

**CONFIDENTIALITY AND THE REVIEW OF
PUBLIC RECORDS**

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I. PURPOSE

To establish guidelines relative to confidential information and to establish uniform procedures for handling requests to review or secure copies of City records.

II. DEFINITIONS

A. Record

Includes any form of communication, representation or record related to the conduct of City business prepared, owned, used or retained by the City.
Examples: items which are written, printed, drawn, photocopied, recorded, filmed or coded.

B. Confidential

Business information of an impersonal nature, the disclosure of which would be detrimental to City interests.

C. Personal and Confidential

Information of a personal nature and certain types of business information that must be controlled on a strict need-to-know basis.

Personal and confidential information includes personnel actions (promotions, demotions, resignations, etc.) compensation and benefits data, performance appraisals, medical information and psychological assessment reports.

D. Extra-Sensitive Information

Any information for which unauthorized disclosure would result in potential damage to the City.

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E. To be Opened by Addressee Only

A marking on an envelope or package containing Personal and Confidential information indicating that it is to be opened by the individual to whom it is addressed only.

F. Authorized Persons

Individuals who have been authorized to receive confidential information.

G. Need to Know

An individual to whom information must be disclosed in order to perform his/her regular duties may have a need to know.

H. Proprietary Information

Information over which the City has a right to manage.

III. POLICY

It is the policy of the City of Visalia to regard and respect certain information as proprietary and confidential. As such, this information is maintained and managed by the City, and is not available for public review.

Information which falls into the categories of “confidential”, “personal and confidential”, and/or “extra-sensitive” will be accessible only to “authorized persons” or individuals designated as having a “Need to Know”.

Responsibility for properly transmitting, distributing, and storing confidential information, as well as the penalty for violation is clearly outlined with this policy.

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A. Safeguarding Confidential Information

The primary responsibility for safeguarding confidential information rests with management. Managers and supervisors should:

- Provide secure storage for sensitive documents during working hours and when not in use.
- Ensure that confidential information is properly packaged prior to transmittal.
- Ensure that recipients have a legitimate need to know. This is especially important when extra-sensitive information is involved.
- Limit reproduction and distribution of sensitive information to what is absolutely necessary.
- Make sure that information is properly identified and marked.
- Destroy by shredding or some other secure method any information that is in excess of requirements. This would include spoiled copies, overruns, carbon papers, and one-time-use typewriter ribbons.
- Ensure that only secure means of transmittal are utilized.
- Review these procedures regularly with all employees who are involved in the handling or securing of proprietary information.

B. Marking Confidential Information

The employee who originates or reproduces confidential information is responsible for marking or stamping such material as “Confidential”.

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C. Reproduction

Any department that is responsible for reproducing confidential information (“reproduction” in this context includes typewriting) should make sure that access is kept to a minimum and granted only to those individuals with a need to know.

D. Storage

When not in use or in transit, confidential information should be stored in a cabinet or other container secured with a locking device. The combination or key should be similarly safeguarded, and not kept in an unlocked desk or file cabinet as a convenience for daily access.

E. Disciplinary Action

Any willful, intentional disclosure of confidential information to unauthorized persons will be considered sufficient cause for disciplinary action.

F. Requests to Review Public Records

Requests to review public records must be specific; persons must note the name or nature of the record they wish to review.

Official files should include all specific items which are available for review; items exempt from review will be kept in working files.

Only those requested items contained in the official files should be shown to the requesting party. Review of public records by any person must be done on City premises, during normal City business hours 8:00 a.m. to 5:00 p.m., Monday through Friday, and in the presence of a City employee. Under no circumstances should a public record be altered during a review or be removed from City premises. Upon completion of the review, the public record should be returned by the City employee to its normal place of storage.

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Copies

Persons are entitled to receive copies of public records. In cases where fees have been established for copies of records, all persons should be charged the established fee for that record. In cases where a copy has been requested and a fee for the record has not been established, the following procedures should be observed:

- 1) Photocopies: Records which can be reproduced by photocopying will be provided at 20 cents per page. Departments may use their discretion when administering this charge.
- 2) Other methods of reproduction: Records which cannot be reproduced by photocopying will be provided at the cost of labor, materials, and equipment necessary to prepare a copy. A person requesting such a copy should be given an estimate of the price in advance and a deposit in the amount of the estimate should be secured by the City prior to the reproduction.

Search

Persons are entitled to review and receive copies of inactive City records. Search time for inactive records may be charged to the requesting party at the rate of \$5.00 per hour; there may be a minimum search charge of \$1.25. This charge is in addition to any charges for reproduction.

IV. EXCLUSIONS FROM PUBLIC REVIEW

Those items which are excluded from public review, include but are not limited to the following:

- 1) Preliminary drafts, notes, or internal memoranda which are not retained by the City in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

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This includes working files, project notes, notes on conversations concerning the project, internal correspondence, and any drafts other than the final product of the project. The final product of a project becomes a public record when it is formally presented to its intended receiver. Thus, reports to council are not public records until presented to the Council.

- 2) Records pertaining to pending litigation to which the City is a party, or to claims made pursuant to Division 3.6 (commencing with Section S10) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.
- 3) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- 4) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
- 5) Records of complaints to or investigations conducted by, or records of intelligence information, licensing information or security procedures of, the Police Department and any other state or local law enforcement or correctional agency. (Consult Government Code Section 6254.1,f. and the Police Department for certain exceptions to this exemption.)
- 6) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
- 7) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the City relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

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- 8)** Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.
- 9)** Library and museum materials made or acquired and presented solely for reference or exhibition purposes.
- 10)** Records whose disclosure is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
- 11)** Statements of personal worth or personal financial data required for a license and filed by an applicant to establish personal qualification for the license, certificate, or permit applied for.
- 12)** City initiative referendum and recall petitions and related memoranda indicating the name of individuals signing those petitions.
- 13)** Utility billing lists and business license lists, if their intended use is for commercial purposes.
- 14)** Any record where the facts of the particular case indicate the public interest is best served by not making the record public.