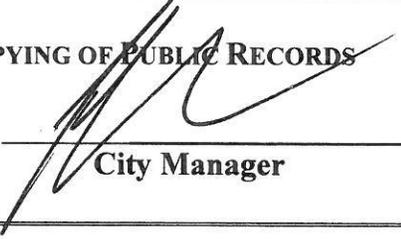


# City of Los Alamitos

## Administrative Regulation

Regulation:	1.9	 _____ City Manager
Title:	<b>REQUESTS FOR INSPECTION AND/OR COPYING OF PUBLIC RECORDS</b>	
Authority:	City Council	
Date	November 2, 2009	
Revised:		

1. **Purpose:** The purpose of this regulation is to provide uniform procedures by which the City will respond to requests for records under the Public Records Act.
2. **Application:** This regulation applies to all departments of the City of Los Alamitos and the City Clerk.
3. **Regulation:** This policy is established in accordance with Government Code section 6253.4, subdivision (a), which states: "Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section." This policy sets forth the City's policies and procedures for handling requests to inspect and/or copy public records. It is designed to be in compliance with the California Public Records Act (Gov. Code §§ 6250 et seq.) and all existing laws pertaining to disclosure of public records. If any provision of this policy conflicts with current State or federal law, the law shall take precedence.
4. **Procedure:**

1. **Definitions**

As used in this policy, the following terms shall have the following meanings:

- (a) "City" shall mean the CITY OF LOS ALAMITOS.
- (b) "Person" shall mean any natural person, corporation, partnership, limited liability company, firm, or association.
- (c) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, electronic mail, facsimile, and every other means of recording upon any tangible thing any form of communication or

representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.

- (d) "Public records" shall mean any writing containing information relating to the conduct of the City's business prepared, owned, used, or retained by the City regardless of physical form or characteristics.
- (e) "Requester" shall mean a person, or representative of a person, who has submitted a request for records to the City by mail, fax, e-mail, telephone or in person.

**2. Right to Inspect**

Disclosable public records of the City are open to inspection by any person at all times during the normal business hours of the City Hall offices, in accordance with Section 5 of this policy. Copies of disclosable public records may be obtained by any person, in accordance with the procedures set forth in this policy. Any disclosable portion of a record that can be reasonably separated from any portions of the record that are exempt by law shall be made available for inspection and/or copying after the exempt portions have been deleted. Any request for records and any responding documents may be subject to review by the City's legal counsel prior to any inspection of the records or delivery of copies.

**3. Records Exempt from Disclosure**

Records which are exempt from disclosure by law include but are not limited to the following:

- (a) Preliminary drafts, notes, interagency, or intra-agency 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. (Gov. Code § 6254, subd. (a).)
- (b) Records pertaining to pending litigation to which the City is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such pending litigation or claim has been finally adjudicated or otherwise settled. (Gov. Code § 6254, subd. (b).)

- (c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 6354, subd. (c).)
- (d) Statements of personal worth or personal financial data required by the City and filed by an applicant with the City to establish his/her personal qualification for the license, certificate or permit applied for. (Gov. Code § 6254, subd. (n).)
- (e) 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 all of the property has been acquired or all of the contract agreements are obtained; provided that the law of eminent domain shall not be affected by this provision. (Gov. Code § 6254, subd. (h).)
- (f) Computer software developed by a state or local agency is not itself a public record. (Gov. Code § 6254.9.)
- (g) The records made, if any, of closed sessions, along with any confidential information that has been acquired by being present in a closed session, are not public records subject to inspection. (Gov. Code §§ 54957.2, 54963.)
- (h) Records the disclosure of which is exempted or prohibited pursuant to federal or state law (i.e., attorney-client privilege under the California Evidence Code). (Gov. Code § 6254, subd. (k).)
- (i) Social security numbers – State law requires local agencies to redact social security numbers from records before disclosing such records to the public. (Gov. Code § 6254.29.)
- (j) Test questions, scoring keys, and other examination data used to administer an examination for employment are exempt from disclosure. (Gov. Code § 6254, subd. (g).)
- (k) Library registration and circulation records are exempt from disclosure. (Gov. Code §§ 6254, subd. (j), 6267.)
- (l) Utility customer information –names, credit histories, utility usage data, home addresses, or home telephone

numbers are exempt from disclosure except under specific circumstances. (Gov. Code § 6254.16.)

- (m) Initiative, referendum and recall petitions and related memoranda prepared by the County election official in the examination of the petition indicating which registered voters have signed particular petitions. (Exception: Proponents of a petition found to be insufficient, have a maximum of 21 days after certificate of insufficiency to examine the petition and memoranda.) (Govt. Code § 6253.5)
- (n) Arrest records or complaint reports, investigatory or security files of the Police Department, with exceptions provided in Government Code Section 6254(f).

This partial list of exemptions is subject to existing State and federal law, and any changes in the law are automatically incorporated into this policy. An expanded list of exempt documents and documents which are not deemed to be public records is provided in the California Public Records Act (Gov. Code § 6250 *et seq.*) and the case law interpreting the Act.

#### 4. Requests to Inspect and/or Make Copies

***Requests Must Be Submitted to the City Clerk During Normal Business Hours.*** All requests for records must be submitted to the City Clerk during normal business hours when City Hall offices are open. Receiving requests during normal business hours helps City staff avoid any delays in responding to requests for inspection and/or copies of City records. This requirement complies with the Public Records Act mandate that public records must be “open to inspection at all times during the office hours of the state or local agency...” (Gov. Code § 6253, subd. (a).) (Emphasis added.) This requirement to submit records requests during normal business hours also complies with the Public Records Act provision that allows the City to “adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in [the Public Records Act].” (Gov. Code § 6253, subd. (e).)

