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WEST VALLEY CITY, UTAH
ORDINANCE NO. 05 - 52

Draft Date: 11/08/2005
Date Adopted: 12/06/05
Date Effective: 12/13/05

AN ORDINANCE REWRITING CHAPTER 3-16 OF TITLE
3 OF THE WEST VALLEY CITY MUNICIPAL CODE BY
REPEALING AND AMENDING SPECIFIC SECTIONS
REGARDING GOVERNMENT RECORDS ACCESS
MANAGEMENT ACT (GRAMA).

WHEREAS, State law governs governmental records access management and is explicit in the items that municipalities may vary from the state law regulations; and

WHEREAS, State law regarding record access is constantly changing and the corresponding sections of the City code have historically not been changed to match state law; and

WHEREAS, State law ultimately preempts a municipality from handling government records in a manner other than the requirements set forth in the state code; and

WHEREAS, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to rewrite Chapter 3-16 of Title 3 of the West Valley City Municipal Code by repealing and amending specific sections regarding GRAMA;

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

Section 1. Repealer. Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

Section 2. Amendment. Chapter 3-16 of Title 3 of the West Valley City Municipal Code is hereby amended as follows:

**Chapter 3-16
GOVERNMENT RECORDS ACCESS
MANAGEMENT ACT**

Sections:

3-16-100 PART 1 - WEST VALLEY CITY "GRAMA" ACT RECORDS

3-16-101 SHORT TITLE.

3-16-102 PURPOSE AND INTENT.

3-16-103 DEFINITIONS REPEALED.

3-16-104 CITY RECORDS OFFICER: DESIGNATION AND DUTIES.

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57 3-16-203 ~~ACCESS TO PRIVATE, CONTROLLED OR PROTECTED RECORDS REPEALED.~~

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59 3-16-205 ~~CERTIFIED COPY OF A RECORD REPEALED.~~

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67 3-16-213 ~~DISCLOSURE OF NON-PUBLIC RECORDS REPEALED.~~

68 3-16-214 ~~MULTIPLE SUBJECTS IN ONE RECORD REPEALED.~~

69 3-16-215 ~~DISCLOSURE TO RECORDS ANOTHER GOVERNMENTAL ENTITY~~
70 ~~REPEALED.~~

71 3-16-216 ~~DISCLOSURE OF RECORDS UNDER COURT ORDER REPEALED.~~

72 3-16-217 ~~DISCLOSURE OF PRIVATE OR CONTROLLED RECORDS FOR RESEARCH~~
73 ~~PURPOSES REPEALED.~~

74 3-16-218 ~~DISCLOSURE OF RECORDS TO OTHER THAN THOSE SPECIFIED IN THIS~~
75 ~~CHAPTER REPEALED.~~

76 3-16-219 ~~SHARING RECORDS WITH GOVERNMENTAL ENTITIES REPEALED.~~

77 3-16-220 ~~CONFIDENTIALITY AGREEMENTS REPEALED.~~

78 3-16-221 ~~SUBPOENAS; DISCOVERY REQUESTS REPEALED.~~

79 3-16-222 ~~REASONABLE ACCOMMODATION REPEALED.~~

80 3-16-300P PART 3—NON-PUBLIC RECORDS REPEALED

81 3-16-301 ~~CLASSIFICATION, DESIGNATION AND RETENTION OF RECORDS REPEALED.~~

82 3-16-302 ~~NON-PUBLIC RECORDS REPEALED.~~

83 3-16-303 ~~PUBLIC RECORDS REPEALED.~~

84 3-16-304 ~~PRIVATE RECORDS REPEALED.~~

85 3-16-305 ~~CONTROLLED RECORDS REPEALED.~~

86 3-16-306 ~~PROTECTED RECORDS REPEALED.~~

87 3-16-307 ~~SEGREGATION OF RECORDS REPEALED.~~

88 3-16-308 ~~BUSINESS CONFIDENTIALITY CLAIMS REPEALED.~~

89 3-16-309 ~~CONFIDENTIAL TREATMENT OF RECORDS FOR WHICH NO EXEMPTION~~
90 ~~APPLIES REPEALED.~~

91 3-16-400P PART 4—PROCEDURE FOR ACCESS

92 3-16-401 ~~REQUEST FOR RECORD.~~

93 3-16-402 ~~RESPONSE TO REQUEST; EXPEDITED RESPONSE REPEALED.~~

94 3-16-403 ~~EXTRAORDINARY CIRCUMSTANCES REPEALED.~~

95 3-16-404 ~~FAILURE TO RESPOND DEEMED DENIAL REPEALED.~~

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97 3-16-406 ~~RECLASSIFICATION OF RECORDS REPEALED.~~

98 3-16-407 ~~FEES.~~

- 99 3-16-408 ~~DENIALS REPEALED.~~
 100 3-16-500P PART 5—APPEALS
 101 3-16-501 APPEAL TO CITY MANAGER.
 102 3-16-502 APPEAL TO THE CITY COUNCIL.
 103 3-16-503 JUDICIAL REVIEW.
 104 3-16-600P PART 6—ACCURACY OF RECORDS REPEALED
 105 3-16-601 ~~RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED REPEALED.~~
 106 3-16-602 ~~DISCLOSURE TO SUBJECT OF RECORDS—CONTEXT OF USE REPEALED.~~
 107 3-16-603 ~~AMENDMENTS TO RECORDS REPEALED.~~
 108 3-16-604 ~~REQUEST TO AMEND A RECORD; APPEALS REPEALED.~~
 109 3-16-700P PART 7—PENALTIES AND DEFENSES
 110 3-16-701 ~~CRIMINAL PENALTIES REPEALED.~~
 111 3-16-702 ~~LIABILITY FOR DAMAGES REPEALED.~~
 112 3-16-703 DISCIPLINARY ACTION.

113

114

115 3-16-100P PART 1 - WEST VALLEY CITY "GRAMA" ACT RECORDS

116

117 3-16-101. SHORT TITLE.

118

119 This Chapter shall be known as the West Valley City Government Records Access and Management
 120 Act.

121

122 3-16-102. PURPOSE AND INTENT.

123

124 ~~(1) West Valley City recognizes two fundamental constitutional rights: the right of privacy in~~
 125 ~~relation to personal data gathered by the City; and the public's right of access to information concerning~~
 126 ~~the conduct of the public's business. In enacting this Chapter, it is the intent of the West Valley City~~
 127 ~~Council to:~~

- 128 ~~—— (a) Establish fair information practices to prevent abuse of personal information by the City,~~
 129 ~~while protecting the public's right of easy and reasonable access to unrestricted public~~
 130 ~~records;~~
- 131 ~~—— (b) Specify those conditions under which the public interest in allowing restrictions on access to~~
 132 ~~records may outweigh the public's interest in access;~~
- 133 ~~—— (c) Provide guidelines of openness to government information and privacy of personal~~
 134 ~~information, consistent with nationwide standards;~~
- 135 ~~—— (d) Establish and maintain an active, continuing program for the economical and efficient~~
 136 ~~management of the City's records, as provided by this Chapter; and~~
- 137 ~~—— (e) Favor public access when, in the application of this Chapter, countervailing interests are of~~
 138 ~~equal weight.~~

139 ~~(2)~~ (1) It is the further purpose and intent of the West Valley City Council to provide, in accordance
 140 with the Government Records Access and Management Act, Chapter 2 of Title 63 of the Utah Code
 141 Annotated, 1953 as amended, an ordinance acknowledging and complying with said Act and providing
 142 for its application in the City. City departments shall comply with the provisions of this Chapter and shall
 143 also comply with other federal and state statutory and regulatory record-keeping requirements.

144

145 3-16-103. ~~DEFINITIONS REPEALED.~~

146

147 ~~As used in this Ordinance, the following definitions shall be applicable:~~

148 ~~—(1) “Act” shall refer to the Government Records Access and Management Act, Section 63-2-1, et~~
149 ~~seq., Utah Code Annotated, 1953 as amended.~~

150 ~~—(2) “Agency” shall refer to any office, department, division, section, staff office, board, committee~~
151 ~~or other division of a governmental entity, any public or private entity or person which contracts with the~~
152 ~~governmental entity to provide goods or services directly to the governmental entity or any private~~
153 ~~nonprofit entity that receives funds from the governmental entity.~~

154 ~~—(3) “Audit” means:~~

155 ~~— (a) A systematic examination of financial, management, program and related records for the~~
156 ~~purpose of determining the fair presentation of financial statements, adequacy of internal~~
157 ~~controls or compliance with laws and regulations; or~~

158 ~~— (b) A systematic examination of program procedures and operations for the purpose of~~
159 ~~determining their effectiveness, economy, efficiency and compliance with statutes and~~
160 ~~regulations.~~

161 ~~—(4) “Chronological logs” means the regular and customary summary records of law enforcement~~
162 ~~divisions and departments of the City and other public safety agencies that show the time and general~~
163 ~~nature of police, fire and paramedic calls, and any arrests or jail bookings made.~~

164 ~~—(5) “Classification,” “classify” and their derivative forms mean determining whether a record series,~~
165 ~~record or information within a record is public, private, controlled, protected or exempt from disclosure~~
166 ~~under Subsection 3-16-302(1)(b).~~

167 ~~—(6) (a) “Computer program” means a series of instructions or statements that permit the functioning~~
168 ~~of a computer system in a manner designed to provide storage, retrieval and manipulation of~~
169 ~~data from the computer system, and any associated documentation and source material that~~
170 ~~explain how to operate the computer program.~~

171 ~~— (b) “Computer program” does not mean:~~

172 ~~— (i) The original data, including numbers, text, voice, graphics and images;~~
173 ~~— (ii) Analysis, compilation and other manipulated forms of the original data produced by use~~
174 ~~of the program; or~~

175 ~~— (iii) The mathematical or statistical formulas (excluding the underlying mathematical~~
176 ~~algorithms contained in the program) that would be used if the manipulated forms of the~~
177 ~~original data were to be produced manually.~~

178 ~~—(7) (a) “Contractor” means:~~

179 ~~— (i) Any person who contracts with the City to provide goods or services directly to the City;~~
180 ~~or~~

181 ~~— (ii) Any private, nonprofit organization that receives funds from the City.~~

182 ~~— (b) “Contractor” does not mean a private provider.~~

183 ~~—(8) “Controlled” record means a record containing data on individuals that is controlled as provided~~
184 ~~by Section 3-16-305.~~

185 ~~—(9) “Data” shall refer to the individual entries (for example, birth date, address) in records.~~

186 ~~—(10) “Designation,” “designate” and their derivative forms mean indicating the primary classification~~
187 ~~that a majority of records in a record series would be given if classified, and the classification that other~~
188 ~~records typically present in the record series would reasonably be given if classified.~~

