

PUBLIC RECORDS POLICY

For

LINCOLN COUNTY, NEVADA

Policy

This public records policy ("Policy") of Lincoln County, Nevada ("County") is established to operate an effective and efficient records management program. Pursuant to this Policy, the County shall: 1) encourage transparency and public participation in government, 2) comply with all applicable state and federal laws, 3) include processes and procedures that protect confidential records from disclosure; and 4) promotes innovation and collaboration between County employees and departments.

In accordance with this Policy, the County is committed to responding to requests to inspect or receive copies of public records maintained by the County in an orderly, consistent and lawful manner.

Purpose

The County recognizes that Nevada Public Records Law (NRS 239.001 -239.330) gives members of the public the right to inspect and copy certain public records maintained by the County. The purpose of this Policy is: 1) to establish an orderly and consistent procedure for receiving and responding to public records requests from the public, 2) to establish the basis for a fee schedule designed to reimburse the County for the actual costs incurred in responding to public records requests, and 3) to inform citizens and members of the media of the procedures and guidelines that apply to public records requests.

Procedure

Public records requests may be made via the County's Public Records Request form, over the telephone, in person, or through written correspondence.

A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of the County who has legal custody or control of a public record shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

Upon receipt of a public records request, County staff shall respond to the request within five (5) business days. If staff is unable to provide the records within five business days, staff shall provide the requestor, in writing, with notice of one of the following:

1. If the County does not have legal custody or control of the requested public record, County staff shall communicate that fact to the requestor and provide the requestor the name and address of the governmental entity that has legal custody or control of the record, if known.
2. If the public record has been destroyed, County staff shall communicate this to the requestor and cite approved records retention schedule.
3. If the County is unable to make the public record available by the end of the fifth business day after receiving the request, County staff shall so notify the requestor and shall specify to the requestor a date and time when the record will be available.
4. If the public record or any portion thereof is confidential, and access is denied, staff shall communicate this to the requestor and cite the specific statute or other legal authority that declares the record and/or any portion of the record to be confidential.

Some public records requests are requests for information that would actually require the creation of a new public record. Public bodies are not obligated under Nevada's Public Records Law to create new public records where none exist in order to respond to requests for information.

Non-record materials are not considered official public records and are not subject to disclosure under the Nevada Public Records law. Non-record materials are published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity. (NAC 239.051)

Confidential and Restricted Public Records

The Nevada Revised Statutes (NRS) identify many statutes that declare records to be confidential or restricted and, therefore, are not publicly accessible. Statutes that reference confidential or restricted records which are "declared by law to be confidential" are cited in NRS 239.010 and are therefore exempt from public access. They include the following sections of the Nevada Revised Statutes (NRS):

NRS: 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.2 20, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A. 200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.281 7, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 17 8.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095 , 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213. 131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.27 0, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 2 39B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007,

241.020, 241.030, 241.039, 242.105, 244. 264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 28 1A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.55 8, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360. 255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 3 85B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534 , 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.386 6, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 4 81.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A .210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.3 53, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 63 0.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B. 730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643 .189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D .135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649. 067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675. 380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 68 1A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.1 15, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential.

The most common public records that are deemed confidential are as follows:

1. Personal Identifying Information – NRS 239B.030(5)(a). Each governmental agency may ensure that any personal information contained in a document that has been recorded, filed or otherwise submitted to the governmental agency, which the governmental agency continues to hold, is maintained in a confidential manner if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.
2. Bids and Proposals under Negotiation or Evaluation – NRS 332.061(2). Bids which contain a provision that requires negotiation or evaluation may not be disclosed until the

bid is recommended for award of a contract. Upon award of the contract, all of the bids, successful or not, with the exception of proprietary/confidential information, are public record and copies shall be made available upon request.

3. Bids and Proposals Containing Proprietary Information – NRS 332.061(1). Proprietary information does not constitute public information and is confidential.
4. Recreation Program Registration – NRS 239.0105. Records of recreational facility/activity registration where the name, address, and telephone number of the applicant are collected are confidential.
5. Emergency Action Plans and Infrastructure Records – NRS Chapter 239C. Records detailing the District's Emergency Response Plans and critical infrastructure are restricted and may be confidential under state law.
6. Personnel Records – To the extent permitted by law employee personnel records are considered confidential.
7. Databases Containing Electronic Mail Addresses or Telephone Numbers – NRS 239B.040. Electronic mail addresses and/or telephone numbers collected for the purpose of or in the course of communicating with the County may be maintained in a database. This database is confidential in its entirety, is not public record, and it must not be disclosed in its entirety as a single unit; however, the individual electronic mail address or telephone number of a person is not confidential and may be disclosed individually in certain circumstances.
8. Protected Medical Records – HIPAA 45 CFR Part 160 and Part 164. Medical records collected during medical transports may only be disclosed to the patient or as authorized by the patient. Medical records related to the County's insurance plan are also confidential.
9. Attorney/Client Privileged Records – NRS 49.095. Confidential communications between a client or a client's representative and the client's lawyer or the representative of the client's lawyer are privileged and not subject to disclosure. Documents may be protected by the attorney-client privilege and/or work product doctrine even if they are not direct exchanges between an attorney and a client.
10. Restricted Documents – NRS 239C.010 to NRS 239C.270. Blueprints or plans of schools, places of worship, airports other than an international airport, gaming establishments, governmental buildings or any other building or facility which is likely to be targeted for a terrorist attack, including plans detailing the location and design of County information technology, water and sewer infrastructure are considered "Restricted Documents." These plans can only be inspected after supplying: (a) name; (b) a copy of a driver's license or other photographic identification that is issued by a governmental entity; (c) the name of employer, if any; (d) citizenship; and (e) a statement of the purpose for the inspection.
11. Records Detailing Investigations or Relating to Litigation or Potential Litigation. To the extent permitted by law, records involving certain criminal or employee investigations, litigation or potential litigation are considered confidential.
12. Local Ethics Committee Opinions – NRS 281A.350(4). Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

