

Introduced:
Posted:
Public Hearing:
Adoption:

CITY OF SELDOVIA

ORDINANCE 18-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, ADOPTING CHAPTER 2.58 RECORDS MANAGEMENT TO ESTABLISH A CITY WIDE RECORDS MANAGEMENT PROGRAM, AMENDING CHAPTER 2.56 PUBLIC INFORMATION AND REPEALING CHAPTER 2.40 DISPOSAL OF RECORDS

WHEREAS the City collects, creates, uses and retains many types of recorded information, and;

WHEREAS it is sound administrative practice that the City devise a systematic plan of inventory and storage of records, and;

WHEREAS certain state and federal laws require the City to retain certain records for specific periods of time, and;

WHEREAS it is desirable that the City adopt a comprehensive system for the collection, management, use, retention and destruction of City records, and;

WHEREAS adopting chapter 2.58 Records Management, amending Chapter 2.56 Public Information, and repealing Chapter 2.40 Disposal of Records, will establish a city-wide records management program and best practices for all City records.

BE IT ORDAINED AND ENACTED BY THE CITY OF SELDOVIA, ALASKA:

SECTION 1: CLASSIFICATION: This ordinance is of a permanent nature and shall become part of the Seldovia Municipal Code.

SECTION 2: SEVERABILITY: If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to another person or circumstances shall not be affected thereby.

SECTION 3. REPEALING CHAPTER 2.40 DISPOSAL OF RECORDS:

~~Chapter 2.40 Disposal of
Records~~

Sections:

~~2.40.010 Compliance with statute.~~

~~2.40.010 Compliance with Statute.~~ No officer of the City having custody of public records of the City shall destroy or dispose of such records except in compliance with AS 40.21.070 *et. seq.* or such other law as may supplement or supersede that section. (Ord. 87-12 Sec. 1, 1987)

SECTION 4. AMENDING CHAPTER 2.56 PUBLIC INFORMATION BY REMOVING LANGUAGE IN STRIKEOUT AND ADDING LANGUAGE IN HIGHLIGHT TO READ AS FOLLOWS:

Chapter 2.56
Public Information

Sections:

2.56.010 Intent.

2.56.020 Definitions.

2.56.025 City records declared public property.

2.56.030 Information available to public.

2.56.040 Records exempted.

2.56.050 Regulation of time, place and manner of inspection of public records.

2.56.060 Response to request for public records.

2.56.010 Intent. ~~It is the intention of the City to provide full and free access of the public to municipal records and information so that the people of the City may be well informed at all times as to municipal business. With the exception of the specific exemptions set forth under Section 2.56.040, all information and records in the control of the municipality shall be made available to the public upon request. (Ord. 80-5 Sec. 1, 1980)~~ It is the intent of the City to provide access to public records and information so that the right of the people to remain informed is protected. In enacting this measure, the city council recognizes the competing interests of personal privacy as well as the need for confidentiality in limited areas of city affairs, and the right of the public to have access to information concerning the conduct of the people's business. In balancing these interests, this chapter shall be construed to require disclosure of all public records in the possession or control of the city, except those specifically exempted under section 2.56.040 of this chapter.

2.56.020 Definitions. For the purposes of this chapter:

1. "Document" means any method of storing information, including but not limited to spoken words, handwriting, typewriting, printing, Photostatting, photographing and any other form of communication or reproduction, upon any medium, including but not limited to paper, magnetic or paper type, photographic film or prints, magnetic or punched cards, discs, drums and phonograph records.

2. "Municipal agency" means any department, division, board, commission or private contractor that has custody of public records as defined in this chapter.

