(a)(VI)).
- Real estate appraisal documents relating to land the title of which has not yet passed to BHP (C.R.S. § 24-72-204(3)(a)(VII)).
- Disclosure of documents that would do substantial injury to the public interest, i.e., when release would serve to inhibit free and frank discussion within the government (C.R.S. § 24-72-204(3)(a)(VIII)).

Attorney-Client Privilege and Work Product

Attorney/client communications and attorney work product which convey legal advice shall not be produced for inspection. Such records include all confidential communications to or from BHP and the City Attorney's Office or assigned City Attorney, or to or from other special legal counsel representing BHP. Confidential material of this type may include records of electronic communications. However, copies of such records may be released to those to whom the communications were initially directed. To

facilitate the protection of attorney/client and attorney work product material, it is recommended such material be kept in segregated and clearly marked portions of files or otherwise stored in a manner that makes them easily identifiable. Electronic communication that falls within these categories should not be maintained longer than necessary and, when maintained, should be placed in appropriately segregated locations.

Sworn Statement for Denial

When a public record is withheld pursuant to a discretionary denial (see "Records That May Be Denied Disclosure (Discretionary Denial)"), the custodian shall provide the person requesting that record a sworn statement generally describing the document or documents withheld and explaining why disclosure would cause substantial injury to the public interest.

Birth Dates

Birth dates will not be released. However, birth dates may be released to representatives of the news media if names are not associated with those birth dates. Birth dates may be otherwise provided to representatives of the news media upon the execution of agreements acceptable in format to the BHP Executive Director in which news media representatives agree that they will not publish individual names with associated birth dates based upon the material provided.

Waiver of Exemptions

Notwithstanding the above, documents that are privileged or that would otherwise be withheld from production pursuant to this policy may be produced when a waiver is obtained from the person whose privacy interest would be protected by the refusal to produce the documents. However, production pursuant to this provision shall occur only after consultation with, and approval by, the BHP attorney.

Record Management Context

This Open Records Policy operates in conjunction with Boulder Housing Partners' Record Retention and Destruction Policy. The Record Retention and Destruction Policy governs the lifecycle of BHP records, including their creation, maintenance, and disposition. Records are only available for public inspection under this Open Records Policy if they are actively maintained by BHP in accordance with its approved record retention schedules. No record shall be destroyed if it is pertinent to any current or pending litigation, investigation, or audit, regardless of its scheduled retention period.

Construction and Interpretation

Employees who have questions concerning the interpretation or application of this policy should be directed to the BHP Office Manager, who will consult with BHP's attorney as necessary.

Exceptions/Change

This policy supersedes all previous policies covering the same or similar topics for BHP. Exceptions to this policy may be granted only by the BHP Executive Director, in consultation with BHP's attorney. This policy may be reviewed and changed at any time by the BHP Board of Commissioners.

BHP Open Records Request Form

Colorado Open Records Act (CORA), C.R.S. § 24-72-201 et seq.

UNDER COLORADO LAW, C.R.S. § 18-8-114, IT IS A CLASS 2 MISDEMEANOR FOR ANY PERSON TO KNOWINGLY MAKE A FALSE ENTRY IN OR FALSELY ALTER ANY PUBLIC RECORD, OR, WITHOUT AUTHORITY, TO KNOWINGLY DESTROY, MUTILATE, CONCEAL, REMOVE, OR IMPAIR THE AVAILABILITY OF ANY PUBLIC RECORD. "PUBLIC RECORD" INCLUDES ALL OFFICIAL BOOKS, PAPERS, OR RECORDS CREATED, RECEIVED, OR USED BY OR IN ANY GOVERNMENTAL OFFICE OR AGENCY.

Submit this form by email to officials@boulderhousing.org, or by mail or hand delivery to Boulder Housing Partners, Attn: Official Custodians, 4800 N. Broadway, Boulder, CO 80304. Requests are handled under CORA and BHP's Open Records Policy, posted at www.boulderhousing.org, which explains response times, fees, and deposits.

1. Requester Information

Name, printed (required)	Phone number (required)
Mailing address (required)	Email (optional)
City / State / ZIP (required)	

2. Records Requested

I request that Boulder Housing Partners make the following public records available for my review. Please be as specific as possible, including subject matter, types of records, and date ranges. Attach additional pages if needed.

Description of records requested (required)	
Types of records (for example: emails, contracts, reports)	Date range (from – to)

3. Acknowledgment

I understand that I am financially responsible for payment of all the costs for producing records in an electronic format, for researching and retrieving records, or for copying these public records, by cash, cashier's check, or money order, made payable to Boulder Housing Partners, before BHP staff will assemble or copy the records, as appropriate.

Signature (required)	Date (required)

Need help? BHP staff will help you complete this form. For a reasonable accommodation, contact BHP's 504/ADA Coordinator at 720-564-4610. Hearing assistance: 1-800-659-2656.

For BHP Use Only

Request no. / date received	Response due date	Official custodian(s) assigned	Deposit requested / received