

**Ordinance No. 2020-13-0**

AN ORDINANCE AMENDING TITLE 4 OF THE LINDON CITY CODE, UPDATING AND REVISION LINDON CITYS GOVERNMENT RECORDS ACCESS AND MANAGEMENT ORDINANCE TO SATISFY CURRENT STATE REQUIRMENTS CONCERNING PUBLIC ACCESS TO GOVERNMENT RECORDS.

WHEREAS, Title 4 of the Lindon City Code has not been revised since 1993; and

WHEREAS, Numerous changes in state law have occurred since the last revision of Title 4 and it is in the best interest of the citizens of Lindon City to ensure that City's ordinances protecting the public's rights to access to government records are updated and consistent with established state laws; and

WHEREAS, Lindon City is currently subject to state wide retention schedules for its public records because the City's current ordinance do not set forth a retention schedule specific to Lindon City; and

WHEREAS, It is in the best interest of Lindon City to establish its own records retention schedule which takes into account local conditions and practices unique to Lindon City.

NOW THEREFORE, BE IT ORDAINED by the City Council of Lindon City, Utah as follows:

**PART ONE:** Amendment of Title 4 of the Lindon City Code.

Title 4 of the Lindon City Code is amended as follows:

**TITLE 4  
GOVERNMENT RECORDS ACCESS MANAGEMENT**

**Chapters:**

- 4.01      Lindon City Records Government Records Access Management
- 4.02      Maintenance and Retention of Records Classification of Records
- 4.03      Access to and Disclosure of Records
- 4.04      Requests for Records and Procedures for Access
- 4.05      Appeals Records Retention
- 4.06      Enforcement and Penalties Appeals
- 4.07      Rights of Individuals on Whom Data Is Maintained
- 4.08      Criminal Penalties

**Chapter 4.01**

**LINDON CITY RECORDS GOVERNMENT RECORDS ACCESS MANAGEMENT**

**Sections:**

- 4.01.010      Purpose and Intent Method of classification.**
- 4.01.020      Utah Governmental Records Access and Management Act Intent.**
- 4.01.030      Records Officer Designation and Duties Definitions.**

**4.01.010      Purpose and Intent Method of classification.**

It is the purpose and Intent of the Lindon City Council to establish fair and reasonable practices to ensure the public's right of easy and reasonable access to public records while protecting personal private information which maybe contained records maintained by the City.

Lindon City recognizes and acknowledges two fundamental constitutional rights: the right of privacy in relation to personal data gathered by the city; and the public's right of access to information concerning the conduct of the public's business.

1. The city shall:
  - a. evaluate all record series that it uses or creates;
  - b. designate those record series as provided by this title; and
  - c. report the designation of its record series to the state archives.
2. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.
3. The city may designate another record series or reclassify a record or record series, or information within a record at any time.

**4.01.020      Utah Governmental Records Access and Management Act Intent.**

It is the purpose and intent of the Lindon City Council that the City shall acknowledge and comply with the provisions of the Utah Government Records Access and Management Act, Chapter 2 of Title 63G of the Utah Code Annotated, 1953 as amended.

1. All City departments and employees shall comply with the provisions of this Title was well as with Chapter 2 of Title 63G of the Utah Code, as amended hereafter.
2. The definition of words and terminology used in this Title shall be the same as the definitions set forth in the Utah Government Records Access and Management Act, as found in § 63G-2-103 of the Utah Code, and as amended hereafter.

It is the intent of Lindon City to:

1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records;
2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards; and
3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this ordinance.

**4.01.030      Records Officer Designation and Duties Definitions.**

The City Recorder is hereby appointed as the Lindon City Records Officer and is to oversee and coordinate records management, access, and archive activities.

1. The Records Officer shall:
  - a. Comply with § 63G-2-108 “Certification of Records Officer” and obtain all required training and certifications as identified therein;
  - b. Make annual reports of records services activities to the City Council, as requested;
  - c. Provide training relative to records management, maintenance and access, to the various City departments and employees, as necessary;
  - d. Establish and maintain an active, continuing program for the economical and efficient management of the City’s records as provided by this Title;
  - e. Make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the City designed to furnish information to protect the legal and financial rights of persons directly affected by the City’s activities;
  - f. Submit to the state archivist the approved classifications and schedules of records and retention as provided for in this Title;
  - g. Coordinate and cooperate with the state archivist in conducting surveys made by the state archivist; and
  - h. Establish and report, to the state archives, retention schedules for objects that the City determines are not records, but that have historical or evidentiary value.
  - i. Designate those record series as required by this Title and Chapter 2 of Title 63G of the Utah Code, and report such designations to the state archives.

2. The Records Officer may classify a particular record, record series or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.
3. The Records Officer may re-designate a record series or reclassify a record, record series or information within a record at any time.
4. The Records Officer shall file with the state archives a copy of any amendment to this Ordinance, no later than 30 days after its effective date.

For purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

~~“Audit” means a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.~~

~~“Chronological logs” mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire, and paramedic calls made to the agency and any arrests or jail bookings made by the agency.~~

~~“Classification,” “classify,” and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under U.C.A., §6-32-201(3)~~

~~“Computer program” means a series of instructions or statements that permit the functioning of a computer system in a manner consistent with the manipulation of associated documentation and source material that explain how to operate the computer program.~~

- a. ~~“Computer program” does not mean:~~
  - i. ~~the original data, including numbers, text, voice, graphics, and images;~~
  - ii. ~~analysis, compilation, and other manipulated forms of the original data produced by use of the program; or~~
  - and then you iii. ~~the mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that could be used if the manipulated forms of the original data were to be produced manually.~~

~~“Controlled record” means a record containing data on individuals that is controlled as provided in Section 4.02.070.~~

~~“Contractor” means any person who contracts with the city to provide goods or services directly to the city; or any private, nonprofit organization that receives funds from the city. “Contractor” does not mean a private provider.~~

~~“Gross compensation” means every form of remuneration payable for a given period to any individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual’s employer.~~

~~“Designation,” “designate,” and their derivative forms mean indicating, based on the city’s familiarity with a record series or based on the city’s review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.~~

~~“Initial contact report”~~

- a. ~~means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe: the date, time, location, and nature of the complaint, the incident, or offense;~~
  - i. ~~names of victims;~~
  - ii. ~~the nature or general scope of the agency’s initial actions taken in response to the incident;~~
  - iii. ~~the general nature of any injuries or estimate of damages sustained in the incident;~~
  - iv. ~~the name, address, and other identifying information about any person arrested or charged in connection with the incident; and~~
  - v. ~~the identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.~~
- b. ~~“Initial contact report” does not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in subsection (1) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under U.C.A. § 63-2-201(3)(b).~~

~~“Individual” means a human being.~~

~~“Person” means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.~~

~~“Private record” means a record containing data on individuals that is private as classified by Sections 4.02.050 and 4.02.060.~~

~~“Private provider” means any person who contracts with the city to provide services directly to the public.~~

~~“Protected record” means a record that is protected as classified by Section 4.02.080.~~

~~“Public record” means a record that has not been appropriately classified private, controlled, or protected as provided in Sections 4.02.050, 4.02.060, 4.02.070, and 4.02.080 of this title.~~

~~“Record” means~~

- a. ~~all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, or owned, used, received, or retained by the city.~~
- b. ~~“Record” does not mean:~~
  - i. ~~temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;~~
  - ii. ~~materials that are legally owned by an individual in his private capacity;~~
  - iii. ~~materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;~~
  - iv. ~~proprietary software;~~
  - v. ~~junk mail or commercial publications received by the city or an official or employee of the city;~~
  - vi. ~~books and other materials that are cataloged, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;~~
  - vii. ~~daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working;~~
  - viii. ~~computer programs that are developed or purchased by or for the city for its own use; or ix. notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of~~

~~Pardons, or a member of any other body charged by law with performing a judicial or quasi-judicial function.~~

~~“Record series” means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.~~

~~“Records officer” means the city recorder and other individuals as appointed by the Mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.~~

~~“Summary data” means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.~~

## Chapter 4.02

### **CLASSIFICATION MAINTENANCE AND RETENTION OF RECORDS**

#### **Sections:**

- 4.02.010      Records Maintenance Procedures Method of Classification.**
- 4.02.020      Storage Medium Records which are always public.**
- 4.02.030      Retention Schedule Records which are normally public.**
- 4.02.040      Records which are not public.**
- 4.02.050      Records which are always private.**
- 4.02.060      Records which may be private.**
- 4.02.070      Controlled Records.**
- 4.02.080      Protected records.**

#### **4.02.010      Records Maintenance Method of Classification.**

Records maintenance procedures shall be developed by the Records Officer to ensure that due care is taken to maintain and preserve City records safely and accurately and in compliance with State requirements. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication and disposal of City Records, and shall monitor compliance with this Title and with State requirements by City departments and employees.

The following rules shall apply in classifying records in the city's possession or control:

- 1. — The city shall:
  - a. — Evaluate all record series that it uses or creates;

- b. Designate those record series as provided by this title; and
  - c. Report the designation of its record services to the state archives.
- 2. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.
- 3. The city may designate another record series or reclassify a record or record series, or information within a record at any time.

**4.02.020      Storage Medium Records which are always public.**

The City retains and reserves to itself the right to use any type of non-verbal or non-written format for the storage, retention and retrieval of government records, including, but not limited to, audio tapes, video tapes, microforms, any type of computer, data processing, imaging or electronic information storage or processing equipment or systems, which are not prohibited by State statute and do not compromise legal requirements for records storage, retrieval, security and maintenance, to store and maintain City records. All computerized and non-written format records and data which are designated and classified in accordance with this Title shall be made available to a requester in accordance with this Title and State law.

All records are public unless otherwise expressly provided by this title or State or Federal law or regulation. The lists of public records in this section and Section 4.02.030 are not exhaustive and should not be used to limit access to records.

The following records are always public:

- 1. Laws and ordinances;
- 2. Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of the city's former and present employees and officers, excluding undercover law enforcement personnel or investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
- 3. Final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative, or judicial proceeding, except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, protected, or controlled;
- 4. Final interpretations of statutes or rules by the city unless classified as protected under Section 4.02.080(15), (16), or (17);

5. Information contained in or compiled from transcripts, minutes, or reports of the open portion of a meeting of the city, including the records of all votes of each member of the city council;
6. Judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private.
7. Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of State Lands and Forestry, the Division of Oil, Gas and Mining, the Division of Water Rights, or other governmental entities that give public notice of:
  - a. Titles or encumbrances to real property;
  - b. Restrictions on the use of real property;
  - c. The capacity of persons to take or convey title to real property; or
  - d. Tax status for real or personal property;
8. Records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
9. Data on individuals that would otherwise be private under this ordinance if the individual who is the subject of the record has given the city written permission to make the records available to the public;
10. Documentation of the compensation that the city pays to a contractor or private provider;
11. Summary data.

#### **4.02.030      Retention Schedule Records which are normally public.**

The public records of Lindon City shall be classified and retained pursuant to the provisions of this Section 9 of the Lindon City Policies and Procedures Manual, as may be amended from time to time.