3. "Records" means any document containing information relating to the conduct of the people's business which is prepared, owned, used or retained by a municipal agency, regardless of the physical form or characteristic of the document. (Ord. 80-5 Sec. 2, 1980)

2.56.025 City records declared public property. All city records are property of the city. Unless otherwise authorized or required by law, no person shall:

1. Deface, alter or destroy any city record;
2. Remove any city record from the city's possession;
3. Disclose confidential information contained within any city record;

2.56.030 Information available to public. A. Except as provided by Section 2.56.040, or by other provisions of municipal, state or federal law, all public records shall be open to inspection by any person subject to guidelines regulating the time, place and manner pursuant to Section 2.56.050. The types of records and information open to the public inspection pursuant to this chapter shall include, but shall not be limited to, the following:

1. Financial and operational cost information, including information as to revenues, expenditures, indebtedness, department budget requests and formal departmental recommendations in regard to project priority;
2. Information relating to contracts to which the municipality is a party, including payment provisions, information relating to bids and requests for proposals received or solicited by the municipality, and information relating to the status of goods or services furnished pursuant to contract;
3. Regulatory, financial, assessment and tax information concerning real property located within the municipality;
4. Salary levels and fringe benefits accorded municipal officers and employees by law, including information in regard to the pay range and step grade of any employee or officer, and statistical analyses or compilations relating to municipal practices and policies concerning compensation for various occupational groups, departments or divisions;

5. ~~Statistical information and analyses concerning caseloads, numbers and categories of persons for which services performed or treatment provided, results achieved and per patient and per unit costs;~~

6. ~~Feasibility, management, cost effectiveness and similar reports prepared by the municipality with municipal moneys.~~

~~B. The foregoing enumeration of information available for public inspection is not designed to limit the categories of records and information that shall be made available to the public pursuant to this chapter. The policy of providing public access to public information shall be broadly and liberally construed. (Ord. 80-5 Sec. 3, 1980)~~

B. Nothing in this chapter requires the city to create, compile, summarize, outline, or in any other way create information from existing city records in order to comply with a request to inspect city records.

C. The City is not required to produce public records for inspection, or to copy records, in the exact medium they are stored, provided that the substantive content of the information contained within the record is not altered. In the event that the substantive content of a record is altered, a written statement explaining the nature of the change and why such change was necessary shall be issued to the requester.

D. Original records shall not leave City custody.

2.56.040 Records exempted. The City shall not be required to release or disclose the following documents or records:

1. Communications of any kind between the municipal attorney and officers or employees of the City, or any other individual, firm or corporation containing a legal opinion, memorandum or other disclosure of information pertaining to any matter then in litigation or where litigation may be pending. This exemption does not extend, however, to any documents, records or other written communication that may have been made public prior to the commencement of litigation and public records that must otherwise be disclosed cannot be withheld on the grounds that they have been submitted to the municipal attorney;

2. Personnel, payroll and medical files that would reveal the financial or medical status of any specific individual, thereby creating an unreasonable invasion of that individual's privacy. ~~Salary levels and fringe benefits accorded all municipal officers and employees by law shall be considered public information, pursuant to Section 2.56.030(A);~~ except for the following information:

- a. The names and position titles of City officers and employees, including any prior positions held;
- b. The dates of appointment and separation of a City officer or employee;
- c. Salary levels and fringe benefits of City employees;
- d. Resumes for all applicants for department head positions.

3. Files pertaining to the investigation of criminal activity with the exception of records that may be required by other governmental agencies or entities for the proper governmental agencies or entities for the proper administration of justice. In this regard the provisions of Alaska Statute Chapter 62, and Privacy shall apply;
4. Information such as name, address, etc., that would identify complainants in actions to enforce any city regulation or ordinance, except as such disclosure may become necessary to a fair and just disposition of the enforcement proceeding;
 - a. This subsection does not prohibit disclosure of the contents of the complaint, so long as the complainant is not identifiable;
5. Records held by the City concerning any customer using municipal services, release of which would be an unwarranted invasion of privacy;
6. Engineering or other technical specifications or data which might provide a competitive advantage to any person, firm or corporation engaged or potentially to be engaged in municipal business, including;
 - a. Bids or proposals submitted to the City as part of a procurement process governed by sections 6.08.100 and 6.08.110 of this code, unless the City has issued a notice of intent to award.
 - b. Proprietary information which a manufacturer, consultant, contractor or supplier of goods and services reasonably requires to be kept privileged or confidential to protect the interests of persons providing the information or data.
 - c. Information which municipal governments engaged in collective bargaining consider privileged or confidential for the purpose of successful collective bargaining.
7. Information obtained by and in the custody of insurance carriers insuring the municipality and their attorneys and agents regarding possible and pending claims against the municipality;
8. Health, mental health, medical, juvenile and personality problem information obtained or prepared by the municipality with respect to any person for whom treatment or services were provided;
9. Records concerning the pre-decisional deliberative process in any quasi-judicial proceeding conducted by the City;
10. Any record, nondisclosure of which is authorized by a valid Alaska or federal statute or regulation, or by privilege, exemption or principle recognized by the courts, or by a protective order authorized by law;
11. Confidential tax information;
12. Documents for which the City's need for confidentiality outweighs the public's right to know. (Ord. 80-5 Sec. 4, 1980).

