

**Ordinance No. 2023-13**

**AN ORDINANCE AMENDING TITLE 5, GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT, CHAPTERS 1 and 2, OF THE PARK CITY MUNICIPAL CODE**

WHEREAS, the Government Records Access and Management Act (GRAMA), adopted by the Utah Legislature in 1992, recognizes the public’s right to access information about the conduct of the public’s business and the right of privacy to personal data collected by the government; and

WHEREAS, in 1992 the City adopted an ordinance codified as Title 5 of the Municipal Code of Park City, Utah, relating to the information practices and records retention, amendment, management, classification, designation, and access and denial of access, including an appeal procedure; and

WHEREAS, parts of Title 5, Chapter 1, duplicate state law and these amendments remove the duplication to help avoid conflicts with state law and simplify and modernize the Municipal Code; and

WHEREAS, Title 5, Chapter 2, is repealed to eliminate the discretionary appeal process and allow a requestor to appeal a City Manager’s decision directly to the State Records Committee or District Court, making the process more efficient for requestors and allowing requestors to rely on the appeal process in GRAMA.

NOW, THEREFORE BE IT ORDAINED by the City council of Park City that:

Title 5, Chapter 1, Sections 5-1-1, -2, -4, are amended and Chapter 2 is repealed and this Ordinance is adopted to read as outlined in Exhibit A. This Ordinance shall become effective upon publication.

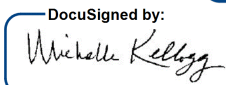
**PASSED AND ADOPTED** this 23<sup>rd</sup> day of March, 2023.

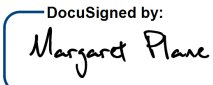
PARK CITY MUNICIPAL CORPORATION



DocuSigned by:  
*Nann Worel*  
5775BCB46414F6

Mayor Nann Worel

Attest:   
E5F905BB533F431...  
Michelle Kellogg, City Recorder

Approved as to form:   
11B5B6F4ACE34C7...  
City Attorney’s Office

**Exhibit A:**

**5 Government Records Access And Management Act (GRAMA)**

5-1

In

General

5-2 Appeals

**5-1 In General**

5-1-1 In General

5-1-2 Purpose And Intent

5-1-3 Adoption Of Records Retention Schedules  
5-1-2 Adoption Of Records Retention Schedules

5-1-43 Reasonable Fees To Be Set By Resolution

5-1-4 Appeals

**5-1-1 In General**

The Government Records Access and Management Act (GRAMA), as adopted by the State of Utah and delineated in Utah Code ~~Ann.~~ Sections 63G-2-101 et seq. as amended, ~~excepting Part 4 Appeals (§§63G-2-400.5 – 63 G-2-406),~~ applies to all GRAMA requests for access to City records.

HISTORY

Amended by Ord. [2018-28](#) on 6/26/2018

**5-1-2 Purpose And Intent**

~~The City recognizes two fundamental constitutional rights: the right of privacy in relation to personal data gathered by the City; and the public's right of access to information concerning the conduct of the public's business. The City also recognizes a public policy interest in restricting access to certain records, as specified in GRAMA for the public good.~~

~~It is the intent of the City to:~~

- ~~A. Establish fair and efficient management practices for City records.~~
- ~~B. Promote the public's right of easy and reasonable access to unrestricted public records.~~
- ~~C. Permit confidential treatment of records only as provided in GRAMA.~~
- ~~D. Provide guidelines for both disclosure and restrictions on access to City records, based on the equitable weighing of the pertinent interests and which are consistent with the nationwide standards.~~
- ~~E. Favor public access when in the application of GRAMA countervailing interests are of equal weight.~~

HISTORY

Amended by Ord. [2018-28](#) on 6/26/2018

**5-1-3 Adoption Of Records Retention Schedules**

**5-1-2 Adoption Of Records Retention Schedules**

The City shall adopt by Resolution retention schedules for each record series pursuant to the Utah Municipal General Records Retention Schedule, prepared by the Utah Department of Administrative Services, Division of Archives and Records Service, with amendments and exclusions as necessary.

#### HISTORY

*Amended by Ord. 2018-28 on 6/26/2018*

*~~08-49 on 12/11/2008~~*

*Amended by Ord. 2018-28 on 6/26/2018*

### 5-1-4 Reasonable Fees To Be Set By Resolution

### 5-1-3 Reasonable Fees To Be Set By Resolution

~~The City will set reasonable fees by Resolution to cover actual cost of duplicating a record or compiling a record in a form other than that maintained by the City.~~

### 5-1-4 Appeals

~~The City will follow the appeals process delineated in Utah Code Sections 63G-2-101 et seq. as amended §§63gt-2-400.5—63G-2-406. The City's Chief Administrative Officer is the City Manager. may not charge a fee for reviewing a record to determine whether it is subject to disclosure or inspecting a record.~~

~~The City may fulfill a record request without charge when it determines that:~~

- ~~A. Releasing the record primarily benefits the public;~~
- ~~B. The individual requesting the record is the subject of the record;~~
- ~~C. The requester's legal rights are directly implicated by the **in** the record; or~~
- ~~D. The requester is impecunious~~

#### HISTORY

*Amended by Ord. 2018-28 on 6/26/2018*

### 5-2 Appeals

#### 5-2-1 Appeals In General

#### 5-2-2 Appeal Of Extraordinary Circumstances Decisions

#### 5-2-3 Appeal Of Business Confidentiality Claims

#### 5-2-4 Determination By City Manager

#### 5-2-5 Appeal Of City Manager's Decision To The City GRAMA Appeal Board

#### 5-2-6 Non-Requester Appeals

#### 5-2-7 Extension Of Time Period

#### 5-2-8 Judicial Review

### 5-2-1 Appeals In General

~~Any person aggrieved by the **City's** determination under GRAMA, including persons not a party to the City's proceeding, may appeal the determination to the City Manager by~~