The following records are normally public, but to the extent a record is expressly exempted from disclosure, access may be restricted:

1. Administrative staff manuals, instructions to staff, and statements of policy;
2. Records documenting a contractor's or private provider's compliance with the terms of a contract with the city;
3. Records documenting the services provided by a contractor or private provider to the extent the records would be public if prepared by the city;
4. Contracts entered into by the city;
5. Any account, voucher, or contract that deals with the receipt or expenditure of funds by the city;

6. Records relating to governmental assistance or incentives publicly disclosed, contracted for, or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in U.C.A. Subsection 63-2-304(34);
7. Chronological logs and initial contact reports;
8. Correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
9. The empirical data contained in drafts if:
  - a. The empirical data is not reasonably available to the requester elsewhere in similar form; and
  - b. The city is given opportunity to correct any errors or make non-substantive changes before release;
10. Drafts that are circulated to anyone other than the city, state, or federal agency if the city, state, or federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
11. Drafts that have never been finalized but were relied on by the city in carrying out action or policy;
12. Original data in a computer program if the city chooses not to disclose the program;
13. Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
14. Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
15. Records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:
  - a. The disciplinary action has been completed and all time periods for administrative appeal have expired; and
  - b. The formal charges were sustained.
16. Records maintained by the Division of State Lands and Forestry or the Division of Oil, Gas and Mining that evidence mineral production on government lands;
17. Final audit reports;
18. Occupational and professional licenses;
19. Business licenses; and
20. A notice of violation, a notice of agency action under U.C.A. § 63-46b-3, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline;

**4.02.040 Records which are not public:**

The following records are not public:

1. Records that are appropriately classified as private, controlled, or protected only those records specified in Sections 4.02.050, 4.02.060, 4.02.070, and 4.02.080 may be classified as private, controlled, or protected; and
2. Records to which access is restricted pursuant to court rule, state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

**4.02.050 — Records which are always private.**

The following records are always private:

1. Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination or benefit levels;
2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
3. Records of publicly funded libraries that when examined alone or with other records identify a patron;
4. Records received or generated in a Senator or House ethics committee concerning any alleged violation of the rules on legislative ethics if the committee meeting was closed to the public;
5. Records concerning a current or former city employee or applicant for city employment that would disclose the individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions.

**4.02.060 — Records which may be private.**

1. Records concerning a current or former city employee or applicant for city employment, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public or private;
2. Records describing an individual's finances, except that the following are public:
  - a. Records described in Section 4.02.020;
  - b. Information provided to the city for the purpose of complying with a financial assurance requirement; or
  - c. Records that must be disclosed in accordance with another statute
3. Records of independent state agencies if the disclosure of those records would conflict with fiduciary obligations of the agency;

4. Other records containing data on individuals, the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
5. Records provided by the United States or by a governmental entity outside the state that are the records are given with the requirement that the records are managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.

#### **4.02.070 — Controlled Records.**

A record is controlled only if:

1. The record contains medical, psychiatric, or psychological data about an individual;
2. The city reasonably believes that releasing the information in the record to the subject of the record would be detrimental to the subject's mental health, or releasing the information would constitute a violation of normal professional practice and medical ethics; and
3. The city has properly classified the record.

#### **4.02.080 — Protected records.**

The following records are protected if properly classified as protected by the city:

1. Trade secrets as defined in U.C.A. §3-24-2 if the person submitting the trade secret has provided the city with the information specified in U.C.A. §63-2-308;
2. Commercial information or non-individual financial information obtained from a person if:
  - a. Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or disclosure would impair the ability of the city to obtain necessary information in the future;
  - b. The person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and
  - c. The person submitting the information has provided the city with the information specified in U.C.A. §63-2-308;
3. Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy;

4. Test questions and answers to be used in future license, certification, registration, employment, or academic examinations;
5. Records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;
6. Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired, unless:
  - a. Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible; and
  - b. The information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
  - c. In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property; or
7. Records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
  - a. The public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction; or
  - b. When prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;
8. Records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes if release of the records:
  - a. Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
  - b. Reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
  - c. Would create a danger of depriving a person of a right to a fair trial or impartial hearing;
  - d. Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in

the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

- e. Reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government, if disclosure would interfere with enforcement or audit efforts;
9. Records the disclosure of which would jeopardize the life or safety of an individual;
10. Records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
11. Records the disclosure of which would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
12. Records that if disclosed would reveal recommendations made to the Board of Pardons by an employee of or contractor for the Department of Corrections, the Board of Pardons, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
13. Records and audit work papers that identify audit, collection, and operational procedures and methods used by the Utah State Tax Commission, if disclosure would interfere with audits or collections;
14. Records of communications between the city and an attorney representing, retained, or employed by the city, if the communications would be privileged as provided in U.C.A. §78-24-8;
15. Drafts, unless otherwise classified as public;
16. Records concerning the city's strategy about collective bargaining or pending litigation;
17. Records of investigations of loss occurrences and analysis of loss occurrences;
18. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual, if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;
19. Records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;
20. Records of independent state agencies if the disclosure of the records would conflict with the fiduciary duties of the agency;
21. Records provided by the United States or by a government entity outside the state the are given to the city with a requirement that they be managed as protected records if the

- providing entity certifies that the record would not be subject to public disclosure if retained by it;
22. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
  23. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;
  24. Records disclosing an attorney's work product, including mental impressions or legal theories of an attorney or other representative of the city concerning litigation;
  25. Transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meeting Act;
  26. Records that would reveal the contents of settlement negotiations, but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;
  27. Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons, or a member of any other body charged by law with performing a quasi-judicial function;
  28. Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and
  29. Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights, including patents, copyrights, and trade secrets.