- a. The public officer or employee acts in contravention of the opinion; or
 - b. The requester discloses the content of the opinion.
13. Economic Development Initial Contact and Research Records (NRS 268.910). An organization for economic development formed by one or more cities shall, at the request of a client, keep confidential any record or other document in its possession concerning the initial contact with and research and planning for that client. If such a request is made, the executive head of the organization shall attach to the file containing the record or document a certificate signed by the executive head stating that a request for confidentiality was made by the client and showing the date of the request.
14. Copyright-Protected Material. If the County maintains public records containing copyright-protected material, the County will permit the person making the request to inspect the copyrighted material, and may allow limited copying of such material if allowed under Federal copyright law. The County may require written consent from the copyright holder or an opinion from the person's legal counsel before allowing copying of such materials.
15. Balancing Test Analysis. In those instances when the legislature has not specified a particular record to be confidential, a balancing test will be applied to determine whether a record is a public record subject to the provisions of the Nevada Public Records Law. This test balances the interest and justification of the County in maintaining the confidentiality of the document against the interest or need of the public to review the document. The test should be done by legal counsel in full consultation with the County.

Fees

NRS 239.052 authorizes the County to charge a fee for providing a copy of a public record. The County-wide fee schedule for public records and document services attached as Exhibit 1 shall be posted on the County website and in all other locations required by NRS Chapter 239.

Generally, requests which would yield over 1 hour of response time would be considered extraordinary, but the "extraordinary" determination will be made on a case-by-case basis, depending on the nature of the request and the amount of time, effort, and resources required to respond to it. If the County determines that extraordinary use of personnel or resources is required to respond to your request, the relevant County office will notify you in advance of incurring the anticipated costs. In certain circumstances, the County may also waive all or a portion of such costs.

The current fee schedule can be found in the County's Public Records and Documents Fee Schedule.

In accordance with NRS 239.054, the County may recover costs for providing information from Geographic Information Systems ("GIS"). In addition to the actual cost of the medium in which the information is provided, the County may recover reasonable costs related to: 1) gathering and entering data, 2) maintaining and updating system databases, 3) hardware, 4) software, 5) quality control, and 6) consultation.

EXHIBIT 1

PUBLIC RECORDS AND DOCUMENT SERVICES FEE SCHEDULE FOR LINCOLN COUNTY, NV

TYPE	SERVICE	FEE (per unit minimum)*
Black & White Documents (Non-Custom) 8.5 x 11 8.5 x 14 11 x 17 24 x 36	Routine search and copy	\$.10 \$.15 \$.20 \$ 3.00
Color Documents (Non-Custom) 8.5 x 11 8.5 x 14 11 x 17 24 x 36	Routine search and copy	\$.20 \$.30 \$.40 \$ 5.00
Compact Disc (CD), DVD, other audio or video media	Charge for media only	\$ 1.00
USB Drive		\$10.00
External Hard Drive		\$100.00
Mylar	Charge for media only	\$ 15.00
Electronic Images	Mass data export	\$.10 per image
Black & White Photo (Non-Custom) Copy paper Photo paper	Routine search and copy	\$.20 \$.50
Color Photo (Non-Custom) Copy paper Photo paper	Routine search and copy	\$.20 \$.50
Minutes/Recordings	Copies of minutes or audio recordings of public meetings	No Charge if sent via email or if media is provided. If County provides media refer to above prices.
Certified Copy	Charge per documents	\$10.00 plus \$.20 per page, unless there is a specific

		cost outlined in statute.
Postage	USPS or certified w/receipt	Current Rate
Research Fee (Extraordinary Use of County's Personnel or Resources) NRS 239.055	<p>Fee is assessed in 30-minute increments after the first 1 hour.</p> <p>* An estimate will be provided to the requestor if it is determined that research is required.</p>	Not to exceed \$35 per hour. (charged at the actual hourly rate of the position(s) required to conduct the research)
Third Party	<p>Use of third-party consultants may be reasonably necessary to respond to a request.</p> <p>* An estimate will be provided to the requestor if it is determined that services of a third-party are required.</p>	Costs incurred from a third party to respond to a request will be passed on to the requesting party.

Any fee charged for providing a copy of a public record must not exceed the actual cost to the government entity to provide the copy of the public record unless authorized by a specific statute. NRS 239.052(1)

A government entity may approve the waiver of fees for a copy of a public record IF the government entity 1) adopts a written policy to waive all or a portion of a charge or fee for a copy of a public record; and 2) posts, in a conspicuous place at each office in which the government entity provides copies of public records, a legible sign or notice that states the terms of the policy. NRS 239.052(2).

This policy does not apply to mandatory fees that County offices charge in accordance with Nevada Revised Statutes.

* The fees in this schedule are a minimum fee that will apply to a request. If the County incurs an actual cost for services or supplies, such as hard drives, that exceeds the minimum listed on the fee schedule, then the actual cost will be charged.