

KETCHIKAN GATEWAY BOROUGH
PUBLIC RECORDS REQUEST

Ketchikan Gateway Borough Code Chapter 5.90
Alaska Statutes Title 40.25

Requestor's Information:

NAME	_____
ADDRESS:	_____
PHONE:	_____
E-MAIL	_____
CITY/STATE/ZIP:	_____

Records Requested:

Title of Record:	_____
Date of Record:	_____
Description of Record <i>[Please be as specific as possible; a very broad request can delay our ability to respond since it is usually necessary to request more information..]</i>	_____

I understand that I will be required to pay a fee for duplication and that if the time to search and copy these records exceeds five hours, I must pay for staff time in excess of five hours.

CERTIFICATE OF NON-LITIGATION AFFILIATION

I, _____, hereby certify that I am not, nor is any party I represent, involved in litigation, in a judicial or administrative forum, with the Ketchikan Gateway Borough or a public agency to which the requested record is relevant.

Requestor's Signature

Date

GENERAL INFORMATION

Requests for public records are not required by law to be in writing. The Borough routinely requests that such requests are made in writing in order to:

- a. provide the requestor with a copy of what was requested for their records;
- b. provide accurate information to the various Borough departments which may maintain records responsive to the request so that the specific documents requested may be clearly understood and to minimize the risk of errors in translation; and
- c. a written, dated request provides helpful reference in the event that questions develop as to either the timing of the request, or whether the requested documents fall within one of the exceptions.

If your request is denied KGB Code Section 5.90.045 provides that you have the right to appeal the decision to the Borough Manager using the following procedures:

(a) If the borough official who is the custodian of a record considers the information requested to be confidential pursuant to applicable federal, state, or borough law, within ten (10) working days of receiving the request shall prepare and provide the requester a written statement setting forth the following information:

- (1) Date;
- (2) Item of information requested;
- (3) The specific provision of applicable state, federal or borough law exempting the requested information from disclosure;
- (4) The title and signature of the official withholding the information; and
- (5) The right of the requester to appeal the decision pursuant to subsection (b) below.

(b) In the event a party is denied access to requested information under the provisions of subsection (a) of this section, the person may submit a written appeal to the borough manager. Within ten (10) working days of receiving the appeal, the borough manager shall issue a written response to the requester, either granting or denying the appeal and notifying the requester of the right to appeal the decision to the borough assembly which shall be the final and binding authority.

INTERNAL USE ONLY – INFORMATION TO BE COMPLETED BY BOROUGH STAFF

Date Request Received _____ Referred To: _____

_____ copies provided for a total cost of \$ _____ on the following date:

Certain of the records are subject to an exemption from public records requests as listed on pages 3 and 4.[Cite Code or statutory reason for denial.]:

Record or information cannot be located and requestor was so notified on the following date:

Signature of Borough Employee: _____

Date: _____

**Ketchikan Gateway Borough Code, Chapter 5.90, Public Records
EXEMPTIONS**

5.90.035. Exemptions for particular records.

- (a) This title shall not be construed to require disclosure of the following records or information which by law, is required to be confidential:
- (1) Records of vital statistics and adoption proceedings;
 - (2) Records pertaining to juveniles;
 - (3) Health, mental health, medical, juvenile and personality problem information obtained or prepared by the borough with respect to any person for whom treatment or services were provided;
 - (4) Records required to be kept confidential by a borough ordinance, a federal law or regulation or by state law; and
 - (5) Records required to be kept confidential under 20 U.S.C. 1232(g) and the regulations adopted thereunder in order to secure or retain federal assistance.
- (b) This title shall not be construed to require disclosure of the following business and proprietary records or information:
- (1) Trade secrets, patented and/or copyrighted material;
 - (2) Records held by the borough pertaining to any client, customer, tenant, operator, use or subscriber, the release of which would constitute an unwarranted invasion of privacy of that person or entity;
 - (3) Records of engineering, marketing, accounting or other technical or financial data, which, if released, would provide a competitive advantage to any other persons or business engaged in similar or related activities;
 - (4) Proprietary information which a manufacturer, consultant or provider reasonably expects to be kept privileged or confidential to protect the property interests of persons providing the information or data; and
 - (5) Personal information other than name and address given to the borough with the legitimate expectation of privacy in conjunction with licenses, permits or other borough services.
- (c) This title shall not be construed to require disclosure of the following law enforcement records of information:
- (1) Records or information compiled for law enforcement purposes, but only to the extent that the products of the law enforcement records or information;
 - a. Could reasonably be expected to interfere with enforcement proceedings;
 - b. Would deprive a person of a right to a fair trial or an impartial adjudication;
 - c. Could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;
 - d. Could reasonably be expected to disclose the identity of a confidential source;
 - e. Would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;
 - f. Would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or
 - g. Could reasonably be expected to endanger the life or physical safety of an individual.
 - (2) Name, address, telephone number or other identifying information about complainants in actions to enforce building, zoning, environmental, animal protection or other borough ordinances or regulations. This subsection does not protect from disclosure the contents of the complaint, so long as the complainant is not identifiable; or the name of the complainant when such disclosure becomes necessary to fair and just disposition of the charge or complaint in enforcement proceedings.
- (d) This title shall not be construed to require disclosure of the following personnel records or information:
- (1) Borough personnel records, including examination materials; and medical records which reveal financial or medical status of any specific individual and, in addition, those records the disclosure of which would constitute an unwarranted invasion of privacy. This subsection does not protect from disclosure the following personnel information:
 - a. Employment applications and examination materials of borough officials appointed by the borough assembly;
 - b. The names and position titles of all borough employees;
 - c. The position held by a borough employee;
 - d. Prior positions held by a borough employee;
 - e. Whether a borough employee is in a collective bargaining unit;
 - f. The dates of appointment and separation of a borough employee; and

g. The compensation authorized for a borough employee. A borough employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(2) Information which municipal governments engaged in collective bargaining regularly consider to be privileged or confidential for purposes of successful collective bargaining.

(e) This title shall not be construed to require disclosure of the following privileged records or information:

(1) Communications from the borough attorney which contain legal questions concerning potential, pending or actual litigation and any labor negotiation. This subsection does not protect from disclosure, documents which were public records prior to the commencement of the litigation, and public records which are otherwise subject to disclosure by mere submission to the attorney. Any documents marked "confidential" which are submitted from the borough attorney's office shall only be produced if the borough attorney so authorizes. With respect to a person involved in litigation, the records sought shall be disclosed in accordance with applicable court rules; and

(2) Information obtained by and in the custody of insurance carriers insuring the borough and their attorneys and agents regarding possible and pending claims against the borough.

(f) This title shall not be construed to require disclosure of records or information specifically prepared for or produced during a legally convened executive session; provided, however, that public records which are otherwise subject to disclosure may not be protected from disclosure by mere submission during an executive session.

(g) Notwithstanding subsections (a)-(f) of this section, any person or entity who applies for a loan, grant or other benefit under the borough's economic development and assistance program under chapter 10.30 of this code is deemed to have consented to the public release of any and all financial records provided to the borough in connection with that application which are not provided under separate cover indicating that the information is confidential and identifying the documents as falling within one or more of the following exemptions from disclosure:

(1) Income tax returns;

(2) Financial statements, profit-and-loss statements, and cash flow projections, except the information required by the authority to calculate debt service coverage on the loan;

(3) Financial business plans;

(4) Credit reports from consumer reporting agencies and other credit information obtained from banks, creditors, or other credit reporting entities;

(5) Trade secrets;

(6) Appraisals, except the name of the appraiser, the date of the appraisal, and the fair market value determined for the property appraised;

(7) Market surveys and marketing strategy information; and

(8) Any information required to be kept confidential by a federal law or regulation or by state law.

Any and all financial records provided to the borough in connection with an application under the borough's economic development and assistance program under chapter 10.30 which are not exempt under this section are considered public documents which may be made available for inspection and copying under KGB Code section 5.90.005.

Nothing in this section shall prevent an assembly member, the mayor, or an agent of the borough from reviewing information otherwise confidential under this section if that person has a valid borough purpose for reviewing the information and if the person agrees to maintain the confidentiality of the information.