



# **Public Records Act Policy & Procedure**

*September 2017*

# **CITY OF STANWOOD PUBLIC RECORDS ACT POLICY & PROCEDURE**

It is the policy of the City of Stanwood to release public records in compliance with the Public Records Act and any other applicable provisions of federal or state law.

## **I. PURPOSE**

The City of Stanwood is required by the Public Records Act (“PRA”), Chapter 42.56 RCW, to adopt and enforce reasonable rules and regulations to provide full public access to public records. This policy complies with the requirements of the PRA by providing for straight-forward, predictable practices for responding to and fulfilling requests for disclosure of public records in a manner consistent with the PRA.

This policy includes both statutory requirements and best practices. Except where these provisions are mandated by statute, any duties identified in this policy are discretionary and advisory only and shall not impose any affirmative duty on the City of Stanwood. The City of Stanwood reserves the right to apply and interpret this policy and to revise or change the policy at any time.

This policy shall be available at Stanwood City Hall and posted on the City’s Website at [ci.stanwood.wa.us](http://ci.stanwood.wa.us).

## **II. DEFINITIONS**

1. “Act” refers to the Public Records Act, at Chapter 42.56 RCW.
2. “City” refers to the City of Stanwood.
3. “Exemption” refers to any statute that allows or requires the City to withhold information or records in response to a PRA request.
4. “Policy” refers to this policy for the Public Records Act.
5. “Public Record” means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the City regardless of physical form or characteristics. Records created or received by employees using privately owned devices only qualify as public record if the employee was acting within the scope of employment when the record was created or received, or when the record is subsequently used for a city purpose.
6. “Public Records Officer” or PRO is the person identified in section III.1 of this Policy.

7. "Public Record Liaison" is the person in a department assigned to work with the PRO to gather responsive records and identify possible exemptions.
8. "PRA Request" means a request for Public Records made to the city pursuant to the Act.
9. "Record Holder" is the individual employee who may be the custodian of the records sought in a PRA request.
10. "Requestor" means the person or entity that has made a Records Request to the City.

### **III. GUIDELINES**

#### **1. Public Records Officer**

The position of Public Records Officer is held by the City Clerk. The Public Records Officer may be contacted in person at City Hall, or via mail, phone, fax or email. The Stanwood Police Department maintains all city law enforcement records; requests can be directed to that department specifically.

City Hall Records Requests  
Public Records Officer  
10220 270<sup>TH</sup> ST NW  
Stanwood, WA 98292  
Phone: (360) 629-2181  
Fax: (360) 629-2009  
[Record.request@ci.stanwood.wa.us](mailto:Record.request@ci.stanwood.wa.us)

Police Records Requests  
Stanwood Police Department  
PO BOX 127  
Stanwood, WA 98292  
Phone: (425) 388-5290  
Fax: (360) 629-2886  
[Stanwood.Police@snoco.org](mailto:Stanwood.Police@snoco.org)

The Public Records Officer or public records liaison shall:

- (a)** Be responsible for implementing the City's process regarding disclosure of public records;
- (b)** Serve as the principal contact point with any Requestor who has made a Records Request to the City, unless the Public Records Officer has delegated these responsibilities for a particular Records Request to a staff member;
- (c)** Coordinate City staff in this regard, generally ensuring the compliance of the staff with public records disclosure requirements;
- (d)** Make the final decision in cooperation with the city attorney regarding disclosure and application of exemptions.

## **2. How to Make a PRA Request**

A PRA request only applies to records that exist at the time of the request. The PRA does not apply to requests for information or require the City to create a new record. Requestors cannot make "standing" PRA requests. Public records may be inspected or copies of public records may be obtained by the public at City Hall. To ensure a requestor receives their desired records the City has established the following procedures:

- (a)** The City encourages that all requests be made via email or in writing using the City's Public Records Request form, which is available at City Hall or on the City's website. The Police Department records request form can be found at the Stanwood Police Department, or on the City's website. It may be mailed, emailed, or delivered in person to City Hall/Police Department. In-person requests must be made during normal business hours. The request should include the following information:
  - (i)** An indication that the request is being made for access to a public record pursuant to the Public Records Act;
  - (ii)** The requestor's name, address, and convenient means of contact, such as email address, phone number, fax, etc.;
  - (iii)** The date of the request;
  - (iv)** A description of the public records requested that includes sufficient details to allow the City to identify responsive records;

(v) Whether the requestor wants to inspect records or wants copies. If the requestor wants copies, the requestor should also indicate the maximum amount they are willing to pay for copying fees;

(vi) Signature of the Requestor.