## Chapter 4.03 DISCLOSURE OF RECORDS

### Sections:

- 4.03.010 Disclosure of Access to public records.
- 4.03.020 Adoption and Enforcement of the Utah Government Records Access and Management Act Disclosure of non-public records.
- 4.03.030 Disclosure of private records.
- 4.03.040 Disclosure of controlled records.
- 4.03.050 Disclosure of protected records.
- 4.03.060 Additional limitations on disclosure of private, controlled, and protected records.
- 4.03.070 Disclosure of private or controlled records for research purposes.

- ~~4.03.080 — Right to a certified copy of the record.~~
- ~~4.03.090 — Additional limitations on public's right of access.~~
- ~~4.03.100 — Disclosure pursuant to court order.~~
- ~~4.03.110 — Confidential treatment of records for which no exemption applies.~~

**4.03.010      Disclosure of Access to public records.**

~~Subject to provisions of this Title, Every person has the right to inspect a public record, free of charge, and the right to receive take a copy of a public record upon payment of a reasonable cost as set forth herein during normal working hours, subject to the payment of costs and fees pursuant to Section 4.05.030.~~

**4.03.020      Adoption and Enforcement of the Utah Government Records Access and Management Act Disclosure of non-public records.**

~~In order to ensure the public's right to access and review public records, while still providing required protections for private and protected information which may be contained in such records, Lindon City hereby adopts and incorporates the Utah Government Records Access and Management Act as set forth in Chapter 2 of Title 63G of the Utah Code, as may hereafter be amended.~~

- ~~1. — The city may not disclose to any person a record that is private, controlled, or protected except as provided in this title.~~
- ~~2. — The city may, in its discretion, disclose records that are private or protected to persons other than those otherwise entitled to obtain such records if the city council, or its designee, determines that there are no interests in restricting access to the record, or that the interests favoring access outweigh the interests favoring restriction of access.~~
- ~~3. — The disclosure of records to which access is governed or limited pursuant to court rule, state statute, federal statute, or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation, but only if the Lindon City Code is inconsistent with the statute, rule, or regulation.~~

**4.03.030      Disclosure of private records.**

~~Upon request the city shall disclose a private record to:~~

- ~~1. — The subject of the record;~~

2. The parent or legal guardian of an un-emancipated minor who is the subject of the record;
3. The legal guardian of a legally incapacitated individual who is the subject of the record;
4. Any other individual who has a power of attorney from the subject of the record, or who submits a notarized release from the subject of the record or his legal representative dated no later than 90 days before the date the request is made; or
5. Any person to whom the record must be provided pursuant to court order

**4.03.040 — Disclosure of controlled records.**

Upon request the city shall disclose a controlled record to:

1. A physician, psychologist, or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided in Section 4.03.060; and
2. Any person to whom a record must be disclosed pursuant to court order.

**4.03.050 — Disclosure of protected records.**

Upon request the city shall disclose a protected record to:

1. The person who submitted the information in the record;
2. Any other individual who has a power of attorney from all persons, government entities, or political subdivisions whose interests were sought to be protected by the protected classification, or who submits a notarized release from their legal representatives dated no more than 90 days prior to the date the request is made; or
3. Any person to whom a record must be provided pursuant to court order.

**4.03.060 — Additional limitations on disclosure of private, controlled, and protected records.**

The following additional limitations apply to the disclosure of controlled, private and protected records:

1. A person who receives a controlled record from the city may not disclose controlled information from that record to any other person, including the subject of the record.
2. If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

3. The city may disclose a record classified as private, controlled, or protected to another governmental entity, city, state, the United States, or a foreign government only as provided by U.C.A. § 63-2-206.
4. Before releasing a private, controlled, or protected record, the person requesting disclosure shall provide satisfactory evidence of his identity.
5. Except as otherwise provided in this title, the city may not disclose records that are private or protected to persons other than those specified in this chapter.
6. Under U.C.A. Subsection 63-2-404(8) a court may require the disclosure of records that are private, controlled, or protected to persons other than those specified in this chapter

**4.03.070 — Disclosure of private or controlled records for research purposes.**

1. The city may disclose or authorize disclosure of private or controlled records for research purpose if the city:
  - a. Determines that the research purpose cannot reasonably be accomplished without disclosure of the information to the researcher in individually identifiable form;
  - b. Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy.
  - c. Requires the researcher to assure the integrity, confidentiality, and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished.
  - d. Prohibits the researcher from disclosing the record in individually identifiable form except as provided in Subsection 2 of this section, or from using the record for purposes other than the research approved by the city; and
  - e. Secures from the researcher a written statement of his understanding of an agreement to the conditions of this Section and his understanding that violation of the terms of this section may subject him to criminal prosecution under U.C.A. § 6-32-801.
2. A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.
3. The city may require indemnification as a condition of permitting research under this section.

**4.03.080 — Right to a certified copy of the record.**

The city shall provide a person with a certified copy of a record if the person requesting the record has a right to inspect it, identifies the record with reasonable specificity, and pays the lawful fees.

**4.03.090 Additional limitations on public's right of access.**

The following are additional limitations on a person's right to access and the city's duty to produce records:

1. The city is not required to create a record in response to a request;
2. Nothing in this ordinance requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;
3. If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may provide the requester with facilities for copying the requested records and require that the requester make the copies himself, or allow the requester to provide his own copying facilities and personnel to make the copies at the city offices, and waive the fees for copying the records;
4. If the city owns an intellectual property right and offers the intellectual property right for sale or license, the city may control by ordinance or duplication policy, the distribution of the material, based on terms the city considers to be in the public interest. Nothing in this ordinance shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right;
5. The city may not use the physical form, electronic or otherwise, in which a record is stored, to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record under this title.