189 ~~—(11) “Dispose” means to destroy or render irretrievable or illegible a record or the information~~
190 ~~contained in it by any physical, electronic or other means, including unauthorized deletion or erasure of~~
191 ~~electronically recorded audio, visual, non-written formats, data processing or other records.~~

192 ~~—(12) “Government audit agency” means any governmental entity that conducts audits.~~

193 ~~—(13) (a) “Governmental entity” means:~~

194 ~~— (i) Executive department agencies of the state, the offices of the governor, lieutenant~~
195 ~~governor, state auditor, attorney general and state treasurer, the board of pardons, the~~

196 board of examiners, the national guard, the career service review board, the state board of
197 education, the state board of regents and the state archives;
198 ~~(ii) The office of the legislative auditor general, office of the legislative fiscal analyst, office~~
199 ~~of legislative research and general counsel, the legislature and legislative committees,~~
200 ~~except any political party, group, caucus or rules or sifting committee of the legislature;~~
201 ~~(iii) Courts, the judicial council, the office of the court administrator and similar~~
202 ~~administrative units in the judicial branch;~~
203 ~~(iv) Any state funded institution of higher education or public education; or~~
204 ~~(v) Any political subdivision of the state; or~~
205 ~~(vi) the City.~~
206 ~~(b) "Governmental entity" also means every office, agency, board, bureau, committee,~~
207 ~~department, advisory board or commission, of the entities listed in paragraph (13)(a) above,~~
208 ~~that is funded or established by the government to carry out the public's business.~~
209 ~~(14) "Gross compensation" means every form of remuneration payable for a given period to an~~
210 ~~individual for services provided, including salaries, commissions, vacation pay, severance pay, bonuses~~
211 ~~and any board, rent, housing, lodging, payments in kind and any similar benefit received from the~~
212 ~~individual's employer.~~
213 ~~(15) "Individual" means a human being.~~
214 ~~(16) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared~~
215 ~~by peace officers engaged in public patrol or response duties, describing official actions initially~~
216 ~~taken in response to either a public complaint about or the discovery of an apparent violation of~~
217 ~~law, which report may describe:~~
218 ~~(i) The date, time, location and nature of the complaint, the incident or offense;~~
219 ~~(ii) Names of victims;~~
220 ~~(iii) The nature or general scope of the City's initial actions taken in response to the incident;~~
221 ~~(iv) The general nature of any injuries or estimate of damages sustained in the incident;~~
222 ~~(v) The name, address and other identifying information about any person arrested or~~
223 ~~charged in connection with the incident;~~
224 ~~(vi) The identity of the public safety personnel (except undercover personnel) or prosecuting~~
225 ~~attorney involved in responding to the initial incident.~~
226 ~~(b) "Initial contact reports" do not include follow-up or investigative reports prepared after the~~
227 ~~initial contact report. However, if the information specified in paragraph (a) above appears in~~
228 ~~follow-up or investigative reports, it may only be treated confidentially if it is private,~~
229 ~~controlled, protected or exempt from disclosure under Subsection 3-16-302(1)(b)......~~
230 ~~(17) "Non public" records shall refer to those records defined as private, controlled, protected or~~
231 ~~exempt from disclosure, either under Subsection 3-16-302(1)(b) or under other provisions of this Chapter.~~
232 ~~(18) "Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship or~~
233 ~~other type of business organization.~~
234 ~~(19) "Private provider" means any person who contracts with the City to provide services directly to~~
235 ~~the public.~~
236 ~~(20) "Private record" means a record containing data on individuals that is private as provided by~~
237 ~~Section 3-16-304.~~
238 ~~(21) "Protected record" means a record that is classified protected as provided by Section 3-16-306.~~
239 ~~(22) "Public record" means a record that is not private, controlled or protected, and that is not exempt~~
240 ~~from disclosure as provided in Subsection 3-16-302(1)(b).~~
241 ~~(23) (a) "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards,~~
242 ~~tapes, recordings, electronic data or other documentary materials, regardless of physical form~~
243 ~~or characteristics:~~

- 244 ~~(i) Which are prepared, owned, received or retained by the City, another governmental entity~~
 245 ~~or political subdivision; and~~
 246 ~~(ii) Where all of the information in the original is reproducible by photocopy or other~~
 247 ~~mechanical or electronic means.~~
 248 ~~(b) "Record" does not mean:~~
 249 ~~(i) Temporary drafts or similar materials prepared for the originator's personal use or~~
 250 ~~prepared by the originator for the personal use of an individual for whom he is working;~~
 251 ~~(ii) Materials that are legally owned by an individual in his private capacity;~~
 252 ~~(iii) Materials to which access is limited by the laws of copyright or patent, unless the~~
 253 ~~copyright or patent is owned by the City;~~
 254 ~~(iv) Proprietary software;~~
 255 ~~(v) Junk mail or commercial publications received by the City or an official or employee of~~
 256 ~~the City;~~
 257 ~~(vi) Books and other materials that are cataloged, indexed or inventories and contained in the~~
 258 ~~collections of libraries open to the public, regardless of physical form or characteristics of~~
 259 ~~the material;~~
 260 ~~(vii) Daily calendars and other personal notes prepared by the originator for the originator's~~
 261 ~~personal use or for the personal use of an individual for whom he is working;~~
 262 ~~(viii) Computer programs, as defined in paragraph (4) above, that are developed or purchased~~
 263 ~~by or for any governmental entity for its own use; or~~
 264 ~~(ix) Notes or internal memoranda prepared as part of the deliberative process by a member of~~
 265 ~~the judiciary, an administrative law judge, a member of the Board of Pardons or a~~
 266 ~~member of any other body charged by law with performing a quasi-judicial function.~~
 267 ~~(24) "Record series" means a group of records that may be treated as a unit for purposes of~~
 268 ~~designation, description, management or disposition.~~
 269 ~~(25) "Schedule," "scheduling" and their derivative forms mean the process of specifying the length of~~
 270 ~~time each record series should be retained by a governmental entity for administrative, legal, fiscal or~~
 271 ~~historical purposes, and when each record series should be transferred to the state archives or destroyed.~~
 272 ~~(26) "State archives" means the division of archives and records service created in Section 63-2-901 of~~
 273 ~~the Act.~~
 274 ~~(27) "Summary data" means statistical records and compilations that contain data derived from~~
 275 ~~private, controlled or protected information, but that do not disclose private, controlled or protected~~
 276 ~~information.~~

277
 278 **3-16-104. CITY RECORDS OFFICER; DESIGNATION AND DUTIES.**
 279

- 280 (1) The City Recorder is hereby appointed as the Records Officer to oversee and coordinate records
 281 access and management and City archives activities.
 282 (2) The Records Officer shall:
 283 (a) Make annual reports of records services activities to the City Council, as requested;
 284 (b) Provide training relative to records management, maintenance and access, to the various City
 285 departments, as necessary;
 286 (c) Establish and maintain an active, continuing program for the economical and efficient
 287 management of the City's records as provided by this Chapter;
 288 (d) Make and maintain adequate and proper documentation of the organization, functions,
 289 policies, decisions, procedures and essential transactions of the City designed to furnish
 290 information to protect the legal and financial rights of persons directly affected by the City's
 291 activities;
 292 (e) Submit to the state archivist proposed schedules of records;

- 293 (f) Cooperate with the state archivist in conducting surveys made by the state archivist;
294 (g) Evaluate all record series that the City uses or creates and report to the state archives the
295 classification of each record series that is classified;
296 (h) Establish and report, to the state archives, retention schedules for objects that the City
297 determines are not records, but that have historical or evidentiary value; and
298 (i) Designate those record series as required by this Chapter and report the designations of
299 its record series to the state archives.
- 300 (3) The Records Officer may classify a particular record, record series or information within a record
301 at any time, but is not required to classify a particular record, record series or information until access to
302 the record is requested.
- 303 (4) The Records Officer may redesignate a record series or reclassify a record, record series or
304 information within a record at any time.
- 305 (5) The Records Officer shall file with the state archives a copy of any amendment to this Ordinance,
306 no later than 30 days after its effective date.

307 **3-16-105. RECORDS MAINTENANCE PROCEDURES.**

308 Records maintenance procedures shall be developed by the Records Officer to ensure that due care is
309 taken to maintain and preserve City records safely and accurately over the long term. The Records
310 Officer shall be responsible for monitoring the application and use of technical processes in the creation,
311 duplication and disposal of City Records, and shall monitor compliance with the required standards of
312 quality, permanence and admissibility pertaining to the creation, use and maintenance of records.

313 **3-16-106. STORAGE MEDIUM.**

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

321
322 **3-16-107. METHODS OF ACCESS REPEALED.**

323
324 ~~The methods of access to records in non-written formats or data processing systems shall be as~~
325 ~~determined appropriate by the City. Access may include, but not be limited to, the following:~~

326 ~~(1) By using a City computer terminal or other viewing or listening device to retrieve data directly~~
327 ~~from the terminal screen or device; provided, however, that due regard shall be exercised to ensure that~~
328 ~~any non-public records will not be accessed, retrieved or displayed on the device and that records are not~~
329 ~~erased or damaged;~~

330 ~~(2) By providing paper or "hard" copies of record printouts or providing magnetic tapes, disks or~~
331 ~~other means of electronic storage containing a non-written format or data processing system records; or~~

332 ~~(3) By the use, where appropriate, of remote terminals which have access to City computer data~~
333 ~~processing or electronic information systems.~~

334
335 **3-16-108. COMPUTER SOFTWARE PROGRAMS REPEALED.**

336
337 ~~Computer software programs are not considered records. Software programs shall not be subject to~~
338 ~~disclosure under this Chapter, including copyrighted software and other copyrighted materials which have~~

339 been purchased by or licensed to the City, and software and other materials which have been copyrighted
340 by the City.

341
342 **3-16-109. OWNERSHIP OF RECORDS ~~REPEALED~~**

343
344 ~~—(1)—All City records which constitute valuable intellectual property shall remain the property of the~~
345 ~~City, unless federal or state legal authority provides otherwise. All other records shall be the property of~~
346 ~~the State of Utah.~~

347 ~~—(2)—Property rights to City records may not be permanently transferred from the City to any private~~
348 ~~individual or entity, including those legally obsolete City records. This prohibition does not include the~~
349 ~~providing of record copies for release or distribution under this Chapter.~~

350 ~~—(3)—The state archives may, upon request from the City, take custody of any record series of the City.~~
351 ~~When the City no longer wishes to maintain custody of a record which must be retained under the~~
352 ~~approved retention schedule, the City shall transfer it to the state archives for safekeeping and~~
353 ~~management.~~

354 ~~—(4)—It is unlawful for any person to mutilate, destroy or otherwise damage or dispose of a record~~
355 ~~series in contravention of the properly adopted retention schedule.~~

356
357 **3-16-110. RIGHT TO REPLEVIN ~~REPEALED~~**

358
359 ~~—To secure the safety and preservation of records, the state archivist or his representative may examine~~
360 ~~all records. On behalf of the state archivist, the attorney general may replevin any records that are not~~
361 ~~adequately safeguarded.~~

362
363 **3-16-200P PART 2—ACCESS AND DISCLOSURE OF RECORDS**

364
365 **3-16-201. ACCESS TO PUBLIC RECORDS; RIGHT TO INSPECT AND RECEIVE COPIES.**

366
367 Every person has a right to inspect a public record, free of charge, and has the right to take a copy of a
368 public record during normal City business hours, subject to the payment of costs and fees as set forth in
369 this Chapter.

