



Ordinance

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

NO. 365

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING THE CITY CODE OF THE CITY OF SAN LUIS, AMENDING CHAPTER 37-CITY POLICIES BY ADOPTING THE “PUBLIC RECORDS REQUEST POLICY”, REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Mayor and Council of the City of San Luis have determined that it is in the best interest of the residents of the City of San Luis to establish a written policy for the procedures to be used for requests for public records; and

WHEREAS, a certain document known as “Public Records Request Fee Schedule”, was recently adopted with Resolution No. 1195;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of San Luis, Arizona, as follows:

SECTION 1: Chapter 37 of the City Code of the City of San Luis titled “City Policies” is hereby amended to add Section 37.20 et. seq. to be subtitled “Public Records Request Policy” as follows:

37.21 **PURPOSE OF THE PUBLIC RECORDS REQUEST POLICY:**

To implement a procedure for the City of San Luis (the “City”) to provide information to the public in a consistent manner according to state law.

37.22 **PUBLIC RECORDS REQUEST POLICY NARRATIVE:**

All written requests for information and records are processed through the City Clerk acting as custodian of records (“Custodian”) or authorized designee pursuant to the City Code of the City of San Luis, Arizona, with the exception of police reports and minute entries or transcripts for victims of a criminal offense, as set forth in Section H below. The Public Records Request Form (the “Request Form”) can be found on the City’s website: www.cityofsanluis.org under City Departments, City Clerk, and is available by calling the City Clerk’s office.

- A.** The public will be asked to submit a Request Form when seeking copies of, or when seeking to review, public records to facilitate proper administration of the request. The requests should provide adequate and detailed information. The City is not responsible for creating new documents or generating reports in response to requests. Request Forms are processed as required under A.R.S. Title 39, Chapter 1 and appropriate charges will be assessed to the requesting party, as per the policy as set forth below under "Fees."
- B.** Only one Request Form is required. If the public downloads the Request Form from the City's website, prints the form and submits this form at City Hall, the requester is not required to fill out a duplicate form at City Hall.
- C.** A blank Request Form may be faxed to the requester. The requester may then complete, sign and fax the completed form back to City Hall. However, the requested material(s) is NOT to be faxed to the requester, as the requester must submit payment, as appropriate, prior to the release of the document(s). The requested material(s) may be faxed after payment is received.
- D.** Commercial requests for public information must include a statement of the commercial purpose and be notarized pursuant to state law. If the form is notarized at City Hall, the notary fees as allowed by state statute will be collected. All Request Forms shall be filed with the Custodian or authorized designee and date-stamped upon receipt.
- E.** If the request is to inspect documents only, the original public record(s) must be reviewed in the presence of the Custodian or authorized designee.
- F.** The Custodian or authorized designee will be given the request on the day the request is submitted to the City for compliance with compiling the requested information. If a request is delivered to another City department, the request will be forwarded to the Custodian that same day.
- G.** All requests will be processed through the office of the Custodian except for:
 - 1. requests for Court documents filed in the San Luis Municipal Court which will be processed through the San Luis Municipal Court or
 - 2. requests for police reports maintained by the San Luis Police Department which will be processed through the San Luis Police Department.

Except for requests as set forth above, it is the responsibility of the Custodian or authorized designee to facilitate all departmental responses to public records requests and to communicate with the public regarding public records requests.

- H. If a public record is maintained by a department other than the Custodian, the Custodian will request the information from the department and the department will forward the public record to the Custodian promptly and in any case within five (5) business days after the request is made. The City department providing the information to the Custodian will provide the Custodian or authorized designee with a total of two (2) paper copies (i.e., one copy of all materials to be given to the requester and one duplicate copy for archival purposes) or one electronic copy. If the requested information cannot be forwarded to the Custodian within five (5) days, the Custodian must be informed promptly and in any case within five (5) business days after the request is made of the reason for the delay and the earliest date the requested information will be made available.
- I. Every effort will be made to provide the information to the requester by the end of the seventh (7th) business day following the date the request is made. If the requested public records cannot reasonably be produced within seven (7) business days, the Custodian or authorized designee shall advise the requester within seven (7) business days setting forth the reason that such records cannot be produced within seven (7) business days and the earliest date the requested information will be made available. A request for a commercial purpose may require additional time for processing.
- J. **Confidential Records Exempt from Disclosure:** Certain City Records are confidential under Arizona statutes or other laws and cannot be released to the public. Examples include but are not limited to records protected by Attorney-Client privilege and minutes of executive sessions of City Council.
- K. **Records Involving a Privacy Interest Exempt from Disclosure:** Certain City Records may not be accessible to the public due to the record involving a privacy interest where the public access would invade privacy and that invasion outweighs the public's right to know.
- L. The Custodian shall refer any questions of the legality of the documents or disclosures to the City Attorney by sending an e-mail with the Request Form as an attachment.
- M. If the public records contains material that is exempt from disclosure as well as material not exempt, the Custodian or authorized designee shall separate the material and make the non-exempt material available for examination and copying. In general, the following personal identifying information should be redacted from documents as approved by the City Attorney: address, phone number, social security number, birth date, etc.

- N.** Public records may be disclosed in the form of a CD, DVD, cassette, videotape or paper. If the records are not maintained in electronic format by the City, the City is not required to convert the requested public records into electronic format. Public records requested to be disclosed electronically in the form of CD or DVD will be provided in a “read-only” format to ensure the public record remains intact after disclosure by the City.
- O.** The original Request Form will remain on file with the Custodian of Records subject to the requirements of the records retention and disposition schedule for Arizona municipalities.
- P. Fees:**
1. There will be a per page photocopy charge to the public as set forth by resolution in addition to the minimum fee per request as set forth by resolution, other charges as may be applicable pursuant to state law, including, but not limited to, a reasonable amount for the cost of time, equipment and personnel used in producing copies of the records, but not for costs of searching for the records, and applicable sales tax. For requests of public materials, equipment and personnel used in producing or reproducing the information, there will be a charge for the value of reproduction on the commercial market as best determined by the City.
 2. There will be a reasonable charge for documents converted to a read-only electronic format and provided on portable electronic storage device in addition to the minimum fee for cassettes, CDs, DVDs and videotapes as set forth by resolution, other charges as may be applicable pursuant to state law, including, but not limited to, a reasonable amount for the cost of time, equipment and personnel used in converting the records into read-only electronic format, but not for costs of searching for the records, and applicable sales tax.
 3. All fees must be paid prior to the release of printed, CD, DVD, cassette, or videotape documents and/or materials. If a document is not picked up within two (2) weeks of the request, the requester shall be billed for the cost of the document(s) and the document(s) may be destroyed.
 4. Unless otherwise determined by the City, the City will not charge the federal government, the State of Arizona or any of their political subdivisions, the fees set forth above for non-commercial purpose public records requests.
- Q.** City Council of the City of San Luis shall from time to time set the fees for Public Records Request by resolution.

SECTION 2: The Mayor, City Manager, City Clerk and City Attorney or their authorized designees are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

SECTION 3: In the event of a conflict between the provisions of this ordinance and any other ordinance, code, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced.

SECTION 4: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and City Council of the City of San Luis, Arizona, this _____ day of _____, 2017.

Gerardo Sanchez, Mayor

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

Kay Marion Macuil, City Attorney