(b) The City will respond to oral requests in accordance with this policy. However, Washington Courts have recognized that oral requests for public records can be problematic and therefore requestors are strongly encouraged to make written requests using the City's request form.

### **3. Procedure for Response to Request**

#### **(a) Initial Five-Day Response**

The City shall respond promptly to PRA requests in accordance with the requirements of RCW 42.56.520 and this policy and procedure. Within five (5) business days of receiving a Records Request, the City will acknowledge receipt of the request and take one or more of the following actions:

- (i) Provide notice that the responsive records are available. If the record requested is available via the City's website, the response may include a specific link to the document;
- (ii) Seek clarification or refinement of the request if needed to identify the record requested and provide, to the greatest extent possible, a reasonable estimate of time needed to respond to the request if it is not clarified;
- (iii) Indicate that the City does not have any responsive records or that any responsive records are exempt from disclosure;
- (iv) Provide a reasonable estimate of when the request can be fulfilled. For large requests that will be filled in installments, the response will also indicate when the first installment will be made available.

#### **(b) Large Requests**

When receiving a request that appears to be broad in nature, the PRO may request clarification from the requestor to ensure that the appropriate records are identified and to determine if the request can be narrowed. Clarification shall focus on information needed to identify responsive records. Any information provided about the purpose of the request shall not be used as a basis for denying the request.

When appropriate, as part of the clarification process, the PRO may work with the requestor to find ways to narrow the request. When a requestor agrees to narrow a request, nothing prevents the requestor from later expanding the request back to its original scope.

When a Records Request is for a large volume of records, the City may elect to provide records on an installment basis. If a Requestor does not contact the PRO within fifteen (15) days to arrange for the review of the first installment, the City may deem the request abandoned and stop fulfilling the remainder of the request.

In accordance with RCW 42.56.080, the City may deny requests for “all records” or substantially all records not relating to a particular topic. The City can also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the requests cause excessive interference with the other essential functions of the agency.

#### **(c) Requests for List of Names**

The PRA prohibits the City from producing lists of names to a requestor who intends to use the list for commercial purposes. When a requestor requests a list of names, the requestor should explain the intended use of the list and may be asked to sign a declaration providing that the list will not be used for commercial purposes.

#### **(d) Notice to Third Parties**

If a public record contains personal information that identifies an individual or organization other than the subject of the requested public record, the City may notify that individual or organization to allow the third party to seek relief pursuant to RCW 42.56.540. The City may take this into account when providing an estimate for when the records will be available. The City should also review any contracts with third parties that may contain special notice provisions. Nothing in this policy is intended to create any right to such notice.

### **4. City Actions after a Request is Received**

#### **(a) Order of Response**

Fulfillment of requests shall be processed in the order that provides the timeliest response. Requests may be fulfilled in the order of receipt as long as easily fulfilled requests are not postponed behind larger or more complicated requests strictly because they were received later.

#### **(b) Locating Responsive Records**

After receiving a request, the PRO shall determine what departments might have responsive records and coordinate with that department to locate the records. When a department cannot provide responsive records before the initial five-day response is due, prior to that due date, the department will provide the PRO with an estimate of how long it will take to provide responsive records.

### **(c) Inspection of Public Records**

Record Requests shall be inspected at City Hall located at 10220 270<sup>th</sup> St NW Stanwood, WA 98292. Any police records shall be inspected at the Police Station located at 8727 271<sup>st</sup> Street NW. The Police Station and City Hall are open 9 a.m. to 5 p.m., Monday through Friday, except legal holidays. The Police Station is sometimes closed for lunch from 12:00 pm to 1:00 pm.

### **(d) Exemptions**

The PRA and other statutes exempt from or prohibit disclosure of certain public records. It is the policy of the City to provide prompt and helpful access to all public records in the City's custody that state statutes do not exempt or prohibit from disclosure. Requested records may only be withheld or redacted consistent with statutory requirements, which shall be documented for the requestor in accordance with the requirements of RCW 42.56.210.

Some public records that are otherwise subject to disclosure may contain specific content that is exempt from disclosure. The presence of exempt information does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record shall be redacted prior to inspection or copying and such redactions shall be documented. The requestor shall be notified of the redaction in accordance with the requirements of RCW 42.56.210.