**4.03.100 Disclosure pursuant to court order.**

The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

1. The record deals with a matter in controversy over which the court has jurisdiction;
2. The court has considered the merits of the request for access to the record;
3. The court has considered and limited the requester's use and further disclosure of the record, where appropriate, in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under U.C.A. §63-2-304(1) and (2), and privacy interests in the case of other protected records;

4. To the extent the record is properly classified as private, controlled, or protected, the court has determined that interests favoring access, considering limitations on the requester's use and further disclosure of the record, outweigh the interests favoring restriction of access; and
5. Where access is restricted by a rule, statute, or regulation referred to in Section 4.02.040(2), the court has authority to order disclosure, independent of the Linden City Code.

**4.03.110      Confidential treatment of records for which no exemption applies.**

1. A court may order confidential treatment and non-disclosure of records for which there is no other exemption from disclosure, if:
  - a. There are compelling interests favoring restriction of access to the record; and
  - b. The interests favoring restriction of access clearly outweigh the interests favoring access.
2. If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorney fees incurred by the party seeking disclosure in opposing the city's request, if:
  - a. The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
  - b. The court denies confidential treatment under this section.
3. This section does not apply to records that are specifically required to be public under this title or U.C.A. §632-301, except as provided in Subsections 4 and 5 of this section.
4. Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.
5. Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

**Chapter 4.04**

**REQUESTS FOR RECORDS AND PROCEDURES FOR ACCESS**

**Sections:**

- 4.04.010    Request for records Form of requests.  
4.04.020    Fees City's response to requests.

- 4.04.030 — Presumption of public benefit.**
- 4.04.040 — Extraordinary circumstances allowing delay in response time.**
- 4.04.050 — Time limits for extraordinary circumstances.**
- 4.04.060 — Effect of failure to disclose within time limitations.**
- 4.04.070 — Disclosure denials.**

**4.04.010        Request for records Form of requests.**

All record requests shall be made by written request upon forms provided by Lindon City, which request shall be directed to the City department where the record is kept. Lindon City will respond to all requests for records pursuant to and in accordance with the requirements of the Utah Government Records Access and Management Act as adopted in this Title.

A person making a request for a record shall furnish the city with a written request containing his name, mailing address, daytime telephone number if available, and a description of the records requested that identifies the record with reasonable specificity.

**4.04.020        Fees City's response to requests.**

Lindon City may charge reasonable fees and costs to cover the City's actual cost of compiling and duplicating a record.

1. Fees for such requests may be set and revised by resolution of the City Council.
2. The City may modify or waive the fee pursuant to the terms of the Utah Government Records Access and Management Act as adopted in this Title.

As soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:

1. Approving the request and providing the record;
2. Denying the request;
3. Notifying the requester that it does not maintain the record and providing the name and address of the individual having possession of the record, if known; or
4. Notifying the requester that because of one of the extraordinary circumstances listed in Section 4.04.040, the city cannot immediately approve or deny the request. The notice shall describe the circumstances relied on and specify the earliest time and date when the records will be available.

**4.04.030 — Presumption of public benefit.**

~~Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.~~

**4.04.040 — Extraordinary circumstances allowing delay in response time.**

~~The following circumstances constitute “extraordinary circumstances” that allow the city to delay approval or denial by an additional period of time as specified in Section 4.04.050 if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Section 4.04.020:~~

1. ~~Another governmental entity is using the record, in which case the city shall promptly request that the other governmental entity return the record;~~
2. ~~Another governmental entity is using the record as part of an audit and returning the record before completion of the audit would impair the conduct of the audit;~~
3. ~~The request is for a voluminous quantity of records;~~
4. ~~The city is currently processing a large number of records requests;~~
5. ~~The request requires the city to review a large number of records to locate the records requested;~~
6. ~~The decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;~~
7. ~~Segregating information the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or~~
8. ~~Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.~~

**4.04.050 — Time limits for extraordinary circumstances.**

~~If one of the extraordinary circumstances listed in Section 4.04.040 precludes approval or denial within the time specified in Section 4.04.020, the following time limits apply to the extraordinary circumstances:~~

1. ~~For delays under section 4.04.040(1), the governmental entity currently in possession of the record shall return the record to the city within five business days of the request for the return unless returning the record would impair the holder's work.~~
2. ~~For delays under Section 4.04.040(2), the city shall notify the requester when the record is available for inspection and copying;~~
3. ~~For delays under Section 4.04.040(3), (4), and (5), the city shall:~~
  - a. ~~Disclose the records that it has located which the requester is entitled to inspect;~~

- b. Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request; and
  - c. Complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible.
- 4. For delays under Section 4.04.040(6), the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;
- 5. For delays under Section 4.04.040(7), the city shall fulfill the request within 15 business days from the date of the original request; for delays under Section 4.04.040(8), the city shall complete its programming and disclose the requested records as soon as reasonably possible.

**4.04.060 — Effect of failure to disclose within time limitations.**

If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

**4.04.070 — Disclosure denials.**

The following rules apply to denials of record requests:

- 1. If the city denies the request in whole or part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address by U.S. mail.
- 2. The notice of denial shall contain the following information:
  - a. A description of the record or portions of the record to which access is denied, provided that the description does not disclose private, controlled, or protected information or records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds;
  - b. Citations to the provisions of this ordinance, another state statute, federal statute, court rule or order, or federal regulation that exempts the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, or protected information;
  - c. A statement that the requester has the right to appeal the denial to the city council; and
  - d. A brief summary of the appeals process and the time limit for filing an appeal.

3. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

## Chapter 4.05

### APPEALS RECORDS RETENTION

#### Sections:

- 4.05.010      Appeal to Chief Administrative Officer Records retention.**
- 4.05.020      Appeal of the Decision of Chief Administrative Officer Segregation of records.**
- 4.05.030      Judicial Review Fees.**
- 4.05.040      Fee waivers.**
- 4.05.050      Circumstances under which fee may not be charged.**

#### **4.05.010      Appeal to Chief Administrative Officer Records retention.**

- 1. For purposes of this Chapter, the Lindon City Administrator shall be Lindon City's Chief Administrative Officer.
- 2. A person who believes their request for records has been wrongfully denied, or that the requested records have not been fully provided, may appeal such decision to the Chief Administrative Officer, or their designee, pursuant to the appeals process set forth in the Utah Government Records Access and Management Act as adopted by this Title.

The city shall by resolution establish a retention schedule for each record series. The initial retention schedule shall be as set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

#### **4.05.020      Appeal of the Decision of Chief Administrative Officer Segregation of records.**

Lindon City has not established a local appeals board. As such, any appeal of a decision of the Chief Administrative Officer shall be made to the state records committee as set forth in §63G-2-403 of the Utah Code, as adopted by this Title.

Notwithstanding any other provision in this ordinance, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information

that the requester is not entitled to inspect, and if the information the requester is entitled to inspect is intelligible, the city:

1. Shall allow access to information in the record that the requester is entitled to inspect; and
2. May deny access to information in the record if the information is exempt from disclosure to the requester by issuing a notice of denial.

**4.05.030      Judicial Review Fees.**

Any petition for judicial decision of an order or decision made under the authority of this Title shall be made pursuant to the requirements of § 63G-2-404 of the Utah Code, as adopted by this Title.

The city may charge a reasonable fee to cover the city's actual cost of duplicating a record or compiling a record in a form other than that maintained by the city. The fees may be set by resolution. The initial fees, until changed by resolution, are set forth in Exhibit B, attached hereto and incorporated herein by this reference.

**4.05.040      Fee waivers.**

The city may fulfill a record request without a charge when it determines that:

1. Releasing the record primarily benefits the public rather than a person;
2. The individual requesting the record is the subject of the record; or
3. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

**4.05.050      Circumstances under which fee may not be charged.**

The city may not charge a fee for reviewing a record to determine whether it is subject to disclosure, or for inspecting a record.

**Chapter 4.06  
ENFORCEMENT AND PENALTIES APPEALS**

Sections:

- 4.06.010      Enforcement Notice of Appeal.**
- 4.06.020      Disciplinary Action Appeal from claim of extraordinary circumstances.**
- 4.06.030      Appeal involving confidential business records.**
- 4.06.040      Mayor's determination of appeal.**
- 4.06.050      Appeal of mayor's determination to city council.**

**4.06.060 — Appeal of classification determination.**

**4.06.070 — Judicial review.**

**4.06.010        Enforcement Notice of Appeal.**

The Records Officer shall ensure that all Departments and City employees comply with the requirements of this Title and the Utah Government Records Access and Management Act as adopted in herein.

Any person aggrieved by the city's access determination under this title, including a person not a party to the city's proceeding, may appeal the determination to the mayor by filing a notice of appeal no later than 30 days after notification of the determination. The notice of appeal shall contain the petitioner's name, address, daytime telephone number, and a statement of the relief sought. The petitioner may also file a short statement of facts, reasons, and legal authority in support of the appeal.

**4.06.020        Disciplinary Action Appeal from claim of extraordinary circumstances.**

The City may take disciplinary action, which may include suspension or discharge, against any employee who violates any provision of this Title or the Utah Government Records Access and Management Act as adopted in herein.

If the city claims extraordinary circumstances and specifies the date when the records will be available and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance no later than 30 days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent. The notice of appeal shall contain the petitioner's name, address, daytime telephone number, and a statement of the relief sought. The petitioner may also file a short statement of facts, reasons, and legal authority in support of the appeal.

**4.06.030 — Appeal involving confidential business records.**

If the appeal involves a record that is the subject of a business confidentiality claim under U.C.A. §63-2-308:

1. — The city recorder shall:

- a. — Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

- b. Send notice of the business confidentiality claim and the schedule for the mayor's determination to the requester within three business days after receiving notice of the requester's appeal.
2. The claimant shall have seven business days after notice is sent by the city recorder to submit further support for the claim of business confidentiality.

**4.06.040 Mayor's determination of appeal.**

1. The mayor shall make the determination on the appeal within five business days after the mayor's receipt of the notice of appeal, or within 12 business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality. However, the parties participating in the proceeding may, by agreement, extend the time periods specified in this chapter.
2. If the mayor fails to make a determination within the time specified in Subsection 1, the failure shall be considered the equivalent of an order denying the appeal.
3. The mayor may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or non-disclosure, order the disclosure of information properly classified as private or protected if the interests favoring access outweigh the interests favoring restriction of access.
4. The city shall send written notice of the determination of the mayor to all participants. If the mayor affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the city council, and the time limits for filing an appeal.
5. The duties of the mayor under this section may be delegated.

**Chapter 4.07**

**RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED**

**Sections:**

- 4.07.010 Right to contest accuracy of record.**  
**4.07.020 Approval or denial of amendment request.**  
**4.07.030 Inapplicability of certain sections.**  
**4.07.040 Additional rights of individuals on whom data is maintained.**  
**4.07.010 Right to contest accuracy of record.**

Subject to Chapter 4.04 of this title, an individual may contest the accuracy or completeness of any public, private, or protected record concerning that individual by requesting the city to amend the record. This chapter does not affect the right of access to private or protected records. The request shall contain the following information:

1. The requester's name, mailing address, and daytime telephone number; and

2. A brief statement explaining why the city should amend the record.

**4.07.020 Approval or denial of amendment request.**

1. The city shall issue an order either approving or denying the request to amend no later than 30 days after receipt of the request.
2. If the city approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical. A city may not disclose the record until the record is amended.
3. If the city denies the request, it shall inform the requester in writing and provide a brief statement giving its reasons for denying the request.
4. If the city denies a request to amend a record, the requester may submit a written statement contesting the information in the record. In such event, the city shall:
  - a. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record, or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
  - b. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.
5. If the city denies a request to amend a record, the requester may appeal the denial pursuant to Chapter 4.06 of this title.