370
371 **3-16-202. RIGHT OF PERSONAL PRIVACY ~~REPEALED~~**

372
373 ~~—(1)—The City recognizes and upholds the personal right of privacy retained by persons who may be~~
374 ~~the subject of governmental records. The City also recognizes that the Act and Utah case law establish a~~
375 ~~presumption that governmental records will generally be considered open and public, with certain specific~~
376 ~~exceptions. In circumstances where a record's public or non-public status is not specifically established~~
377 ~~by the Act or another statute, this Chapter or policies established or designations made under this Chapter,~~
378 ~~the public's right to access and the record subject's right of privacy must be compared. The City shall not~~
379 ~~classify as public or release any records, when to do so would constitute a clearly unwarranted invasion of~~
380 ~~personal privacy in accordance with this Chapter, applicable court rulings or other law. Under~~
381 ~~circumstances and procedures established by this Chapter, certain items of data may be rendered non-~~
382 ~~public, although other items of data in the record or the record itself may be classified public.~~

383 ~~—(2)—Written record requests are considered public documents and shall be maintained as such and~~
384 ~~made available upon request.~~

386 **3-16-203. ACCESS TO PRIVATE CONTROLLED OR PROTECTED RECORDS REPEALED**

387
388 ~~—(1) The disclosure of records to which access is governed or limited pursuant to court rule, another~~
389 ~~state statute, federal statute or federal regulation, including records for which access is governed or~~
390 ~~limited as a condition of participation in a state or federal program or for receiving state or federal funds,~~
391 ~~is governed by the specific provisions of that statute, rule or regulation.~~

392 ~~—(2) This Chapter applies to records described in paragraph (1) above, insofar as this Chapter is not~~
393 ~~inconsistent with the statute, rule or regulation.~~

394
395 **3-16-204. ACCESS GOVERNED BY OTHER LAW, RULE OR REGULATION REPEALED**

396
397 ~~—(1) The disclosure of records to which access is governed or limited pursuant to court rule, another~~
398 ~~state statute, federal statute or federal regulation, including records for which access is governed or~~
399 ~~limited as a condition of participation in a state or federal program or for receiving state or federal funds,~~
400 ~~is governed by the specific provisions of that statute, rule or regulation.~~

401 ~~—(2) This Chapter applies to records described in paragraph (1) above, insofar as this Chapter is not~~
402 ~~inconsistent with the statute, rule or regulation.~~

403 **3-16-205. CERTIFIED COPY OF A RECORD REPEALED**

404
405 ~~The City shall provide a person with a certified copy of a record, pursuant to the terms of this Chapter,~~
406 ~~if:~~

407 ~~—(1) The person requesting the record has a right to inspect it under this Chapter;~~

408 ~~—(2) The person identifies the record with reasonable specificity; and~~

409 ~~—(3) The person pays the lawful fees as provided by this Chapter.~~

410
411 **3-16-206. NO DUTY TO CREATE A RECORD.**

412
413 (1) The City has no obligation to create a record or a record series in response to a request, if the
414 record or record series requested is not otherwise regularly maintained or kept.

415 (2) Upon request, the City shall provide a record in a particular format if:

416 (a) The City is able to do so without unreasonably interfering with the City's duties and
417 responsibilities; and

418 (b) The requester agrees to pay the City for its additional costs actually incurred in providing the
419 record in the requested format.

420 (3) Nothing in this section requires the City to fulfill a person's record request if the request
421 unreasonably duplicates prior record requests from that person.

422
423 **3-16-207. FORM OF RECORD MAY NOT LIMIT ACCESS REPEALED**

424
425 ~~The City may not use the physical form, electronic or otherwise, in which a record is stored to deny or~~
426 ~~unreasonably hinder the rights of persons to inspect and receive copies of a record under this Chapter.~~

427
428 **3-16-208. OBLIGATION TO MAKE COPIES OF LARGE RECORDS.**

429
430 If a person requests copies of more than 50 pages of records, and, if the records are contained in files
431 that do not contain records that are exempt from disclosure, the City may:

432 (1) Provide the requester with the facilities for copying the requested records and require that the
433 requester make the copies himself; or

434 (2) Allow the requester to provide his own copying facilities and personnel to make the copies at the
435 City's offices and waive the fees for copying the records.
436

437 **3-16-209. INTELLECTUAL PROPERTY REPEALED**
438

439 ~~—(1) Intellectual property and/or computer software programs are not considered records. Such~~
440 ~~property and programs shall not be subject to disclosure under this Chapter, including copyrighted~~
441 ~~software and other copyrighted materials which have been purchased by or licensed to the City, and~~
442 ~~software and other materials or property which have been copyrighted by the City.~~

443 ~~—(2) Nothing in this Chapter shall be construed to limit or impair the rights or protections granted to~~
444 ~~the City under federal copyright or patent law as a result of its ownership of the intellectual property right.~~
445

446 **3-16-210. DISCLOSURE OF PRIVATE RECORDS REPEALED**
447

448 ~~—Upon request, the City shall disclose a private record to:~~

449 ~~—(1) The subject of the record;~~

450 ~~—(2) The parent or legal guardian of an un-emancipated minor who is the subject of the record;~~

451 ~~—(3) The legal guardian of a legally incapacitated individual who is the subject of the record;~~

452 ~~—(4) Any other individual who:~~

453 ~~— (a) Has a power of attorney from the subject of the record or;~~

454 ~~— (b) Submits a notarized release from the subject of the record or his legal representative, dated no~~
455 ~~more than 90 days before the date the request is made; or~~

456 ~~—(5) Any person to whom the record must be provided pursuant to court order as provided in Section~~
457 ~~3-16-216, or a legislative subpoena as provided in Chapter 14, Title 36, Utah Code Annotated, 1953 as~~
458 ~~amended.~~
459

460 **3-16-211. DISCLOSURE OF CONTROLLED RECORDS REPEALED**
461

462 ~~—(1) Upon request, the City shall disclose a controlled record to:~~

463 ~~— (a) A physician, psychologist or certified social worker, upon submission of a notarized release~~
464 ~~from the subject of the record that is dated no more than 90 days prior to the date the request~~
465 ~~is made, and a signed acknowledgment of the terms of disclosure of controlled information as~~
466 ~~provided by paragraph (b) below; and~~

467 ~~— (b) Any person to whom the record must be disclosed pursuant to court order as provided in~~
468 ~~Section 3-16-216, or a legislative subpoena as provided in Chapter 14, Title 36, Utah Code~~
469 ~~Annotated, 1953 as amended.~~

470 ~~—(2) A person who receives a record from a governmental entity in accordance with this section may~~
471 ~~not disclose controlled information from that record to any person, including the subject of the record.~~
472

473 **3-16-212. DISCLOSURE OF PROTECTED RECORDS REPEALED**
474

475 ~~—Upon request, the City shall disclose a protected record to:~~

476 ~~—(1) The person who submitted the record;~~

477 ~~—(2) Any other individual who:~~

478 ~~— (a) Has a power of attorney from all persons, governmental entities or political subdivisions~~
479 ~~whose interests were sought to be protected by the protected classification; or~~

480 ~~— (b) Submits a notarized release from all persons, governmental entities or political subdivisions~~
481 ~~whose interests were sought to be protected by the protected classification, or from their legal~~
482 ~~representatives, dated no more than 90 days prior the date the request is made; or~~

483 —(3) Any person to whom the record must be provided pursuant to a court order as provided in Section
484 3-16-216, or a legislative subpoena as provided in Chapter 14, Title 36, Utah Code Annotated, 1953 as
485 amended.

486
487 **3-16-213. DISCLOSURE OF NON-PUBLIC RECORDS REPEALED.**

488
489 —Under circumstances set out in this Chapter, it may be appropriate to disclose non public records to
490 persons other than those set out in this Chapter. The determination to so release such records shall be
491 made by the Records Officer, consistent with this Chapter and upon the advice of the City Attorney.

492
493 **3-16-214. MULTIPLE SUBJECTS IN ONE RECORD REPEALED.**

494
495 —If there is more than one subject of a private, controlled, protected or non public record, the portion of
496 the record that pertains to another subject shall be segregated from the portion that the requester is entitled
497 to inspect.

498
499 **3-16-215. DISCLOSURE TO RECORDS ANOTHER GOVERNMENTAL ENTITY**
500 **REPEALED.**

501
502 —The City may disclose a private, controlled or protected record to another governmental entity, political
503 subdivision, another state, the United States or a foreign government only as provided by Section 3-16-
504 219.

505 **3-16-216. DISCLOSURE OF RECORDS UNDER COURT ORDER REPEALED.**

506
507 —The City shall disclose a record pursuant to the terms of a court order signed by a judge from a court of
508 competent jurisdiction, provided that:

509 —(1) The record deals with a matter in controversy over which the court has jurisdiction;

510 —(2) The court has considered the merits of the request for access to the record; and

511 —(3) The court has considered and, where appropriate, limited the requester's use and further disclosure
512 of the record in order to protect privacy interests in the case of private or controlled records, business
513 confidentiality interests in the case of records protected under Subsections 3-16-306(1) and (2), and
514 privacy interests or the public interest in the case of other protected records;

515 —(4) To the extent the record is properly classified private, controlled or protected, the interests
516 favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and

517 —(5) Where access is restricted by a rule, statute or regulation referred to in Subsection 3-16-302(1)(b),
518 the court has authority independent of this Chapter to order disclosure

519
520 **3-16-217. DISCLOSURE OF PRIVATE OR CONTROLLED RECORDS FOR RESEARCH**
521 **PURPOSES REPEALED.**

522
523 —(1) The City may disclose or authorize disclosure of private or controlled records for research
524 purposes, if the City:

525 —(a) Determines that the research purpose cannot reasonably be accomplished without use or
526 disclosure of the information to the researcher in individually identifiable form;

527 —(b) Determines that the proposed research is bona fide, and that the value of the research
528 outweighs the infringement upon personal privacy;

529 —(c) Requires the researcher to assure the integrity, confidentiality and security of the records, and
530 requires the removal or destruction of the individual identifiers associated with the records as
531 soon as the purpose of the research project has been accomplished;

