

CHAPTER 2.09  
**PUBLIC RECORDS REQUESTS**

**§ 2.09.010. Policy.**

The California Public Records Act (Cal. Gov. Code § 7920.000 et. seq.; formerly Cal. Gov Code, § 6250 et. seq.), the "Act," embodies the legislative policy of the State of California safeguarding the accountability of government to the public and promoting maximum disclosure of the conduct of government operations by providing for access to certain records, defining what documents are "public records," and exempting certain types of records from general release. It is essential that the Act be followed to ensure transparency, the proper release of information, and to prevent disclosure of information which may compromise the City's position or defense in threatened or pending litigation of any type.

The public has the right to inspect existing public records during office hours or on the City's website and/or receive copies of public records, unless there is a legal basis to not disclose records. Express legal authority is required to deny access to public records; the authority may be within the Act itself or other laws outside the Act. The Act does not provide for a standing or continuing request for documents that may be generated in the future. The City Clerk's Office works with the City Attorney's Office to balance the public's right to information and disclosure.

Note: Requests may be referred to by requesters as "FOIA" requests or "Freedom of Information" requests, which refers to the federal law governing the public's right to information. Within the State of California, these requests are addressed under the California Public Records Act.

With the following exceptions, the procedures for processing requests under the Act must be followed by all City Departments:

- 1) This policy does not apply to the release of accident reports completed by the Police Department, per the California Motor Vehicle Code Section 20012 for persons entitled to the accident report.
- 2) Requests for any staff reports or minutes of meetings of the City Council or any Board, Commission or Committee or for a duly adopted ordinance or resolution may be released without review unless specific questions or issues apply to a particular request.
- 3) Requests to the Community Development Department for copies of building permits and inspection records may be released without further review unless specific questions or issues apply to a particular request.
- 4) Neighborhood Services Division records may be released without further review with personal information about the reporting or complaining party redacted or blacked out or unless specific questions or issues apply to a particular request.

- 5) Requests to the Fire Department for inspection reports may be released without further review unless specific questions or issues apply to a particular request.
- 6) Requests for copies of business licenses may be released without further review after any confidential information, including financial information, social security numbers, personal telephone numbers, and home addresses are redacted or blacked out.
- 7) This policy does not apply to documents intended for dissemination as public information or to requests that would require the City to compile data, perform research or create new records not currently in existence.
- 8) This policy does not apply to:
  - a. Police Department records
  - b. Subpoena records, such records should be referred immediately and directly to the Attorney's office for evaluation and processing.

#### **§ 2.09.020. Procedures**

Most City documents and records are "public records" and will be released to the public promptly under the requirements of the California Public Records Act (Cal. Gov. Code 7920.000 §§ et seq.), the "Act." Certain records are exempt under the Act. Exemptions will be determined in consultation with and review by the City Clerk's Office and the City Attorney's Office. Requests may be received in writing, electronically (via email or Ask Stockton), or verbally. Those requesting records (requesters) are not required to fill out a form or provide the request in writing.

- 1) Departments must:
  - a. Provide records, or links to publicly available information, per the related policy, when appropriate.
  - b. Immediately forward all written requests to the City Clerk's Office.
  - c. For verbal requests:
    - i. Refer the requester to the City Clerk's Office by telephone, email or in-person, or
    - ii. Gather all information from the requester, including a description of information, documents or records requested and contact information for the requester, and
    - iii. Forward the information to the Public Information Office via email or using the Ask Stockton topic "Public Records."
  - d. Assist with determining what information the requester is seeking and what public record may include the information.

- e. Forward all potentially responsive documents or records to the City Clerk's Office upon request.
  - i. Do not create reports or records for the purposes of responding to a request.
  - ii. Do not accept open-ended requests or requests for future actions or records.
  - iii. Do not refuse the request because it is difficult or time consuming.
- 2) The City Clerk's Office must:
  - a. Log and track requests, including:
    - i. How the request was received, for example, email, Ask Stockton, etc.;
    - ii. Date received by the City;
    - iii. Date that response(s) due to the requester;
    - iv. Name/Organization of requester;
    - v. Description of request; and
    - vi. Department(s)/employee(s) responsible for gathering records.
  - b. Send request(s) and description of records or documents requested to Departments.
  - c. Determine what records exist within 10 calendar days.
    - i. Forward the records or an extension letter to the requester by the 10th calendar day from the date that the request was received by the City; the City may request up to 14 additional calendar days to determine what records exist that are responsive to the request.
  - d. Submit an Information Technology (IT) Data Extraction Request, if email (communications) records are requested.
    - i. Work with IT to define search parameters.
    - ii. Review all potentially responsive emails and forward to the City Attorney's Office for review.
  - e. Forward draft response letter and potentially responsive documents to the City Attorney's Office to determine what records may be exempt from disclosure under the Act or other laws.
  - f. Send a complete or partial, timely response by the due date, unless the response date has been extended by notifying the requester in writing:
    - i. The response may include links to responsive records or documents include responsive records as attachments to the response.

- ii. If the response is voluminous, records may be provided on a rolling basis, with dates communicated in writing to the requester.
- iii. Records may also be provided electronically with access to a shared folder or link, or using an external drive.

3) Search of personal devices

The City strongly discourages the use of personal devices for City business. Per the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5<sup>th</sup> 608, Councilmembers and staff are asked to conduct a good faith search for public records that may be on their personal devices including text messages, direct messages on social media, or voice mails saved on their device.

- a. Councilmembers will search their own personal devices and complete the Personal Device Affidavit – City Council
- b. City Employees will search their own personal devices and complete the Personal Device Affidavit – City Employee

**§ 2.09.030 Responsibilities**

All City Staff:

- Assist requester with submitting request
- Immediately forward requests to the City Clerk's Office
- Gather responsive records as appropriate

City Clerk's Office:

- Log and track requests
- Send requests for records to departments
- Respond to requestor with determination of existing records within 10 days
- Submit requests for responsive emails
- Work with City Attorney's Office to determine exemptions
- Provide requestor with response as determined by policy

City Attorney's Office:

- Provide consultation for the City Clerk's Office on potential exemptions under the Act

**§ 2.09.040. Relevant authority.**

California Public Records Act (GC 7920.000 §§ et.seq.)

**§ 2.09.050. Related administrative directive, city policy, city procedure.**

Citywide Policies and Procedures, Chapter 13 – Communication

**§ 2.09.060. Related forms, documents, or links.**

Personal Device Affidavit – City Council

Personal Device Affidavit – City Employee

**§ 2.09.070. Frequently asked questions or comments.**

The examples provided in Responsibilities, Relevant Authority, and Related Administrative Directive sections of the Council Policies are intended to be illustrative and not exhaustive.

**§ 2.09.080. Update history.**