

## TITLE 4

### Chapters:

- 4.01 GOVERNMENT RECORDS ACCESS MANAGEMENT
- 4.02 CLASSIFICATION OF RECORDS
- 4.03 DISCLOSURE OF RECORDS
- 4.04 REQUESTS FOR RECORDS
- 4.05 RECORDS RETENTION
- 4.06 APPEALS
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- 4.08 CRIMINAL PENALTIES

# LINDON CITY CODE

## Chapter 4.01

### GOVERNMENT RECORDS ACCESS MANAGEMENT

Sections:

4.01.010	Method of classification.
4.01.020	Intent.
4.01.030	Definitions.

4.01.010 Method of classification.

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. (Ord. no. 6-93, amended 3-93, effective date 3-23-93; ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

4.01.020 Intent.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

4.01.030 Definitions.

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

1. "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.
2. "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.
3. "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)
4. "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

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- ii. 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.
  5. "Controlled record" means a record containing data on individuals that is controlled as provided in Section 4.02.070.
  6. "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.
  7. "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.
  8. "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.
  9. "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).
10. "Individual" means a human being.
  11. "Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.
  12. "Private record" means a record containing data on individuals that is private as classified by Sections 4.02.050 and 4.02.060.
  13. "Private provider" means any person who contracts with the city to provide services directly to the public.
  14. "Protected record" means a record that is protected as classified by Section 4.02.080.
  15. "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.
  16. "Record" means
    - a. all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic

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- data regardless of physical form or characteristics, prepared, owned,
- 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.
17. "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.
18. "Records officer" means the city recorder and other individuals as appointed by the

used, received, or retained by the city.

mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

19. "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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### Chapter 4.02

#### CLASSIFICATION OF RECORDS

##### Sections:

4.02.010	Method of Classification.
4.02.020	Records which are always public.
4.02.030	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 Method of Classification.

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	Records which are always public.
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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 individuals 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; and
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; and
  11. Summary data. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.02.030 Records which are normally public.

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);

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7. Chronological logs and initial contact reports;
8. Correspondence by and with the city in which the city determines or states an
  - 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

opinion upon the rights of the state, a political subdivision, the public, or any person;

9. Empirical data contained in drafts if: regulated by the city, but not including records that initiate employee discipline. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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

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individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-

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 individuals 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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

92.)

4.02.060 Records which may be private.

constitute a violation of normal professional practice and medical ethics; and

3. The city has properly classified the record. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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. §13-24-2 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

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- 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
    - 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
  - 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;
    - 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

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- 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;
  17. 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;
  18. Drafts, unless otherwise classified as public;
  19. Records concerning the city's strategy about collective bargaining or pending litigation;
  20. Records of investigations of loss occurrences and analysis of loss occurrences;
  21. 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;
  22. 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;
  23. Records of independent state agencies if the disclosure of the records would conflict with the fiduciary duties of the agency;
  24. 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;
  14. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
  15. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;
  16. Records disclosing an attorney's work product, including the 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### Chapter 4.03

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## DISCLOSURE OF RECORDS

Sections:

- 4.03.010 Disclosure of public records.
- 4.03.020 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.
  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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

- 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 unemancipated minor who is the subject of the record;
  3. The legal guardian of a legally

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

- 4.03.010 Disclosure of public records.

Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the payment of costs and fees pursuant to Section 4.05.030. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

- 4.03.020 Disclosure of non-public records.

- 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

- 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

- 4.03.050 Disclosure of protected records.

Upon request the city shall disclose a protected record to:

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.03.060 Additional limitations on

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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 purposes 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;

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.

- 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 and 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

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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. (Ord. no. 6-93, amended 3-93, effective date 3-23-93.)

### 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. (Ord. no. 9-92, enacted 10-7-

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.03.100 Disclosure pursuant to court order.

The city shall disclose a record pursuant to

92, effective date 9-21-92.)

### 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;

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(l) 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 4.020.040(2), the court has authority to order disclosure, independent of the Lindon City Code. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### Chapter 4.04

#### REQUESTS FOR RECORDS

Sections:

4.04.010	Form of requests.
4.04.020	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 Form of requests.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

4.04.020 City's response to requests.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

4.04.030 Presumption of public benefit.

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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;
8. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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:

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
  - 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.04.060 Effect of failure to disclose

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

## Chapter 4.05

### RECORDS RETENTION

Sections:

4.05.010	Records retention.
4.05.020	Segregation of records.
4.05.030	Fees.
4.05.040	Fee waivers.
4.05.050	Circumstances under which fee may not be charged.

### 4.05.010 Records retention.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.05.020 Segregation of records.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.05.030 Fees.

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

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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

The city may not charge a fee for reviewing a 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.06.020 Appeal from claim of extraordinary circumstances.

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

record to determine whether it is subject to disclosure, or for inspecting a record. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

## Chapter 4.06

### APPEALS

#### Sections:

4.06.010	Notice of Appeal.
4.06.020	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 Notice of Appeal.

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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
  1. A notice of appeal to the city council must be filed with the city recorder no later than 30 days after the mayor has denied the appeal or fails to make a determination within the time specified in Subsection 4.06.040(1). 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.
  2. No less than three business days after receiving a notice of appeal, the recorder shall schedule a hearing for the city council to discuss the appeal, which hearing shall be held not sooner than 15 days and not later than 30 days from the date of the filing of the appeal.
  3. At the hearing, the city council shall allow the parties to testify, present evidence, and comment on the issues. The city council may allow other interested parties

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.06.050 Appeal of mayor's determination to city council.

Any participant in the mayor's initial determination may appeal the mayor's decision to the city council. The appeal to the city council shall be conducted as follows:

to comment on the issues.

4. No later than three business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part. The order of the city council shall include:
  - a. A statement of reasons for the decision, including citations to this title or other state or federal laws or regulations that govern disclosure of the records, provided the citations do not disclose private, controlled, or protected information;
  - b. A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled, or protected information;
  - c. A statement that any party to the appeal may appeal the city's decision to the district court; and

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- d. A brief summary of the appeal, and a notice that to protect its rights on appeal the party may wish to seek advice from an attorney. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.06.060 Appeal of classification determination.

A person aggrieved by the city's classification or designation determination under this title, but who is not requesting access to the records, may appeal that determination using the procedures provided in this chapter. If a non-requestor is the only appellant, the procedures provided in this chapter shall apply, except that the determination on the appeal shall be made within 30 days after receiving the notice of appeal. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 4.06.070 Judicial review.

Any party to a proceeding before the city council may petition the district court for judicial review of the city council's order. The petition shall be filed no later than 30 days after the date of the city council's order. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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:

## 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)
  - 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

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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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

- 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 state

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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,

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

### 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.                  |
| 4.08.010 | 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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)

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. (Ord. no. 9-92, enacted 10-7-92, effective date 9-21-92.)