- 532 ~~———— (d) Prohibits the researcher from disclosing the record in individually identifiable form, except as~~
533 ~~provided in paragraph (b) above, or from using the record for purposes other than the~~
534 ~~research approved by the governmental entity; and~~
535 ~~———— (e) Secures from the researcher a written statement of his understanding of and agreement to the~~
536 ~~conditions of this section, and his understanding that violation of the terms of this Section~~
537 ~~may subject him to criminal prosecution under this Chapter or the Act.~~
538 ~~———— (2) A researcher may disclose a record in individually identifiable form if the record is disclosed for~~
539 ~~the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the~~
540 ~~record in individually identifiable form will be made by the auditor or evaluator except as provided by~~
541 ~~this Section.~~
542 ~~———— (3) The City may require indemnification as a condition of permitting research under this Section.~~
543

544 **3-16-218. DISCLOSURE OF RECORDS TO OTHER THAN THOSE SPECIFIED IN THIS**
545 ~~CHAPTER REPEALED~~
546

- 547 ~~———— (1) Under Subsections 3-16-203(2) and 3-16-501(6), the City may disclose records that are private~~
548 ~~under Section 3-16-304 or protected under Section 3-16-306 to persons other than those specified in this~~
549 ~~Section.~~
550 ~~———— (2) Under Subsection 3-16-502(8), the City Council may require the disclosure of records that are~~
551 ~~private under Section 3-16-304, controlled under Section 3-16-305 or protected under Section 3-16-306,~~
552 ~~to persons other than those specified in this Section.~~
553 ~~———— (3) Under Subsection 3-16-503(6), the court may require the disclosure of records that are private~~
554 ~~under Section 3-16-304, controlled under Section 3-16-305 or protected under Section 3-16-306 to~~
555 ~~persons other than those specified in this Section.~~
556

557 **3-16-219. SHARING RECORDS WITH GOVERNMENTAL ENTITIES REPEALED**
558

- 559 ~~———— (1) The City may provide a record that is private, controlled or protected to another governmental~~
560 ~~entity, a government managed corporation, a political subdivision, the federal government or another~~
561 ~~state if the requesting entity:~~
562 ~~———— (a) Serves as a repository or archives for purposes of historical preservation, administrative~~
563 ~~maintenance or destruction;~~
564 ~~———— (b) Enforces, litigates or investigates civil, criminal or administrative law, and the record is~~
565 ~~necessary to a proceeding or investigation;~~
566 ~~———— (c) Is authorized by state statute to conduct an audit, and the record is needed for that purpose; or~~
567 ~~———— (d) Is one that collects information for pre-sentence, probationary or parole purposes.~~
568 ~~———— (2) The City may provide a private or controlled record or record series to another governmental~~
569 ~~entity, a political subdivision, a government managed corporation, the federal government or another~~
570 ~~state if the requesting entity provided written assurance:~~
571 ~~———— (a) That the record or record series is necessary to the performance of the governmental entity's~~
572 ~~duties and functions;~~
573 ~~———— (b) That the record or record series will be used for a purpose similar to the purpose for which~~
574 ~~the information in the record or record series was collected or obtained; and~~
575 ~~———— (c) That the use of the record or record series produces a public benefit that outweighs the~~
576 ~~individual privacy right that protects the record or record series.~~
577 ~~———— (3) The City may provide a record or record series that is protected under Subsections 3-16-306(1) or~~
578 ~~(2) to another governmental entity, a political subdivision, a government managed corporation, the~~
579 ~~federal government or another state if:~~
580 ~~———— (a) The record is necessary to the performance of the requesting entity's duties and functions; or~~

- 581 ——— (b) The record will be used for a purpose similar to the purpose for which the information in the
582 record or record series was collected or obtained.
- 583 —(4) The City shall provide a private, controlled or protected record to another governmental entity, a
584 political subdivision, a government managed corporation, the federal government or another state if the
585 requesting entity:
- 586 ——— (a) Is entitled by law to inspect the record; or
587 ——— (b) Is required to inspect the record as a condition of participating in a state or federal program,
588 or for receiving state or federal funds.
- 589 —(5) Before disclosing a record or record series under this section to another governmental entity,
590 another state, the United States or a foreign government, the City shall:
- 591 ——— (a) Inform the recipient of the record's classification and the accompanying restrictions on
592 access; and
593 ——— (b) If the recipient is not a governmental entity to which this Chapter applies, obtain the
594 recipient's written agreement, which may be by mechanical or electronic transmission, that it
595 will abide by those restrictions on access unless a statute, federal regulation or interstate
596 agreement otherwise governs the sharing of the record or record series.
- 597 —(6) The City may disclose a record to another state, the United States or a foreign government for the
598 reasons listed in paragraphs (1), (2) and (3) above, without complying with the procedures of paragraphs
599 (2) or (5) above, if disclosure is authorized by executive agreement, treaty, federal statute, compact,
600 federal regulation or state statute.
- 601 —(7) A governmental entity receiving a record under this section is subject to the same restrictions on
602 disclosure of the material as the City.
- 603 —(8) Notwithstanding any other provision of this section, if a more specific court rule or order, state
604 statute, federal statute or federal regulation prohibits or requires sharing information, that rule, order,
605 statute or federal regulation controls
- 606 —(9) The following records may not be shared under this section:
- 607 ——— (a) Records held by the Utah State Tax Commission that pertain to any person and that are
608 gathered under authority of Title 59, Revenue and Taxation;
609 ——— (b) Records held by the Utah Division of Oil, Gas and Mining that pertain to any person and that
610 are gathered under authority of Chapter 6, Title 40, Board and Division of Oil, Gas and
611 Mining; and
612 ——— (c) Records of publicly funded libraries as described in Subsection 3-16-304(1)(c).
- 613 —(10) Records that may evidence or relate to a violation of law may be disclosed to a government
614 prosecutor, peace officer or auditor.

615
616 **3-16-220. CONFIDENTIALITY AGREEMENTS REPEALED**

617
618 —If the City receives a request for a record that is subject to a confidentiality agreement executed before
619 April 1, 1992, the law in effect at the time the agreement was executed, including late judicial
620 interpretations of the law, shall govern access to the record, unless all parties to the confidentiality
621 agreement agree in writing to be governed by the provisions of this Chapter.

622
623 **3-16-221. SUBPOENAS; DISCOVERY REQUESTS REPEALED**

624
625 —Subpoenas and other methods of discovery under the state or federal statutes or rules of civil, criminal,
626 administrative or legislative procedure are not written requests under this Chapter. Compliance with civil,
627 eriminal, administrative and legislative discovery shall be governed by the applicable statutes and rules of
628 procedure, not by this Chapter.

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3-16-222. REASONABLE ACCOMMODATION REPEALED.

~~—Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with City policy and applicable law.~~

3-16-300P PART 3 NON-PUBLIC RECORDS REPEALED.

3-16-301. CLASSIFICATION, DESIGNATION AND RETENTION OF RECORDS REPEALED.

~~—(1) All City records and record series, of any format, shall be evaluated, designated, classified and scheduled for retention according to the provisions of this Chapter. The City may designate or redesignate or classify or reclassify records or data at any time, and is not required to classify a particular record or item of data until access thereto is requested. Any records or record series generated in the future shall also be so designated, classified and scheduled for retention. Records designation, classification and scheduling for retention shall be conducted under the supervision of, and proposed schedules submitted to, the Records Officer. Designation, classification and retention schedule forms and guidelines shall be prepared and made available by the Records Officer.~~

~~—(2) If more than one provision of this Chapter could govern the classification of a record, the City shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.~~

~~—(3) Nothing in Subsection 3-16-304(2), Section 3-16-305, or Section 3-16-306 requires the City to classify a record as private, controlled or protected.~~

3-16-302. NON-PUBLIC RECORDS REPEALED.

~~—(1) The following records are not public:~~

- ~~—(a) Records that are private, controlled or protected under this Part; and~~
- ~~—(b) 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.~~

~~—(2) Only those records specified in this Part may be classified private, controlled or protected.~~

3-16-303. PUBLIC RECORDS REPEALED.

~~—(1) The following records are public, except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 3-16-204(1) and 3-16-302(1)(b):~~

- ~~—(a) Laws;~~
- ~~—(b) 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:
 - ~~—(i) Undercover law enforcement personnel; and~~
 - ~~—(ii) Investigative personnel, if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;~~~~
- ~~—(c) 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~~

677 were properly closed to the public, the opinion and order may be withheld to the extent that
678 they contain information that is private, controlled or protected;

679 ~~_____ (d) Final interpretations of statutes or rules by the City, unless classified as protected as provided~~
680 ~~in Subsections 3-16-306(15), (16) and (17);~~

681 ~~_____ (e) Information contained in or compiled from a transcript, minutes or report of the open portions~~
682 ~~of a meeting of the City as provided by Chapter 4, Title 52, Open and Public Meetings, Utah~~
683 ~~Code Annotated, 1953 as amended, including the records of all votes of each member of the~~
684 ~~City;~~

685 ~~_____ (f) Judicial records, unless a court orders the records to be restricted under the rules of civil or~~
686 ~~criminal procedure, or unless the records are private under this Chapter;~~

687 ~~_____ (g) Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning~~
688 ~~commissions, the division of state lands and forestry, the division of oil, gas and mining, the~~
689 ~~division of water rights or other governmental entities that give public notice of:~~

690 ~~_____ (i) Titles or encumbrances to real property;~~
691 ~~_____ (ii) Restrictions on the use of real property;~~
692 ~~_____ (iii) The capacity of persons to take or convey title to real property; or~~
693 ~~_____ (iv) Tax status for real and personal property;~~

694 ~~_____ (h) Records of the department of commerce that evidence incorporations, mergers, name changes~~
695 ~~and uniform commercial code filings;~~

696 ~~_____ (i) Data on individuals that would otherwise be private under this Chapter, if the individual~~
697 ~~who is the subject of the record has given the City written permission to make the records~~
698 ~~available to the public;~~

699 ~~_____ (j) Documentation of the compensation that the City pays to a contractor or private provider; and~~
700 ~~_____ (k) Summary data.~~

701 ~~_____ (2) The following records are normally public, but to the extent that a record is expressly exempt~~
702 ~~from disclosure, access may be restricted under Subsections 3-16-302(1)(b) or Sections 3-16-304, 3-16-~~
703 ~~305 or 3-16-306:~~

704 ~~_____ (a) Administrative staff manuals, instructions to staff and statements of policy;~~
705 ~~_____ (b) Records documenting a contractor's or private provider's compliance with the terms of a~~
706 ~~contract with the City;~~

707 ~~_____ (c) Records documenting the services provided by a contractor or a private provider to the extent~~
708 ~~the records would be public if prepared by the City;~~

709 ~~_____ (d) Contracts entered into by the City;~~
710 ~~_____ (e) Any account, voucher or contract that deals with the receipt or expenditure of funds by the~~
711 ~~City;~~