~~filing a notice of appeal with the City Manager within 30 days of when the City sends a notice of denial or the record request is consider denied. The City Manager is the designated **chief administrative officer** for the City. The notice of appeal shall contain the following information:~~

- ~~A. The petitioner's name, mailing address, and daytime telephone number; and~~
- ~~B. The relief sought.~~

~~The person aggrieved may include a short statement of facts, reasons, and legal authority in support of the appeal.~~

~~HISTORY~~

~~Amended by Ord. 2018-28 on 6/26/2018~~

~~**5-2-2 Appeal Of Extraordinary Circumstances Decisions**~~

~~If the City claims extraordinary circumstances and specifies the date when the records will be available and, if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the City's claim of extraordinary circumstances or date for compliance to the City Manager within thirty (30) days of notification of a claim of extraordinary circumstances by the City, despite the lack of a "determination" or its equivalent.~~

~~HISTORY~~

~~Amended by Ord. 2018-28 on 6/26/2018~~

~~**5-2-3 Appeal Of Business Confidentiality Claims**~~

~~If the appeal involves a record that is the subject of a business confidentiality claim under Utah Code Ann. Section 63G-2-309, as amended, the City Recorder shall:~~

- ~~A. Send notice of the requester's appeal to the business confidentiality claimant within three (3) business days after receiving notice, except that if notice under this Section must be given to more than thirty-five (35) persons, it shall be given as soon as reasonably possible;~~
- ~~B. Send notice of the business confidentiality claim and the schedule for the City Recorder's determination to the requester within three (3) business days after receiving notice of the requester's appeal.~~
- ~~C. The business confidentiality claimant shall have seven (7) business days after notice sent by the City Recorder to submit further support for the claim for business confidentiality.~~

~~HISTORY~~

~~Amended by Ord. 2018-28 on 6/26/2018~~

~~**5-2-4 Determination By City Manager**~~

- ~~A. The City Manager shall make a determination on appeal within ten (10) business days of the City Manager's receipt of the notice of appeal, or within five (5) business days of the City Manager's receipt of the notice of appeal if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party, or within twelve (12) business days after the City sends the requester's notice of appeal to a person who submitted a claim of business confidentiality. The City Manager may, upon consideration and weighing the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified under GRAMA as private or protected if the interests favoring access are greater than or equal to the interests favoring restriction of access.~~
- ~~B. The City Recorder shall send written notice of the City Manager's determination to all participants. If the City Manager affirms the denial in whole or in part, the denial shall include a statement that the requester has the right to appeal the denial to the GRAMA Appeal Board, the time limits for filing an appeal, and the individual designated as the contact for the GRAMA Appeals Board.~~
- ~~C. The City Manager's duties under this Section may be delegated.~~
- ~~D. If the City Manager fails to make a determination within the time specified in subsection (A) above, the failure shall be considered the equivalent of an order denying the appeal.~~

**HISTORY**

*Amended by Ord. 2018-28 on 6/26/2018*

**5-2-5 Appeal Of City Manager's Decision To The City GRAMA Appeal Board**

- ~~A. A notice of appeal of the City Manager's decision must be filed with the City Recorder no later than thirty (30) days after the City Manager has denied the appeal or fails to make a determination within the time specified in Section 5-2-4(A). No later than three (3) days after receiving notice of the appeal, the recorder shall schedule a hearing for the GRAMA Appeal Board to discuss the appeal which shall be held no sooner than fifteen (15) days and no later than thirty (30) days from the date of the filing of the appeal.~~
- ~~B. The GRAMA Appeal Board shall consist of three members: one (1) City employee, and two (2) members of the public who are not employed by or officials of a governmental entity, at least one (1) of whom shall have professional experience with requesting or managing records.~~
- ~~C. At the hearing, the GRAMA Appeal Board shall allow the parties to testify, present evidence, and comment on the issues. The GRAMA Appeal Board may allow other interested persons to comment on the issues. No later than three (3) business days after the hearing, the GRAMA Appeal Board shall issue a signed order either granting the petition in whole or in part or upholding the determination of the City Manager in whole or in part.~~
- ~~D. The order of the GRAMA Appeal Board shall include:~~

- ~~1. statement of reasons for the decision, including citations to GRAMA or federal regulations that govern disclosure of the record, provided that the citations do not disclose private, controlled, or protected information;~~
- ~~2. A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled, or protected information;~~
- ~~3. A statement that any party to the appeal may appeal the GRAMA Appeal Board's decision to the District Court; and~~
- ~~4. A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.~~

**HISTORY**

*Adopted by Ord. 2018-28 on 6/26/2018*

**5-2-6 Non-Requester Appeals**

~~Any person aggrieved by the City's classification or designation determination under GRAMA, but who is not requesting access to the records, may appeal that determination using the procedures provided in this Chapter. If a non-requester is the only appellant, the procedures provided in this Chapter shall apply, except that the determination on the appeal shall be made within thirty (30) days after receiving the notice of appeal.~~

**HISTORY**

*Amended by Ord. 2018-28 on 6/26/2018*

**5-2-7 Extension Of Time Period**

~~The provisions of this Section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this Chapter.~~

**HISTORY**

*Amended by Ord. 2018-28 on 6/26/2018*

**5-2-8 Judicial Review**

~~Any party to the proceeding before the GRAMA Appeal Board may petition for judicial review by the District Court of the GRAMA Appeal Board's order. The petition shall be filed no later than thirty (30) days after the date of the GRAMA Appeal Board's order.~~

**HISTORY**

*Amended by Ord. 2018-28 on 6/26/2018*