**4.07.030 Inapplicability of certain sections.**

Sections 4.07.010 and 4.07.020 do not apply to records relating to title to real or personal property, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

**4.07.040 Additional rights of individuals on whom data is maintained.**

1. The city shall file with the state archivist a statement explaining the purposes for which a record series designated private or controlled are collected and used by the city, which statement is a public record.
2. Upon request, the city shall explain to an individual:
  - a. The reasons the individual is asked to furnish information to the city that could be classified as private or controlled;
  - b. The intended uses of the information; and
  - c. The consequences for refusing to provide the information.

3. The city may not use private or controlled records for purposes other than those given in the statement filed with the statement filed with the state archivist under Subsection 1 or for purposes other than those for which the governmental entity could use the record under U.C.A. § 63-2-206.

## **Chapter 4.08** **CRIMINAL PENALTIES**

### **Sections:**

- 4.08.010** ~~Illegal disclosure of non-public record.~~
- 4.08.020** ~~Defenses to illegal disclosure of non-public record.~~
- 4.08.030** ~~Illegally obtaining access to non-public record.~~
- 4.08.040** ~~Unlawful refusal to release record.~~
- 4.08.050** ~~Acts Constituting Separate Offenses.~~
- 4.08.010** ~~Illegal disclosure of non-public record.~~

A public employee or other person who has lawful access to any private, controlled, or protected record under this title, and who intentionally discloses or provides a copy of a private, controlled, or protected record to any person, knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.

**4.08.020** ~~Defenses to illegal disclosure of non-public record.~~

The following are defenses to prosecution under Section 4.08.010:

1. The actor released private, controlled, or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.
2. The record could have lawfully been released to the recipient if it had been properly classified.

**4.08.030** ~~Illegally obtaining access to non-public record.~~

A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which he is not legally entitled is guilty of a class B misdemeanor. However, no person shall be guilty under this section if the person receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

**4.08.040 — Unlawful refusal to release record.**

A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final order which has not been appealed from the city, or a court, is guilty of a class B misdemeanor.

**4.08.050 — Acts Constituting Separate Offenses.**

7. Each act of intentionally disclosing or providing a copy of a private, controlled, or protected record as prohibited by Section 4.08.020 shall constitute a separate offense under this Chapter.
8. Each protected record that is accessed in violation of Section 4.08.030 shall constitute a separate offense.
9. The unlawful refusal to disclose a required document under Section 4.08.040 shall be a separate offense for each request for new documents. The refusal to disclose required documents on multiple requests for the same, or similar documents, from the same applicant, or applicants associated or affiliated with one another, shall only constitute one offense for the purposes of Section 4.08.040.

**PART TWO:** Amendment of Section 9 of the Lindon City Policies and Procedures Manual.

Section 9 the Lindon City Policies and Procedures Manual is hereby amended to read as follows:

Section 9 – Records Management Policies

- 9.1 PURPOSES
- 9.2 POLICY
- 9.3 PROCEDURE
- 9.4 RETENTION SCHEDULE

**9.1 PURPOSE**

Lindon City is committed to meeting required retention schedules as set for in the Government Records Access Management Act (GRAMA). Lindon City is also committed to providing access to all public records, and creating transparency in all aspects of government operations.

**9.2 POLICY**

It is the policy of Lindon City to establish guidelines governing the management, retention and destruction of all government records.

**9.3 PROCEDURE**

1. The City shall follow the classification and retention schedule set forth in Subsection 9.4. Any record, or records series, not specifically identified or designated in Subsection 9.4 shall be kept and retained pursuant to the model retention schedule as established in GRAMA and maintained by the Utah State Archives and Records Department.
2. Each City Department Head is responsible for management, retention and destruction of the records of their individual departments. The Department Head may delegate the day to day management of records to department staff.
3. Annual destruction of records will be scheduled between January 15 and February 28.
4. Destruction will be completed by on-site shredding, or transferred to the incinerator with Police Department evidence which is ready for destruction.
5. On the date of destruction, each Department Head will provide a written inventory of records destroyed to the City Recorder.
6. Frequently requested public records will be made available for public access on the City website as much as possible.
7. Any citizen requesting a copy of a record (GRAMA request) is required to complete a records request form and pay any associated fees for processing the request.
8. Records requests forms will be forwarded to the City Recorder. The City Recorder is responsible to process the request in cooperation with the department with control of the record.
9. All citizen requests will be completed as soon as possible, but no later than ten business days after the request is received. If processing the request within the ten-day period is not possible, the citizen requesting the records must be contacted prior to the end of the ten-day period and notified of the date the records will be available.
10. Any email message received by a City employee or official which is relevant to any City business shall be retained in electronic format until final action, including any appeal period, is complete. Following final action, any email correspondence shall be printed in hard copy form and placed in the file of the application or project as part of the project record. The electronic message may be deleted when the hard copy of the correspondence is printed and placed in the file.

#### 9.4 RETENTION SCHEDULE

City records shall be classified and retained pursuant to the provisions of this Subsection.