2.56.050 Regulation of time, place and manner of inspection of public records. The City Manager shall adopt regulations as to the time, place and manner of inspection of public records held by the municipality. Such regulations may also provide:

1. That a fee may be required. ~~The fee shall not exceed the actual cost to the agency. No fee shall be charged when a person simply request access to the information. In the event the person is unable to pay any request fee, and signs an affidavit to the effect he or she is indigent, there will be no cost to the above described person;~~ The fee for copying City records is established under the Fee Schedule as approved by Council. The fees shall not exceed the maximum fees allowable under Alaska Statute 40.25.110.

2. ~~The form in which the specified documents shall be made available. Documents need not be reproduced in the exact form or medium in which they are stored. However, any alteration of the form or medium of public records shall not change the information contained in the public record. When the actual content is changed, the nature of the change and why it was necessary shall be communicated to the requestor.~~ All requests to inspect city records shall be submitted in writing to the City Clerk, on a form provided by the city, along with any applicable fee. In the event that a requestor is unable to submit a written request due to a physical or mental disability, the City Clerk shall either assist the requestor in preparing a written request, or treat the oral request as a written request.

3. Regulations adopted pursuant to this section shall be posted in a conspicuous manner at City Hall. (Ord. 80-5 Sec. 5, 1980)

2.56.060 Response to requests for public records. All requests for public information or records shall be approved by the City Manager. The Manager or his designee shall, consistent with the orderly conduct of municipal business, make a good faith and diligent effort to provide a rapid and intelligible response to requests for inspection of records made pursuant to this ordinance. To effect this policy, the following guidelines are adopted:

1. Information pursuant to this chapter shall be furnished promptly to the requesting party unless the information requested is declared privileged or confidential pursuant to applicable federal, state or municipal law. If the Manager or his designee considers the information to be privileged, he shall prepare a slip setting forth the date, the item of information requested, and notify the requestor in writing that the City record is not subject to inspection, including a citation to the specific provision of applicable state, federal or municipal law exempting the requested information from disclosure. ~~A copy of this slip shall be provided to the party requesting said information,~~ or the date upon which the record was destroyed in accordance with the City's adopted records retention schedule, along with the date, and the item of information requested.

2. Any denial of a request for information or inspection of public records may be appealed to the City Council and a written reply will be given within seven working days from the Council's

consideration thereof either granting or denying the appeal. An appeal from the decision of the Council shall be to the superior court.

3. All requests for records and information made pursuant to this chapter shall be responded to within a reasonable time period. If the records and information cannot be located in time to make a response within two working days of the request, the requesting party shall be promptly advised, and, if the requesting party still desires the information or records, a reasonable and diligent search shall be made for it. (Ord. 80-6 Sec. 6, 1980)

SECTION 5. ADOPTING CHAPTER 2.58 RECORDS MANAGEMENT TO READ AS FOLLOWS:

Chapter 2.58 Records Management

Sections:

2.58.010 Purpose.

2.58.020 Definitions.

2.58.030 Records and Information Management Program (RIM).

2.58.040 Regulations.

2.58.050 Duties of city departments.

2.58.060 Data collection/forms management.

2.58.010 Purpose. This ordinance is intended to provide the City with a comprehensive system that ensures the City of Seldovia is able to identify, store and retrieve records to ensure that records are managed in an efficient and effective way while complying with federal, state, and City requirements. The process ensures that records that have outlived their usefulness are destroyed, in accordance with the City's records retention schedule.

