

Government Records and Public Access to Them

All cities and towns must comply with the Governments Records Access and Management Act.¹ This is sometimes referred to as GRAMA. The purpose of the Act is to standardize both records access and management. The intent of the Act is to make it possible for all public records of government to be available to the public, while protecting the privacy rights of individuals.

Most records of a city or town must be public and available at reasonable times and places for inspection and copying. There are possible criminal sanctions for an individual who wrongly refuses access to a record and for an individual who wrongly discloses a properly classified record.²

Every city and town must comply with the Act. Each must appoint one or more “records officers” who are the individuals appointed by the chief administrative officer of the city or town to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

The words *designation* and *classification* refer to the act of placing individual records or records series in one of four classifications: public, private, controlled, or protected. Private, controlled, and protected are terms of art that refer to specific classification possibilities.³ Most records must be public. Some records must be classified as private.⁴ These include records about a person’s welfare benefits; medical history and conditions; library records; current and former employee’s home addresses, social security numbers, and marital status. This list is not a complete listing of what must be private but only an example. Before any record is disclosed the records officer should be consulted to insure that privacy rights are maintained. Examples of controlled records include reports from medical doctors about an individual. An example of a protected records is a trade secret or criminal investigation information. A records officer in any city or town should carefully review the definitions of each type of record and make a trained and reason determination of in what category any record must be placed.

Every person has a right to inspect a public record free of charge during normal busy hours of the city or town.⁵ You cannot charge someone to find or look up the record for them. If it is a public document, the public has the right to see it. The public also has a right to have a copy of a public record. You can charge a person the reasonable fee to cover the actual cost of providing a record to someone.⁶ The fee should not be a profit center for the city or town. It must be formally approved by the city or town’s governing

¹ Utah Code 63G-2-101 et seq.

² Utah Code 63G-2-801.

³ What must records are classified is defined in Utah Code sections 63G-2-302, 303, 304.

⁴ Utah Code 63G-2-302.

⁵ Utah Code 63G-2-201.

⁶ Utah Code 63G-2-203

body by ordinance or resolution. The fee should not be used as a method of discouraging public access to records.

A person making a request for a record must furnish the governmental entity with a written request containing his name, mailing address, daytime telephone number, if available, and a description of the records requested that identifies the record with reasonable specificity. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the governmental entity shall respond to the request by the following:

- (i) Approving the request and providing the record.
- (ii) Denying the request.
- (iii) Notifying the requester that he or she does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record.
- (iv) Notifying the requester that because of one of the extraordinary circumstances allowed by law,⁷ it cannot immediately approve or deny the request and giving the details why and when the city or town will be able to provide the record.

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

There may be times when a request is made for information that is not contained in one record but could be compiled from several different records. No governmental entity, including cities and towns, is required to create or compile a record in response to a request for information.⁸ The city or town could, if it wanted to, rather than deny such a request, agree to create or compile the requested information for a negotiated fee.

One of the great problems with records request is how to handle the “serial requester.” By this I mean the person who continually asks for the same records over and over again. The law specifically provides that the governmental entity is not required to fulfill a person’s request if the request duplicates prior records requests made by that same person.⁹

If the city or town is denying a request it should give a notice of denial that includes a description of the denied records, the reasons for the denial, including citations to the law relied on in making the determination to deny and a statement that the requester may appeal the decision and how to do so.¹⁰ If the city or town fails to provide the requested

⁷ The extraordinary circumstances are specified in 63G-2-204(4).

⁸ Utah Code 63G-2-201(8)(a).

⁹ Utah Code 63G-2-201(8)(a)(iv).

¹⁰ Utah Code 63G-2-205.

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

The law contains an appeals process for those wishing to either appeal a classification decision or an access decision. Cities and towns may by ordinance set up their own appeals process. The ordinance can also assist the city in document management issues such as retention schedules and fees for copying. The ordinance adopted must meet the standards of the law and be filed with the state archivist.¹¹ If an ordinance is not adopted then the provisions of state law apply. There is significant benefit in having an ordinance that tailors the act to the individual municipality. This includes the ability to handle the appeals process in-house and the ability to have some control over the records retention schedule.

If a city or town fails to provide a record and is wrong in doing so there is the possibility that the city or town will have to pay the requesters reasonable attorney's fees incurred in forcing the city or town to comply with the records request.¹²

The best way to handle records and records request is to have a well trained records officer and a friendly attitude toward the issue. Members of the public, include the news media, have a right to view and have copies of most records created in a city or town. It is the city or town's obligation to keep these records in a manner that makes inspection of them convenient. The fees charged for any copying done should not be a profit center for the city or town. It can be an imposition to respond to request for records. Many city and town officials consider it to be interference with the real job of running the municipality. It is not. One of the services that should be provided to the public is reasonable and timely access to public records and information.

¹¹ Utah Code 63G-2-701.

¹² Utah Code 63G-2-802