712 ~~_____ (f) Records relating to government assistance or incentives publicly disclosed, contracted for or~~
713 ~~given by the City encouraging a person to expand or relocate a business in Utah, except as~~
714 ~~provided in Subsection 3-16-306(34);~~

715 ~~_____ (g) Chronological logs and initial contact reports;~~
716 ~~_____ (h) Correspondence by and with the City, in which the City determines or states an opinion upon~~
717 ~~the rights of the state, the City, a political subdivision, the public or any person;~~

718 ~~_____ (i) Empirical data contained in drafts if:~~

719 ~~_____ (i) The empirical data is not reasonably available to the requester elsewhere in similar form;~~
720 ~~and~~

721 ~~_____ (ii) The City is given a reasonable opportunity to correct any errors or make non-substantive~~
722 ~~changes before release;~~

723 ~~_____ (j) Drafts that are circulated to anyone other than:~~

724 ~~_____ (i) The City;~~
725 ~~_____ (ii) The state;~~

- 726 ~~_____ (iii) A federal agency, if the City and the federal agency are jointly responsible for~~
727 ~~_____ implementation of a program or project that has been legislatively approved;~~
728 ~~_____ (iv) A government managed corporation; or~~
729 ~~_____ (v) A contractor or private provider;~~
730 ~~_____ (k) Drafts that have never been finalized, but were relied upon by the City in carrying out action~~
731 ~~_____ or policy;~~
732 ~~_____ (l) Original data in a computer program, if the City chooses not to disclose the program;~~
733 ~~_____ (m) Arrest warrants after issuance, except, that for good cause, a court may order restricted access~~
734 ~~_____ to arrest warrants prior to service;~~
735 ~~_____ (n) Search warrants after execution and filing of the return, except that a court, for good cause,~~
736 ~~_____ may order restricted access to search warrants prior to trial;~~
737 ~~_____ (o) Records that would disclose information relating to formal charges or disciplinary actions~~
738 ~~_____ against a past or present City employee if:~~
739 ~~_____ (i) The disciplinary action has been completed and all time periods for administrative appeal~~
740 ~~_____ have expired; and~~
741 ~~_____ (ii) The formal charges were sustained;~~
742 ~~_____ (p) Records maintained by the Division of State Lands and Forestry or the Division of Oil, Gas~~
743 ~~_____ and Mining that evidence mineral production on government lands;~~
744 ~~_____ (q) Final audit reports;~~
745 ~~_____ (r) Occupational and professional licenses;~~
746 ~~_____ (s) Business licenses; and~~
747 ~~_____ (t) A notice of violation, a notice of agency action under Section 63-46b-3, Utah Code~~
748 ~~_____ Annotated, 1953 as amended, or similar records used to initiate proceedings for discipline or~~
749 ~~_____ sanctions against persons regulated by the City, but not including records that initiate~~
750 ~~_____ employee discipline.~~
751 ~~_____ (3) The list of public records in this section is not exhaustive and should not be used to limit access to~~
752 ~~_____ records.~~

754 **3-16-304. PRIVATE RECORDS REPEALED**

- 756 ~~_____ (1) The following records are private:~~
757 ~~_____ (a) Records concerning an individual's eligibility for unemployment insurance benefits, social~~
758 ~~_____ services, welfare benefits or the determination of benefit levels;~~
759 ~~_____ (b) Records containing data on individuals describing medical history, diagnosis, condition,~~
760 ~~_____ treatment, evaluation or similar medical data;~~
761 ~~_____ (c) Records of publicly funded libraries that, when examined alone or with other records,~~
762 ~~_____ identify a patron;~~
763 ~~_____ (d) Records received or generated in a Senate or House ethics committee concerning any alleged~~
764 ~~_____ violation of the rules on legislative ethics, if the ethics committee meeting was closed to the~~
765 ~~_____ public; and~~
766 ~~_____ (e) Records concerning a current or former employee of, or applicant for employment with, the~~
767 ~~_____ City that would disclose that individual's home address, home telephone number, social~~
768 ~~_____ security number, insurance coverage, marital status or payroll deductions.~~
769 ~~_____ (2) The following records are private if properly classified by the City:~~
770 ~~_____ (a) Records concerning a current or former employee of, or applicant for employment with, the~~
771 ~~_____ City, including performance evaluation and personal status information such as race, religion~~
772 ~~_____ or disabilities, but not including records that are public under Subsections 3-16-303(1)(b) or~~
773 ~~_____ 3-16-303(o), or private under Subsection 3-16-304(1)(e).~~
774 ~~_____ (b) Records describing an individual's finances, except that the following are public:~~

- 775 ~~———— (i) Records described in Subsection 3-16-303(1);~~
- 776 ~~———— (ii) Information provided to the City for the purpose of complying with a financial assurance~~
- 777 ~~requirement; or~~
- 778 ~~———— (iii) Records that must be disclosed in accordance with another statute;~~
- 779 ~~———— (e) Records of independent state agencies, if the disclosure of those records would conflict with~~
- 780 ~~the fiduciary obligations of the agency;~~
- 781 ~~———— (d) Other records containing data on individuals, the disclosure of which constitutes a clearly~~
- 782 ~~unwarranted invasion of personal privacy; and~~
- 783 ~~———— (e) Records provided by the United States or by a governmental entity outside the state that are~~
- 784 ~~given with the requirement that the records be managed as private records, if the providing~~
- 785 ~~entity states in writing that the record would not be subject to public disclosure if retained by~~
- 786 ~~it.~~

788 **3-16-305. CONTROLLED RECORDS REPEALED.**

789 ~~—A record is controlled if:~~

- 791 ~~—(1) The record contains medical, psychiatric or psychological data about an individual;~~
- 792 ~~—(2) The City reasonably believes that:~~
 - 793 ~~———— (a) Releasing the information in the record to the subject of the record would be detrimental to~~
 - 794 ~~the subject's mental health or to the safety of any individual; or~~
 - 795 ~~———— (b) Releasing the information would constitute a violation of normal professional practice and~~
 - 796 ~~medical ethics; and~~
- 797 ~~—(3) The City has properly classified the record.~~

799 **3-16-306. PROTECTED RECORDS REPEALED.**

800 ~~—The following records are protected, if properly classified by the City:~~

- 802 ~~—(1) Trade secrets as defined in Section 13-24-2, Utah Code Annotated, 1953 as amended, if the~~
- 803 ~~person submitting the trade secret has provided the City with the information specified in Section 3-16-~~
- 804 ~~308;~~
- 805 ~~—(2) Commercial information or non-individual financial information obtained from a person if:~~
 - 806 ~~———— (a) Disclosure of the information could reasonably be expected to result in unfair competitive~~
 - 807 ~~injury to the person submitting the information, or would impair the ability of the City to~~
 - 808 ~~obtain necessary information in the future;~~
 - 809 ~~———— (b) The person submitting the information has a greater interest in prohibiting access than the~~
 - 810 ~~public in obtaining access; and~~
 - 811 ~~———— (c) The person submitting the information has provided the City with the information specified in~~
 - 812 ~~Section 3-16-308;~~
 - 813 ~~—(3) Commercial or financial information acquired or prepared by the City, to the extent that~~
 - 814 ~~disclosure would lead to financial speculations in currencies, securities or commodities that will interfere~~
 - 815 ~~with a planned transaction by the City or cause substantial financial injury to the City or state economy;~~
 - 816 ~~—(4) Test questions and answers to be used in future license, certification, registration, employment or~~
 - 817 ~~academic examinations;~~
 - 818 ~~—(5) Records, the disclosure of which would impair governmental procurement proceedings or give an~~
 - 819 ~~unfair advantage to any person proposing to enter into a contract or agreement with the City, except that~~
 - 820 ~~this section does not restrict the right of a person to see bids submitted to or by the City after bidding has~~
 - 821 ~~closed;~~

822 ~~—(6) Records that would identify real property or the appraisal or estimated value of real or personal~~
823 ~~property, including intellectual property under consideration for public acquisition, before any rights to~~
824 ~~the property are acquired, unless:~~
825 ~~— (a) Public interest in obtaining access to the information outweighs the City's need to acquire the~~
826 ~~property on the best terms possible;~~
827 ~~— (b) The information has already been disclosed to persons not employed by or under a duty of~~
828 ~~confidentiality to the City;~~
829 ~~— (c) In the case of records that would identify property, potential sellers of the described property~~
830 ~~have already learned of the City's plans to acquire the property; or~~
831 ~~— (d) In the case of records that would identify the appraisal or estimated value of property, the~~
832 ~~potential sellers have already learned of the City's estimated value of the property;~~
833 ~~—(7) Records prepared in contemplation of sale, exchange, lease, rental or other compensated~~
834 ~~transaction of real or personal property, including intellectual property, which, if disclosed prior to~~
835 ~~completion of the transaction, would reveal the appraisal or estimated value of the subject property,~~
836 ~~unless:~~
837 ~~— (a) The public interest in access outweighs the interests in restricting access, including the City's~~
838 ~~interest in maximizing the financial benefit of the transaction; or~~
839 ~~— (b) When prepared by or on behalf of the City, appraisals or estimates of the value of the subject~~
840 ~~property which have already been disclosed to persons not employed by or under a duty of~~
841 ~~confidentiality to the City.~~
842 ~~—(8) Records created or maintained for civil, criminal or administrative enforcement purposes or audit~~
843 ~~purposes, or for discipline, licensing, certification or registration purposes, if release of the records:~~
844 ~~— (a) Reasonably could be expected to interfere with investigations undertaken for enforcement,~~
845 ~~discipline, licensing, certification or registration purposes;~~
846 ~~— (b) Reasonably could be expected to interfere with audits, disciplinary or enforcement~~
847 ~~proceedings;~~
848 ~~— (c) Would create a danger of depriving a person of a right to a fair trial or impartial hearing;~~
849 ~~— (d) Reasonably could be expected to disclose the identity of a source who is not generally known~~
850 ~~outside of government, and, in the case of a record compiled in the course of an investigation,~~
851 ~~disclose information furnished by a source not generally known outside of government, if~~
852 ~~disclosure would compromise the source; or~~
853 ~~— (e) Reasonably could be expected to disclose investigative or audit techniques, procedures,~~
854 ~~policies or orders not generally known outside of government, if disclosure would interfere~~
855 ~~with enforcement or audit efforts;~~
856 ~~—(9) Records, the disclosure of which would jeopardize the life or safety of an individual;~~
857 ~~—(10) Records, the disclosure of which would jeopardize the security of City or other property,~~
858 ~~programs or record-keeping systems from damage, theft or other appropriation or use contrary to law or~~
859 ~~public policy;~~
860 ~~—(11) Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or~~
861 ~~records relating to incarceration, treatment, probation or parole that would interfere with the control and~~
862 ~~supervision of an offender's incarceration, treatment, probation or parole;~~
863 ~~—(12) Records that, if disclosed, would reveal recommendations made to the Board of Pardons by an~~
864 ~~employee of, or contractor for, the Department of Corrections, the Board of Pardons or the Department of~~
865 ~~Human Services that are based on the employee's or contractor's supervision, diagnosis or treatment of~~
866 ~~any person within the board's jurisdiction;~~
867 ~~—(13) Records and audit work papers that identify audit, collection and operational procedures and~~
868 ~~methods used by the Utah State Tax Commission, if disclosure would interfere with audits or collections;~~
869 ~~—(14) Records of a governmental audit agency relating to an ongoing or planned audit, until the final~~
870 ~~audit is released;~~