1. Permanent Retention: Records deemed to have historical value and importance shall be retained permanently. The Records officer may transfer permanent records to the State Archives for retention if necessary. The following Records shall be retained permanently:
  - a. Articles of Incorporation: Records related to the organization and establishment of the city, including annexation and boundary adjustments;
  - b. General Plan: Records of the comprehensive plan for municipal development adopted by the City Council;
  - c. Ordinances and Resolutions: Records of the official legislative actions of the City Council;
  - d. Public Minutes: Approved minutes of the Lindon City Council, Lindon City Planning Commission, and the Lindon City Board of Adjustment;

- e. Building Permits: Permits issued by building officials authorizing the construction, demolition, or remodeling structures and buildings, including inspections reports and certificates issued by the City;
  - f. City Histories: Chronological records of activities of the city and its departments, including photographs, newspaper clippings, flyers, program notes, brochures, and other items related to activities of the city and its citizens; and
  - g. Agency History Records: Records prepared specifically to document the organization or modification of governmental entities, including histories, functional information, and organizational files.
2. Seven Year Retention. The following records shall be retained for a period of seven years:
- a. Real Estate Acquisition Records: Documentation of the purchase of real property by Lindon City, including contracts, correspondence and deeds;
  - b. State or Federal Grants: Documentation of monetary grants applied for and received from federal or state sources, including Community Development Block Grants (CDBG), which documentation includes original applications, contract agreements, and annual and final performance reports;
    - i. The retention period for these records shall begin to run at the completion of the project or program, including any warranty period.
  - c. System Studies Final Reports: Final reports of various studies of program analysis, or project studies of city operations or public activities created by private or public agencies; and
  - d. Commercial Building Plans: Blueprints and specifications submitted by building contractors and owners when applying for a building permit for a commercial building or structure.
3. Three Year Retention. The following records shall be retained for a period of three years:
- a. Census Information Files: Copies of US Census Bureau forms completed by the city regarding government employment and tax revenues. Used to compile state and national statistical reports, meeting the requirements for federal revenue sharing and publication of financial information with the public; and
  - b. Publications: Records issued by Lindon City for public distribution at the expense of the city entity, including annual reports and policy and procedure manuals.
    - i. The retention period for these records shall begin to run upon the publication of a subsequent volume or amendment of the publication or a retraction of the publication.
4. Two Year Retention. The following records shall be retained for a period of two years:
- a. Executive Correspondence. Correspondence, regardless of format that provides information relating to official actions to facilitate or promote functions, policies, procedures or programs of Lindon City and which document the actions of executive decision makers made regarding city interests. Executive decision-makers may include the Mayor, the City Administrator, or other department heads identified by the City Administrator;

- b. Feasibility Studies. Studies conducted before the installation of any significant technology or equipment, including specific studies and system analysis for the initial establishment or major modification of such systems;
  - c. Public Relations Records. Records created for the distribution to news media or the public, including speeches, press releases, public announcements, and similar records; and
  - d. Policy and Procedure Case files. Records related to policy and procedure issuance with documentation of the policies' formulation, including issues related to routine administrative functions. (e.g. payroll, procurement, and personnel).
    - i. The retention period for these records shall begin to run upon a policy or procedure being superseded or rescinded.
5. One Year Retention. The following records shall be retained for a period of one year:
- a. Notary Bond Files: Documentation of City employees providing the City services as Notaries Public, including development certificates, copies of bonds, and related correspondence; and
    - i. The retention period for these records shall begin to run upon the expiration of a Notary's certification.
  - b. Unsuccessful Grant Application. Record related to the rejection or withdrawal of the grant application, including memoranda, correspondence, and other records related to the decision to reject or withdraw the grant proposal.
    - i. The retention period for these records shall begin to run upon the denial or withdrawal of a grant application.
6. 90 Day Retention. The following records shall be retained for a period of 90 days:
- a. Temporary Correspondence: Correspondence, regardless of format, related to matters of short-term interest and which contain no final contractual, financial, or policy information, including routine requests for information, unofficial notices for meetings and events, request for supplies, approvals to attend training or scheduling activities, duty rosters or work assignments, schedules, appointments or activity logs and working copies of documents which are not considered drafts and records relating to daily activities that do not reflect policy or official actions;
  - b. Temporary Tracking Records: Records documenting temporary transactions which tracks information regarding services rendered, movement of people, materials, including Internet website visitor information; and
  - c. Temporary Work Files and Notes: Records containing unique information in notes or drafts assembled and used repair or analyze other documents, including information, understanding, and context of the formulation of City staff's actions, decisions or responses in administrative functions and which are not part of a record otherwise defined by the Chapter.
7. No Retention Period Required. The following documents do not to be retained by the Records Officer:
- a. Documents or records that do not meet the criteria of a "record" as defined by state law, including personal notes and communications, temporary drafts made for personal use, materials copyrighted and owned by an individual in a private capacity,

daily calendars kept for personal use, information protected by the attorney-client privilege or nongovernmental publications or documents.

PART THREE: Severability

Severability is intended throughout and within the provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

PART FOUR: Effective Date.

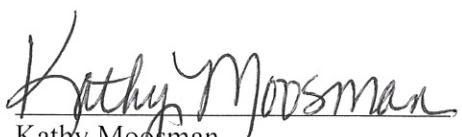
This ordinance shall take effect immediately upon its passage and posting as provided by law.

PASSED AND APPROVED AND MADE EFFECTIVE by the City Council of Lindon  
City, Utah, this 17<sup>th</sup> day of August 2020.

  
\_\_\_\_\_  
JEFF ACERSON,  
Lindon City Mayor



ATTEST:

  
\_\_\_\_\_  
Kathy Moosman  
City Recorder