The following are summaries of common exemptions relied upon by the City. Note, the City reserves the right to assert any exemptions permitted by law when the City determines non-disclosure serves the public interest and is not limited to the exemptions listed below:

- (i)** Records that are protected by trade secrets law;
- (ii)** Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (iii)** Personal information in files maintained for board members and City employees to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security

numbers, voluntary deductions, marriage status, number of dependents, and any garnishment deductions;

**(iv)** Preliminary drafts, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the board in connection with any board action;

**(v)** All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

**(vi)** Medical records;

**(vii)** Records created in anticipation of litigation;

**(viii)** Records reflecting communications between attorneys and City employees where legal advice is sought or received; or

**(ix)** Any record which is exempt from disclosure under state or federal law.

#### **(e) Withholding Logs and Redaction Logs**

When records are withheld or redacted, the requestor shall be informed in writing the statutory citation for the exemption and a brief explanation of how the exemption applies.

### **5. Copying Public Records**

No fee shall be charged for the inspection of Public Records. Pursuant to RCW 42.56.120, The City will charge an amount as established in a separate fee schedule established by resolution for the following copy formats:

**(a)** Photocopies

**(b)** Paper documents that are scanned so they can be produced in electronic format;

**(c)** Electronic files or attachments uploaded to an email or other electronic delivery system;

Cost of taxes actually charged by any third-party vendor used to make copies, postage and shipping costs, including the cost of any containers used in shipping, may also be incurred by the requestor. The PRO may elect to waive these fees. Fees will be waived when the expense of billing exceeds the costs of copying and postage.

## **6. Deposits**

Before copying any record, the City may charge a deposit of up to 10% of the estimated costs (RCW 42.56.120). When records are being produced on an installment basis, the City may charge for each installment. The decision not to request a deposit shall not serve to waive the City's right to request a deposit for a future request. If an installment is not claimed and paid for within fifteen (15) days, the City is not obligated to fulfill the balance of the Record Request.

## **7. Inspection of Records**

### **(a) Notice**

Once the PRO has collected all responsive records (or the first installment if the records are being produced on an installment basis), has reviewed the responsive records to remove exempt records, and has prepared an exemption log, the PRO shall notify the Requestor that the records are available. Notification will be made by telephone, email, or letter in the mail. The Requestor may specify a preferred method of notification, in which case the PRO will attempt to use this method to notify the Requestor of available records.

### **(b) Response by Requestor**

If the Requestor does not contact the PRO to arrange for payment of the copies or for review of the records within fifteen (15) days after the notice of availability was sent, the City may consider the Records Request abandoned, unless the Requestor seeks an additional amount of time to review the records.

### **(c) Protection of Records**

In order that Public Records maintained by the City may be protected from damage or disorganization as required by the Act, the following procedures and practices are hereby instituted:

- (i)** No Public Record shall be removed from City Hall or the Police Department without the PRO's permission;
- (ii)** Inspection of any Public Record shall be conducted in the presence of the PRO or designated staff;
- (iii)** No Public Record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;

- (iv) Public Records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by City staff; and
- (v) Public Records of the City may be copied only on a copying machine of the City unless other arrangements are made by the PRO.

#### **(d) Loss of Right to Inspect**

Inspection shall be denied and the records withdrawn by the PRO if the Requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the City.

#### **(e) Closing the File**

Once all copies of requested records have been provided to the Requestor, the Requestor has reviewed the requested records, or fifteen (15) days have passed since the Requestor was notified that the records were available and the Requestor has failed to contact the PRO to arrange for the review of those records or for payment for copies, the PRO shall treat the request as closed.

### **8. Administrative Review of Denial**

A requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition to the PRO that includes a copy of the redaction or exemption log or detailed description of the City's statement of withholding. The request for review and any relevant information shall be forwarded to the City Administrator or City Attorney, who shall consider the petition and either reverse or affirm the denial within two (2) business days after receipt of the appeal. If the withholding or redaction is affirmed, the decision shall be considered the City's final action for the purposes of judicial review. If the decision to withhold or redact is reversed, the PRO shall proceed to make the subject records available to the requestor for inspection in accordance with the provisions of this policy and procedure.

### **9. Index of Public Records**

The City has found that the requirement under RCW 42.56.070(3) to index public records is unduly burdensome and such a list is nearly impossible to create and/or maintain. Therefore, by adopting this policy via Resolution 2017-13, the City does not maintain such an index.

## **10. Disclaimer of Liability**

Neither the City nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on the City beyond those imposed by state and federal law.