871 ~~—(15) Records prepared by or on behalf of the City, solely in anticipation of litigation, that are not~~
872 ~~available under the rules of discovery;~~
873 ~~—(16) Records disclosing an attorney’s work product, including the mental impressions or legal theories~~
874 ~~of an attorney or other representative of the City concerning litigation;~~
875 ~~—(17) Records of communications between the City and an attorney representing, retained or employed~~
876 ~~by the City, if the communications would be privileged as provided in Section 78-24-8, Utah Code~~
877 ~~Annotated, 1953 as amended;~~
878 ~~—(18) Personal files of a legislator, including personal correspondence to or from a member of the~~
879 ~~Legislature, but not correspondence that gives notice of legislative action or policy;~~
880 ~~—(19) Unnumbered bill requests that are requested to be protected by the legislator who requests that the~~
881 ~~bill be prepared by the Office of Legislative Research and General Counsel; [S.B. 175: “records in the~~
882 ~~custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would~~
883 ~~reveal a particular legislator’s contemplated legislation or contemplated course of action before the~~
884 ~~legislator has elected to support the legislation or course of action, or made the legislation or course of~~
885 ~~action public;”];~~
886 ~~—(20) Research requests from legislators to the Office of Legislative Research and General Counsel or~~
887 ~~the Office of the Legislative Fiscal Analyst, and research findings prepared in response to these requests;~~
888 ~~—(21) Drafts, unless otherwise classified as public;~~
889 ~~—(22) Records concerning the City’s strategy about collective bargaining or pending litigation;~~
890 ~~—(23) Records of investigations of loss occurrences and analyses of loss occurrences that may be~~
891 ~~covered by the Utah Risk Management Mutual Association, the City’s insurance carriers and insurance~~
892 ~~administrators, the City’s self-insured retention funds or any other similar entities or funds;~~
893 ~~—(24) Records, other than personnel evaluations, that contain a personal recommendation concerning an~~
894 ~~individual, if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure~~
895 ~~is not in the public interest;~~
896 ~~—(25) Records that reveal the location of historic, prehistoric, paleontological or biological resources~~
897 ~~that, if known, would jeopardize the security of those resources, or of valuable historic, scientific,~~
898 ~~educational or cultural information;~~
899 ~~—(26) Records of independent state agencies, if the disclosure of the records would conflict with the~~
900 ~~fiduciary obligations of the agency;~~
901 ~~—(27) Records of a public institution of higher education regarding tenure evaluations, appointments,~~
902 ~~applications for admissions, retention decisions and promotions which could be properly discussed in a~~
903 ~~meeting closed in accordance with Chapter 4, Title 52, Open and Public Meetings, provided that records~~
904 ~~reflecting final decisions about tenure, appointments, retention, promotions or those students admitted~~
905 ~~may not be classified as protected under this section;~~
906 ~~—(28) Records of the governor’s office, including, but not limited to, budget recommendations,~~
907 ~~legislative proposals and policy statements that, if disclosed, would reveal the governor’s contemplated~~
908 ~~policies or contemplated courses of action before the governor has implemented or rejected those policies~~
909 ~~or courses of action or made them public;~~
910 ~~—(29) Records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue~~
911 ~~estimates and fiscal notes of proposed legislation, before issuance of the final recommendations in these~~
912 ~~areas; and~~
913 ~~—(30) Records provided by the United States or by a governmental entity outside the state that are given~~
914 ~~to the City with a requirement that they be managed as protected records, if the providing entity certifies~~
915 ~~that the record would not be subject to public disclosure if retained by it;~~
916 ~~—(31) Transcripts, minutes or reports of the closed portion of a meeting of the City Council or other~~
917 ~~public body, except as provided in Section 52-4-7 of the Open and Public Meetings Act, Utah Code~~
918 ~~Annotated, 1953 as amended;~~

- 919 ~~—(32) Records that would reveal the contents of settlement negotiations, but not including final~~
 920 ~~settlements or empirical data to the extent that they are not otherwise exempt from disclosure;~~
 921 ~~—(33) Memoranda prepared by staff and used in the decision making process by an administrative law~~
 922 ~~judge, a member of the Board of Pardons or a member of any other body charged by law with performing~~
 923 ~~a quasi-judicial function;~~
 924 ~~—(34) Records that would reveal negotiations regarding assistance or incentives offered by or requested~~
 925 ~~from the City or another governmental entity for the purpose of encouraging a person to expand or locate~~
 926 ~~a business in Utah, but only if disclosure would result in actual economic harm to the person, or place the~~
 927 ~~City at a competitive disadvantage; but this section may not be used to restrict access to a record~~
 928 ~~evidencing a final contract;~~
 929 ~~—(35) Materials to which access must be limited for purposes of securing or maintaining the City's~~
 930 ~~proprietary protection of intellectual property rights, including patents, copyrights and trade secrets;~~
 931 ~~—(36) The name of a donor or a prospective donor to the City or another governmental entity, including~~
 932 ~~a public institution of higher education and other information concerning the donation that could~~
 933 ~~reasonably be expected to reveal the identity of the donor, provided that:~~
 934 ~~——— (a) The donor requests anonymity in writing;~~
 935 ~~——— (b) Any terms, conditions, restrictions or privileges relating to the donation may not be classified~~
 936 ~~protected by the City under this section;~~
 937 ~~——— (c) Except for public institutions of higher education, the governmental unit to which the~~
 938 ~~donation is made is primarily engaged in educational, charitable or artistic endeavors, and has~~
 939 ~~no regulatory or legislative authority over the donor, a member of his immediate family or~~
 940 ~~any entity owned or controlled by the donor or his immediate family;~~
 941 ~~—(37) The following records of a public institution of education which have been developed, discovered~~
 942 ~~or received by or on behalf of faculty, staff, employees or students of the institution:~~
 943 ~~——— (a) Unpublished lecture notes;~~
 944 ~~——— (b) Unpublished research notes and data;~~
 945 ~~——— (c) Unpublished manuscripts;~~
 946 ~~——— (d) Creative works in process;~~
 947 ~~——— (e) Scholarly correspondence; and~~
 948 ~~——— (f) Confidential information contained in research proposals.~~
 949 ~~—Nothing in this section shall be construed to affect the ownership of a record.~~

950
 951 **3-16-307. SEGREGATION OF RECORDS REPEALED.**
 952

- 953 ~~—Notwithstanding any other provision in this Ordinance, if the City receives a request for access to a~~
 954 ~~record that contains both information that the requester is entitled to inspect and information that the~~
 955 ~~requester is not entitled to inspect under this Chapter, and if the information the requester is entitled to~~
 956 ~~inspect is intelligible, the City:~~
 957 ~~—(1) Shall allow access to information in the record that the requester is entitled to inspect under this~~
 958 ~~Chapter; and~~
 959 ~~—(2) May deny access to information in the record, if the information is exempt from disclosure to the~~
 960 ~~requester, by issuing a notice of denial.~~

961
 962 **3-16-308. BUSINESS CONFIDENTIALITY CLAIMS REPEALED.**
 963

- 964 ~~—(1) (a) Any person who provides, to the City, a record that he believes should be protected under~~
 965 ~~Subsections 3-16-306(1) or (2) shall provide with the record a written claim of business~~
 966 ~~confidentiality and a concise statement of reasons supporting the claim of business~~
 967 ~~confidentiality.~~

968 ~~_____ (b) The claimant shall be notified by the City if a record claimed to be protected under~~
969 ~~Subsections 3-16-306(1) or (2) is classified public, or if the City determines that the record~~
970 ~~should be released after balancing interests under Subsections 3-16-203(2) or 3-16-501(6).~~
971 ~~_____ (2) Except as provided by court order, the City may not disclose records claimed to be protected~~
972 ~~under Subsections 3-16-306(1) or (2), but which it determines should be classified public, until the period~~
973 ~~in which to bring an appeal expires or the end of the appeals process, including judicial appeal. This~~
974 ~~section does not apply where the claimant, after notice, has waived the claim by not appealing as set forth~~
975 ~~in this Chapter.~~
976 ~~_____ (3) Disclosure or acquisition of information under this Chapter does not constitute misappropriation~~
977 ~~under Subsection 13-24-2(2), Utah Code Annotated, 1953 as amended.~~
978

979 **3-16-309. CONFIDENTIAL TREATMENT OF RECORDS FOR WHICH NO EXEMPTION**
980 ~~_____ APPLIES REPEALED.~~
981

982 ~~_____ (1) A court, on appeal or in a declaratory or other action, may order the confidential treatment of~~
983 ~~records for which no exemption from disclosure applies if:~~
984 ~~_____ (a) There are compelling interests favoring restriction of access to the records; and~~
985 ~~_____ (b) The interests favoring restriction of access clearly outweigh the interests favoring access.~~
986 ~~_____ (2) If the City requests a court to restrict access to a record under this section, the court shall require~~
987 ~~the City to pay the reasonable attorneys' fees incurred by the lead party in opposing the City' request if:~~
988 ~~_____ (a) The court finds that no statutory or constitutional exemption from disclosure could~~
989 ~~reasonably apply to the record in question; and~~
990 ~~_____ (b) The court denies confidential treatment under this section.~~
991 ~~_____ (3) This section does not apply to records that are specifically required to be public under this~~
992 ~~Chapter, except as provided below:~~
993 ~~_____ (a) Access to drafts and empirical data in drafts may be limited under this section, but the court~~
994 ~~may consider, in its evaluation of interests favoring restriction of access, only those interests~~
995 ~~that relate to the underlying information, and not to the deliberative nature of the record.~~
996 ~~_____ (b) Access to original data in a computer program may be limited under this section, but the court~~
997 ~~may consider, in its evaluation of interests favoring restriction of access, only those interests~~
998 ~~that relate to the underlying information, and not to the status of the data as part of the~~
999 ~~computer program.~~