***Requests Should Be Submitted in Writing to the City Clerk.*** The City encourages members of the public to submit all records requests in writing to the City Clerk’s office, preferably using the Public Records Request form. Written requests reduce any misunderstandings between the requester and City staff, which allows City staff to respond to records requests in a timely manner

and with greater efficiency. However, the City will not deny a request for records solely because it is not submitted in writing.

***All Oral Requests Must Be Submitted to the City Clerk's Office.***

If any member of the public chooses to make an oral request for records, such requests will only be accepted through the City Clerk's office during normal business hours when City Hall offices are open. City personnel in other City departments who receive oral requests for records will direct the requester to contact the City Clerk's office. The City Clerk will fill out a request form on behalf of the requester to document the oral request received and give the requester the opportunity to review the written request form for accuracy.

***Requests Should Clearly Identify the Records and the City Will Reasonably Assist in Identifying Requested Records.***

The requester should, in writing, specify the records to be inspected/copied with sufficient detail to enable the City to identify the particular records. If the request seems ambiguous or unfocused, City staff will make a reasonable effort to obtain additional clarifying information from the requester that will help identify the record or records. Pursuant to Government Code Section 6253.1, City staff shall do all of the following, to the extent reasonable under the circumstances:

- Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- Describe the information technology and physical location in which the records exist; and
- Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

The City need not provide such further assistance if any of the following applies:

- The City makes available the requested records pursuant to Government Code Section 6253.
- The City determines that the request should be denied and bases that determination solely on an exemption listed in Government Code Section 6254.
- The City makes available an index of its records.

If the City is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester then the City may cease its efforts.

***Requests to Inspect DVD's and Audio Tapes of Meetings.*** Based on an Attorney General Opinion (vol. 46, page 317, 4/17/81), the City will allow a person to listen to an audio tape on City equipment, buy a duplicate copy, or to make a duplicate copy on his own equipment at City Hall during the one-year period the audio tapes are maintained. Advance arrangements must be made, based upon availability and mutual convenience.

DVD's, audio tapes or videocassettes may not be removed from City Hall unless purchased under the guidelines of this policy. However, if a request is made at the time of payment, the City shall treat payment for a DVD as a deposit for the first 48 hours. If the DVD is returned intact within 48 hours, payment will be waived and the deposit returned to the requester.

***Management of Records Requests.*** All requests for records covered within this policy shall be managed in the manner stated within this policy. Public requests for documents included within this policy shall not be managed and materials shall not be distributed in any other manner.

**5. Making Determinations on Records Requests/Taking Time Extensions**

The City, upon a request to inspect or copy records, shall, within ten (10) days from receipt of the request, determine whether the request, in whole or in part, seeks disclosable public records in the possession of the City. City staff shall promptly notify the person making the request of the City's determination and the reasons for the determination. In unusual circumstances, the time limit for providing the determination on a records request may be extended by written notice to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be provided. Any extension of time will not last more than fourteen (14) calendar days. A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing. As used in this policy and pursuant to Government Code section 6253, subdivision (c), "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the City having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

**6. Procedures for Requests for Inspection and/or Copies**

Requests for inspection and/or copies of records determined to be disclosable will be handled as follows:

- (1) Requests Received by Mail - The City Clerk or a member of the City Clerk's staff will notify the requester of the fees to be paid to the City for copies of such records. Upon receipt of such fees, the City Clerk or a member of the City Clerk's staff shall prepare and mail copies of such records to the requester.
- (2) Requests Delivered in Person - Copies of requested documents will be provided after payment of fees in accordance with the established fee schedule. As previously stated, requests for records should be submitted in writing, preferably by completing the Public Records Request form.
- (3) Requests Received by Telephone - In response to a telephone request for copies of City records, the City Clerk or a member of the City Clerk's staff will explain the records request procedure (including established fees) as outlined above. Payment of fees is required before copies may be prepared. A Public Records Request form should be completed by the City employee receiving the request by telephone and the requester should be offered the opportunity to review the written request form for accuracy.
- (4) Requests Received by Fax - In response to a faxed request for copies of City records, the City Clerk or a member of the City Clerk's staff will notify the requester of the fees to

be paid to the City for copies of such records. Payment of fees is required before copies may be prepared.

- (5) Requests Received by E-mail – In response to a request by e-mail for copies of City records, the City Clerk or a member of the City Clerk’s staff will transmit to the requester an explanation of the procedures (including established fees) as outlined in subsections (1) and (2) above, and transmit the Public Records Request form to the Requester. Payment of fees is required before copies may be prepared.

Any person in attendance at an inspection of City records may request a copy of any disclosable record being inspected. Upon completion of the written request and payment of the applicable fees, the City Clerk or a member of the City Clerk’s staff will prepare copies of the requested records at the time of inspection. If a large number of copies is requested after a records inspection, City staff may need additional time to make the requested copies.

**7. Fees for Copies**

The City shall charge fees for copies or certified copies of identifiable public records or information as set forth in the City’s Master Fee Resolution, or statute, with the following exceptions.

- (1) No fee will be charged to members of the public or press for Agenda face sheets of City Council and Commission meetings within 72 hours prior to the meeting, or within 24 hours after said Council or Commission meeting.
- (2) No fee will be charged to the press for Agenda Packets of City Council and Commission meetings within 72 hours prior to the meeting or within 24 hours after said Council or Commission meeting.
- (3) No fee will be charged to applicants for agenda face sheets or staff reports related to their application or appeal.

**8. Political Reform Act Exceptions to 10-Day Rule and Fees:**

Pursuant to Government Code Section 81008 (a), every report and statement filed pursuant to title 9 of the Government Code is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be

imposed upon persons desiring to inspect or reproduce reports and statements filed under title 9, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.