2.58.020 Definitions.

A. RECORD. The term record includes all recorded information acquired or stored by the City for future use or preservation, including any document, paper, book, letter, photograph, microfilm, electronic record, map, drawing, chart, card, magnetic media or computer printout.

B. RECORD SERIES (OR RECORD TYPE). A record series (or type) is any group of identical or related records which are normally used and filed as a unit and which permit evaluation as a unit for retention scheduling purposes. Each record series shall be segregated according to series and the year of acquisition or creation.

C. VITAL RECORDS. Vital records are those records necessary to assure continuance of essential governmental operations to protect the legal and financial operation of the City in the event of disaster or catastrophic loss of the City's records.

D. LEGAL VALUE. A record has legal value if it relates to current or possible legal action by or against the City, and records relating to land, construction, legislative and judicial actions of the City Council, or potential court claims.

E. HISTORICAL VALUE. A record series has historical value if it will be useful at a later date in reconstructing a general history or the development and government of the City.

F. RETENTION SCHEDULE. The retention schedule sets forth the length of time a record type shall be kept. Periods may be assigned for records stages such as on-site (office) retention, off-site (storage) retention, and total retention. Legal citations and related retention periods, if any, may be referenced.

2.58.030 Records and Information Management Program (RIM). The City Clerk shall serve as the City Records Manager and shall have the primary responsibility for the development, maintenance and operation of the City's records management system. The City Clerk's duties and responsibilities with respect to the RIM program include, but are not limited to:

1. Establishing policies for the operation and implementation of this chapter and a Citywide RIM program;
2. Implementing best industry practice for the management of all City records regardless of their format;
3. Reporting annually to the council with respect to the program's effectiveness and its cost to the City;
4. Preparing and reviewing the Seldovia Retention Schedule for compliance with applicable legal requirements, and making recommendations to the council regarding amendments to the program, which shall be approved by resolution of the Council;
5. Developing a schedule for the destruction or other disposal of obsolete records at the end of the retention period established for that type of record. The City Clerk shall maintain a permanent log of all records types that have been destroyed;
6. Creating, implementing, and managing the RIM program to ensure the objectives are achieved through the training of department heads, and through regular program reviews to ensure continuous improvement;

7. Notifying all City employees of litigation holds and releases for City records upon potential suspicion of litigation, or subpoena of City records;
8. Providing records management advice and assistance to all City officers and departments;
9. Preparing and approving records management policies and procedures;
10. Establishing, in cooperation with other City departments, a disaster plan for each department to ensure maximum availability of records for re-establishing operations quickly and with minimum disruption and expense;
11. Developing procedures to ensure the permanent preservation of historical and vital records of the City; and
12. Replacing any original record which is lost, worn or damaged by a certified copy of that record and the replacement shall be considered an original record for all purposes.

2.58.040 Regulations. The City Council may adopt regulations to effectuate this ordinance. The City Clerk shall submit regulations to the City Council for approval, by a motion, to carry out the proposed purposes as set forth in this ordinance.

2.58.050 Duties of City Departments. Each department shall establish and maintain a file system in the most organized and efficient manner possible and in compliance with any records management regulations approved by City Council.

2.58.060 Data Collection/Forms Management.

A. The purpose of this section is to provide for an efficient and economic system of coordinating the data collection efforts of each department and to reduce the burden on both citizens and businesses by minimizing the number of forms which each shall be required to complete and return to the City and to minimize forms redundancy with city forms used for interoffice purposes.

B. The Records Manager shall establish regulations to economically combine, simplify or eliminate City forms to the extent possible without compromising administrative efficiency and shall consult with each department head to determine informational needs of each department. The City Clerk shall control the creation and use of forms which members of the general public are required to complete. Forms regulations may be placed in the Seldovia Municipal Code.

SECTION 6. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2018.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

Vote:

- Colberg-
- Campbell-
- Morrison-
- Rojas-
- Lethin-
- Sweatt-

DRAFT