1000
1001 **3-16-400P PART 4 - PROCEDURE FOR ACCESS**

1002
1003 **3-16-401. REQUEST FOR RECORD.**
1004

1005 All record requests shall be directed to the City department where the record is kept ~~in writing on forms~~
1006 ~~provided by West Valley City. Under circumstances in which the City department does not or is not able~~
1007 ~~to immediately respond to a record request, the requester shall complete and present, to the department~~
1008 ~~that is the keeper of the record, a written request on forms provided by the City. The request shall include~~
1009 ~~the requester's name, mailing address, daytime telephone number, if available, and a description of the~~
1010 ~~records requested that identifies the records with reasonable specificity. The date and time of the request~~
1011 ~~shall be noted on the written request form, and all times provided under this Chapter shall commence~~
1012 ~~from that time and date. Before the City releases a private, controlled or protected record, or a record~~
1013 ~~otherwise classified as non-public, the requester shall provide adequate evidence of the requester's~~
1014 ~~identity and status relative to the requester's right to access the record.~~

1015
1016 **3-16-402. RESPONSE TO REQUEST; EXPEDITED RESPONSE REPEALED.**
1017
1018 ~~—(1)—As soon as reasonably possible, but no later than ten business days after receiving a written~~
1019 ~~request, or five business days after receiving a written request if the requester demonstrates that an~~
1020 ~~expedited response to the record request benefits the public rather than the person, the City shall respond~~
1021 ~~to the request by:~~
1022 ~~———(a) Approving the request and providing the record;~~
1023 ~~———(b) Denying the request;~~
1024 ~~———(c) Notifying the requester that it does not maintain the record and providing, if known, the name~~
1025 ~~and address of the governmental entity that does maintain the record; or~~
1026 ~~———(d) Notifying the requester that, because of one of the extraordinary circumstances listed in this~~
1027 ~~Chapter, it cannot immediately approve or deny the request. The notice shall describe the~~
1028 ~~circumstances relied upon and specify the date when the records will be available.~~
1029 ~~—(2)— Any person who requests a record to obtain information for a story or report for publication or~~
1030 ~~broadcast to the general public is presumed to be acting to benefit the public rather than a person.~~
1031

1032 **3-16-403. EXTRAORDINARY CIRCUMSTANCES REPEALED.**
1033
1034 ~~—(1)— The following extraordinary circumstances shall justify the City's failure to timely respond to a~~
1035 ~~written request for a record, and shall extend the time for response thereto to that time reasonably~~
1036 ~~necessary to respond to the request, as determined by the City. Extraordinary circumstances include:~~
1037 ~~———(a) The City, another agency or some other governmental entity is currently and actively using~~
1038 ~~the record requested;~~
1039 ~~———(b) The record requested is for either a voluminous quantity of records, or requires the City to~~
1040 ~~review a large number of records or perform extensive research to locate the materials~~
1041 ~~requested;~~
1042 ~~———(c) The City is currently processing either a large number of record requests, or is subject to~~
1043 ~~extraordinary seasonal work loads in the processing of other work;~~
1044 ~~———(d) The release of a record involves legal issues that require the City to seek legal counsel for~~
1045 ~~analysis of applicable laws;~~
1046 ~~———(e) The request involves extensive editing to separate data in a record to which the requester is~~
1047 ~~entitled from that to which the requester is not entitled; or~~
1048 ~~———(f) Providing the information request requires computer programming or other format~~
1049 ~~manipulation.~~
1050 ~~—(2)— When a timely response cannot be made to a record request, the City shall notify the requester~~
1051 ~~that it cannot immediately approve or deny the request because of one of the extraordinary circumstances~~
1052 ~~listed above, and provide an explanation of the circumstances and an estimate of the time required to~~
1053 ~~respond to the request. If the City fails to provide the requested record within the estimated time, that~~
1054 ~~failure shall be considered a denial of the request.~~
1055

1056 **3-16-404. FAILURE TO RESPOND DEEMED DENIAL REPEALED.**
1057
1058 ~~—The failure or inability of the City to respond to a request for a record within the time frames set out~~
1059 ~~herein, or the City's denial of such a request, shall give the requester the right to appeal as provided in this~~
1060 ~~Chapter.~~
1061

1062 **3-16-405. RECORD INVOLVED IN LITIGATION OR AUDIT REPEALED.**
1063

1064 —Any record which is subject to pending litigation or audit, or has been requested in accordance with this
1065 Chapter, that is disposable by an approved retention schedule, may not be disposed of until the litigation
1066 or audit has been resolved or the request is granted and fulfilled, or 60 days after the request is denied if
1067 no appeals are filed, or 60 days after all appeals are completed, pursuant to this Chapter.
1068

1069 **3-16-406. RECLASSIFICATION OF RECORDS REPEALED.**
1070

1071 —In response to a request for access, the City may redesignate or reclassify the record or segregated data
1072 in the requested record in accordance with this Chapter.
1073

1074 **3-16-407. FEES.**
1075

1076 (1) The City may charge a reasonable fee to cover its actual cost of duplicating a record, compiling a
1077 record in a form other than that maintained by the City, postage or any other fee reasonably related to the
1078 request for the record consistent with this Chapter.

1079 (2) The City may fulfill a record request without charge, when it determines that:

1080 (a) Releasing the record primarily benefits the public rather than a person;

1081 (b) The individual requesting the record is the subject of the record; or

1082 (c) The requester's rights are directly implicated by the information in the record, and the
1083 requester is impecunious.

1084 (3) Fees to be charged under this section shall be set forth in the West Valley City Consolidated Fee
1085 Schedule.

1086 (4) The City shall not charge a fee for:

1087 (a) Reviewing a record to determine whether it is subject to disclosure; or

1088 (b) Inspecting a record.
1089

1090 **3-16-408. DENIALS REPEALED.**
1091

1092 —(1)—Any decision by a City department to deny a request shall be made in consultation with the
1093 Records Officer.

1094 —(2)—If, after consultation with the City department to whom a request was directed, the Records
1095 Officer determines to deny the request in whole or in part, the Records Officer shall provide a notice of
1096 denial to the requester, either in person or by sending the notice to the requester's address.

1097 —(3)—The notice of denial shall contain the following information:

1098 —(a) A description of the record or portions of the record to which access was denied, provided
1099 that the description does not disclose private, controlled or protected information or
1100 information exempt from disclosure under Subsection 3-16-302(1)(b);

1101 —(b) Citations to the provisions of this Chapter, court or federal regulation that exempt the record
1102 or portions of the record from disclosure, provided that the citations do not disclose private,
1103 controlled or protected information or information exempt from disclosure under Subsection
1104 3-16-302(1)(b);

1105 —(c) A statement that the requester has the right to appeal the denial to the City Manager; and

1106 —(d) The time limits for filing an appeal, and the name and business address of the City Manager
1107 to whom an appeal may be directed.

1108 —(4)—Unless otherwise required by a court or agency of competent jurisdiction, the City may not
1109 destroy or give up custody of any record to which access was denied until the period for an appeal has
1110 expired or the end of the appeals process, including judicial appeal.

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3-16-500P PART 5 - APPEALS

3-16-501. APPEAL TO CITY MANAGER.

(1) Any person aggrieved by an access determination of the Records Officer under this Chapter may appeal the determination to the City Manager by filing a notice of appeal with the City Manager ~~within ten (10) calendar days of receiving notice of denial.~~

(2) If the Records Officer 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 Records Officer's claim of extraordinary circumstances or date for compliance within 30 days after notification of a claim of extraordinary circumstances by the Records Officer, despite the lack of a "determination" or its equivalent.

(3) If the appeal involves a record that is the subject of a business confidentiality claim under this Chapter, the City Manager shall:

- (a) Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice of the appeal; 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 Records Officer's determination to the requester within three business days after receiving notice of the requester's appeal.

(4) The claimant shall have seven business days after notice of the requester's appeal is sent by the City Manager to the claimant to submit further support for the claim of business confidentiality.

(5) (a) The City Manager shall make a determination on any appeal within the following period of time:

- (i) Within five business days after the City Manager's receipt of the notice of appeal; or
- (ii) Within 12 business days after the City sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

(b) If the City Manager fails to make a determination within the time specified in paragraph (3)(a) above, the failure shall be considered the equivalent of an order denying the appeal.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time period specified in this section.

(6) The City Manager may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or non-disclosure of a record, order the disclosure of information properly classified as private or protected, if the interest favoring access outweighs the interest favoring restriction of access.

(7) The City Manager shall send written notice of the determination of the City Manager to all participants. If the City Manager 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 pursuant to this Chapter and the time limits for filing an appeal.

(8) A person aggrieved by the City's classification or designation determination under this Chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a non-requester is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within 30 days after the City Manager receives the notice of appeal.

(9) The duties of the City Manager under this section may be delegated.

3-16-502. APPEAL TO THE CITY COUNCIL.

- 1160 (1) Any person aggrieved by a determination of the City Manager under this Chapter may appeal the
1161 determination to the City Council.
- 1162 (2) The notice of appeal to the City Council shall be in writing and shall be filed with the City
1163 Recorder no later than 30 calendar days after the City Manager has denied the appeal or fails to make a
1164 determination within the time period specified in this Chapter.
- 1165 (3) The notice of appeal shall contain the following information:
1166 (a) The petitioner's name, mailing address and daytime telephone number;
1167 (b) A copy of any denial of the records request; and
1168 (c) The relief sought.
- 1169 (4) The petitioner shall file a short supporting statement, including a statement of facts, and a
1170 recitation of the reasons and legal authority in support of the appeal.
- 1171 (5) No later than three business days after receiving a notice of appeal, the City Recorder shall:
1172 (a) Schedule a hearing for the City Council to discuss the appeal. Unless otherwise agreed to by
1173 all the parties, the hearing shall be held no sooner than 15 days and no later than 30 days after
1174 receiving the notice of appeal;
1175 (b) Send a copy of the notice of hearing to the petitioner; and
1176 (c) Send a copy of the notice of appeal, supporting statement and a notice of the hearing to:
1177 (i) Each member of the City Council;
1178 (ii) The Records Officer and the City Manager;
1179 (iii) The City Attorney; and
1180 (iv) Any person who made a business confidentiality claim under this Chapter for a record
1181 that is the subject of the appeal.
- 1182 (6) No later than ten business days after the notice of appeal is sent by the City Recorder, any person
1183 whose legal interest may be substantially affected by the appeal may file a request for intervention before
1184 the City Council. Any written statement of facts, reasons and legal authority in support of the
1185 intervenor's positions shall be filed with the request for intervention. The person seeking intervention
1186 shall provide copies of the statement to all parties to the proceeding before the City Council.
- 1187 (7) The City Council shall hold a hearing no sooner than 15 days and no later than 30 days after
1188 receiving the notice of appeal.
- 1189 (8) At the hearing, the City Council shall allow the parties to testify, present evidence and comment
1190 on the issues. The City Council may allow other interested persons to comment on the issues.
- 1191 (9) The City Council may review the disputed records.
1192 (a) The review shall be in camera; and
1193 (b) Members of the City Council may not disclose any information or record reviewed by the
1194 City Council in camera, unless the disclosure is otherwise authorized by this Chapter.
- 1195 (10) No later than five business days after the hearing, the City Council shall issue a signed order
1196 either granting the petition in whole or in part, or upholding the determination of the City Manager in
1197 whole or in part.
- 1198 (11) The City Council may, upon consideration and weighing of the various interests and public
1199 policies pertinent to the classification and disclosure or non-disclosure, order the disclosure of
1200 information properly classified as private, controlled or protected, if the public interest favoring access
1201 outweighs the interest favoring restriction of access. In making a determination under this section, the
1202 City Council shall consider and, where appropriate, limit the requester's use and further disclosure of the
1203 record in order to protect privacy interests in the case of private or controlled records, business
1204 confidentiality interests and privacy interests or the public interest in the case of other protected records.
- 1205 (12) The order of the City Council shall include:
1206 (a) A statement of reasons for the decision;

- 1207 (b) A description of the record or portions of the record to which access was ordered or denied,
1208 or to which it refuses to amend, provided that the description does not disclose private,
1209 controlled or protected information;
- 1210 (c) A statement that any party to the appeal may appeal the City Council's decision to district
1211 court; and
- 1212 (d) A brief summary of the appeal and a notice that, in order to protect its right on appeal, the
1213 party may wish to seek advice from an attorney.
- 1214 (13) If the City Council fails to issue a decision within ten business days after the hearing, said failure
1215 shall be considered the equivalent of an order denying the appeal. The petitioner shall notify the City
1216 Council, in writing, if he considers the appeal denied.

1217
1218 **3-16-503. JUDICIAL REVIEW.**
1219

1220 (1) Any party to a proceeding before the City Council may petition for judicial review by the district
1221 court of the City Council's order. The petition shall be filed no later than 30 days after the date of the
1222 City Council's decision.

1223 ~~(2) The petition for judicial review shall be a complaint governed by the Utah Rules of Civil
1224 Procedure, and shall contain:~~

1225 ~~_____ (a) The petitioner's name and mailing address;~~

1226 ~~_____ (b) A copy of the City Council's order from which the appeal is taken, if the petitioner brought a
1227 prior appeal to the records committee;~~

1228 ~~_____ (c) A request for relief, specifying the type and extent of relief requested; and~~

1229 ~~_____ (d) A statement of the reasons why the petitioner is entitled to relief.~~

1230 ~~(3) If the appeal is based on the denial of access to a protected record, the court shall allow the
1231 claimant of business confidentiality to provide to the court the reasons for the claim of business
1232 confidentiality.~~

1233 ~~(4) All additional pleadings and proceedings in the district court shall be governed by the Utah Rules
1234 of Civil Procedure.~~

1235 ~~(5) The district court may review the disputed records. The review shall be in camera.~~

1236 ~~(6) The court shall:~~

1237 ~~_____ (a) Make its decision de novo;~~

1238 ~~_____ (b) Determine all questions of fact and law without a jury; and~~

1239 ~~_____ (c) Decide the issue at the earliest practical opportunity.~~

1240 ~~(7) (a) The court may, upon consideration and weighing of the various interests and public policies
1241 pertinent to the classification and disclosure or nondisclosure, order the disclosure of
1242 information properly classified as private, controlled or protected, if the interest favoring
1243 access outweighs the interest favoring restriction of access.~~

1244 ~~_____ (b) The court shall consider, and, where appropriate, limit the requester's use and further
1245 disclosure of the record, in order to protect privacy interests in the case of private or
1246 controlled records, business confidentiality interests in the case of records protected under
1247 Subsections 3-16-306(1) and (2), and privacy interests or the public interest in the case of
1248 other protected records.~~

1249
1250 **3-16-600P PART 6 ACCURACY OF RECORDS REPEALED**
1251

1252 **3-16-601. RIGHTS OF INDIVIDUALS ON WHOM DATA IS MAINTAINED REPEALED.**
1253

1254 ~~(1) (a) The Records Officer shall file, with the state archivist, a statement explaining the purposes
1255 for which record series designated private or controlled are collected and used by the City.~~

- 1256 ~~_____ (b) Such statement is a public record.~~
- 1257 ~~257 (2) Upon request, the City shall explain to an individual:~~
- 1258 ~~_____ (a) The reasons the individual is asked to furnish, to the City, information that could be classified~~
- 1259 ~~private or controlled;~~
- 1260 ~~_____ (b) The intended uses of the information; and~~
- 1261 ~~_____ (c) The consequences for refusing to provide the information.~~
- 1262 ~~_____ (3) The City may not use private or controlled records for purposes other than those given in the~~
- 1263 ~~statement filed with the state archivist under paragraph (1) above, or for purposes other than those for~~
- 1264 ~~which another governmental entity could use the record under this Chapter, the Act or other applicable~~
- 1265 ~~law.~~

1266 **3-16-602. DISCLOSURE TO SUBJECT OF RECORDS -- CONTEXT OF USE ~~REPEALED~~.**

1267 ~~_____ When providing records under Section 3-16-210, or when providing public records about an individual~~

1270 ~~to the persons specified in Section 3-16-210, the City shall, upon request, disclose the context in which~~

1271 ~~the record is used.~~

1272 **3-16-603. AMENDMENTS TO RECORDS ~~REPEALED~~.**

1273 ~~_____ Records held by the City may be amended or corrected as needed. Requests for amendments,~~

1276 ~~corrections or other changes shall be made in writing to the Records Officer. Such requests shall set~~

1277 ~~forth, with specificity, the amendment or correction requested and the reason for the change. When an~~

1278 ~~amendment or correction of a government record is made, generally both the original record and the~~

1279 ~~amended or corrected record shall be retained.~~

1280 **3-16-604. REQUEST TO AMEND A RECORD; APPEALS ~~REPEALED~~.**

- 1281 ~~_____ (1) (a) Subject to paragraph (6) below, an individual may contest the accuracy or completeness of~~
- 1282 ~~any public, private or protected record concerning him, by requesting that the Records Officer~~
- 1283 ~~amend the record. However, this section does not affect the right of access to private or~~
- 1284 ~~protected records.~~
- 1285 ~~_____ (b) The request shall be in writing and contain the following:~~
- 1286 ~~_____ (i) The requester's name, mailing address and daytime telephone number; and~~
- 1287 ~~_____ (ii) A brief statement explaining why the City should amend the record.~~
- 1288 ~~_____ (2) The Records Officer shall issue an order, either proving or denying the request, no later than 30~~
- 1289 ~~days after receipt of the request.~~
- 1290 ~~_____ (3) If the Records Officer approves the request, it shall correct all of its records that contain the same~~
- 1291 ~~incorrect information, as soon as practical. The record may not be disclosed until it has been amended.~~
- 1292 ~~_____ (4) If the Records Officer denies the request, it shall:~~
- 1293 ~~_____ (a) Inform the requester in writing; and~~
- 1294 ~~_____ (b) Provide a brief statement giving its reasons for denying the request.~~
- 1295 ~~_____ (5) If the City denies a request to amend a record, the requester may submit a written statement~~
- 1296 ~~contesting the information in the record. If the requester submits a statement, the City shall:~~
- 1297 ~~_____ (a) File the requester's statement with the disputed record if the record is in a form such that the~~
- 1298 ~~statement can accompany the record, or make the statement accessible if the record is not in a~~
- 1299 ~~form such that the statement can accompany the record; and~~
- 1300 ~~_____ (b) Disclose the requester's statement along with the information in the record whenever the City~~
- 1301 ~~discloses the disputed information.~~
- 1302
- 1303

1304 ~~—(6) The requester may appeal the decision of the Records Officer to amend the record, to the City~~
305 ~~Manager, by filing a written notice of appeal with the City Manager. The City Manager shall have 30~~
1306 ~~days to render a decision relative to the appeal. A person aggrieved by the City Manager's decision may~~
1307 ~~appeal the determination to the City Council within 30 days after the City Manager's decision, pursuant to~~
1308 ~~the appeal process set out in Section 3-16-502.~~

1309 ~~—(7) This section does not apply to records relating to title to real or personal property, medical~~
1310 ~~records, judicial case files or any other record that the City determines must be maintained in its original~~
1311 ~~form to protect the public interest and to preserve the integrity of the record system.~~

1312

1313 **3-16-700P PART 7 - PENALTIES AND DEFENSES**

1314

1315 **3-16-701. CRIMINAL PENALTIES REPEALED.**

1316

1317 ~~—(1) (a) Any City employee or other person who has lawful access to any private, controlled or~~
1318 ~~protected record under this Chapter, and who intentionally discloses or provides a copy of a~~
1319 ~~private, controlled or protected record to any person knowing that such disclosure is~~
1320 ~~prohibited, is guilty of a Class B misdemeanor.~~

1321 ~~—(b) It shall be a defense to prosecution under this section that:~~

1322 ~~—(i) The actor released private, controlled or protected information in the reasonable belief~~
1323 ~~that the disclosure of the information was necessary to expose a violation of law~~
1324 ~~involving government corruption, abuse of office or misappropriation of public funds or~~
1325 ~~property; or~~

1326 ~~—(ii) The record could have lawfully been released to the recipient if it had been properly~~
1327 ~~classified.~~

1328 ~~—(2) (a) Any person, who by false pretenses, bribery or theft gains access to or obtains a copy of any~~
1329 ~~private, controlled or protected record to which he is not legally entitled, is guilty of a Class B~~
1330 ~~misdemeanor.~~

1331 ~~—(b) No person shall be guilty under this section who receives the record, information or copy~~
1332 ~~after the fact and without prior knowledge of or participation in the false pretenses, bribery or~~
1333 ~~theft.~~

1334 ~~—(3) A public employee who intentionally refuses to release a record, the disclosure of which the~~
1335 ~~employee knows is required by law or by final unappealed order from the City Council or a court, is~~
1336 ~~guilty of a Class B misdemeanor.~~

1337

1338 **3-16-702. LIABILITY FOR DAMAGES REPEALED.**

1339

1340 ~~—In accordance with this Chapter and the Act, neither the City nor any of its officers, agents or~~
1341 ~~employees shall be liable for damages resulting from the release of a record, whether the requester~~
1342 ~~presented evidence of authority to obtain the record, even if it may be subsequently determined that the~~
1343 ~~requester had no such authority.~~

1344

1345 **3-16-703. DISCIPLINARY ACTION.**

1346

1347 The City may take disciplinary action, which may include suspension or discharge, against any
1348 employee who intentionally violates any provision of this Chapter.

1349

1350 **Section 3. Severability.** If any provision of this Ordinance is declared to be invalid by a court of
1351 competent jurisdiction, the remainder shall not be affected thereby.

1352

1353 **Section 4. Effective Date.** This Ordinance shall take effect immediately upon posting in the
354 manner required by law.

1355 **PASSED and APPROVED** this 6th day of December, 2005.

WEST VALLEY CITY

Dennis A. Nordfelt
MAYOR

ATTEST:

Ashley McKeedrick
CITY RECORDER

