

ORIGINAL

RESOLUTION 2009- 101

**RESOLUTION ADOPTING A POLICY
REGARDING PUBLIC RECORDS REQUESTS**

WHEREAS, RCW § 42.56.040 requires every local agency to display and make available for inspection the process by which the public may make public records requests pursuant to chapter 42.56 RCW; and

WHEREAS, the City of Sunnyside does not at present have an official public policy pertaining to the process by which the public may make public records requests pursuant to chapter 42.56 RCW; and

WHEREAS, the City Council finds and determines that adopting a policy regarding public records requests is in the best interest of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF
THE CITY OF SUNNYSIDE, WASHINGTON**, as follows:

Section 1. The Policy Regarding Public Records Requests is adopted, which shall read as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.


Section 3. This Resolution shall be effective immediately upon passage and signature hereto.

PASSED this 28th day of December, 2009



PABLO GARCIA, MAYOR

ATTEST:



DEBORA A. ESTRADA, CITY CLERK
APPROVED AS TO FORM:

MENKE JACKSON BEYER EHLIS & HARPER LLP
Attorneys at Law



CITY OF SUNNYSIDE

POLICY REGARDING PUBLIC RECORDS REQUESTS

It is the policy of the City of Sunnyside, (the "City") to release City records in compliance with the Public Records Act (the "Act"), set forth at Chapter 42.56 RCW, and any other applicable provisions of federal or state law.

I. OVERVIEW OF THE PUBLIC RECORDS ACT

A. Purposes of the Policy

The purposes of this policy are to: (1) describe the organization of the City; and (2) comply with Chapter 42.56 RCW, the Public Records Act. Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on the City. The City reserves the right to apply and interpret this policy as it sees fit, and to revise or change the policy at any time.

This policy shall be available at City Hall and posted on the City's Website.

B. Definitions

1. "Act" refers to the Public Records Act, at Chapter 42.56 RCW.
2. "City" refers to the City of Sunnyside.
3. "City Hall" is defined in Section I.C of this Policy.
4. "Policy" refers to this policy for the Public Records Act.
5. "Public Records Officer" is the person identified in Section II.A.1 of this Policy.
6. "Records Request" means a request for Public Records made to the City pursuant to the Act.
7. "Requester" means the person or entity that has made a Records Request to the City.
8. "Public Record" means any writing, regardless of physical form or characteristics, relating to the conduct of government, prepared, owned, used or retained by the City.

C. Organization of the City

City Hall is located at:

818 East Edison Avenue
Sunnyside, WA 98944
Main Number: 509.837.3782

Inspections of Public Records shall occur by appointment at the City Clerk's Office. The office is open 7:30 a.m. to 6 p.m., Monday through Thursday, except legal holidays.

The City provides the full range of municipal services.

The City is governed by a Council-Manager form of government, with the City Manager providing general supervision over the administrative affairs of the City, per RCW 35A.13.

II. GUIDELINES

A. Public Records Request

1. Public Records Officer.

The City's Public Records Officer is the City Clerk. All requests must be directed to the Public Records Officer. The Public Records Officer may be contacted in person at City Hall, via first class mail addressed to the Public Records Officer at City Hall, or via email at cclerk@ci.sunnyside.wa.us.

2. How to Make a Public Records Request.

Public records may be inspected or copies of Public Records may be obtained by the public at City Hall upon compliance with the following procedures:

(a) All requests must be directed to the Public Records Officer. The City encourages that all requests be made in writing. Requesters are encouraged to use forms prescribed by the City Clerk, which are available at the City Clerk's Office and on the City website. Requests may be mailed, emailed, faxed, or delivered in person to the City Clerk's Office. In-person requests must be made during the City Clerk's normal business hours. E-mail will be considered received on the date the message is stamped "received," and not on the date sent.

The request should include the following information:

(i) The name and address of the Requester;

- (ii) The date of the request;
- (iii) A detailed description of the public record being requested;
- (iv) Whether the Requester wants copies, or wants to inspect the requested records;
- (v) The address where copies are to be mailed if copies are requested;
- (vi) A statement regarding whether the records are being requested for a commercial purpose; and
- (vii) Signature of the Requester.

(b) When a Records Request is made orally, the City should confirm the request in writing in its initial 5-day response. Any such request must be made during the City Clerk's normal business hours.

B. Procedure for Response to Request

Only Public Records as defined by RCW 42.56.010 are subject to disclosure.

1. Response. The City will process requests in the order allowing the most requests to be processed in the most efficient manner. Within five business days of receiving a Records Request, the City will either:

- (a) Notify the Requester that the documents are available; or
- (b) Acknowledge that it has received the request and provide a reasonable estimate of the time it will require to respond to the request; or
- (c) Seek clarification from the Requester; or
- (d) Deny the Records Request.

2. Large Requests. When a Records Request is for a large volume of records, the City may elect to provide records on an installment basis. If a Requester does not contact the Public Records Officer to arrange for the review of the first installment within 15 business days of notice of review, the City may deem the request abandoned and stop fulfilling the remainder of the request. The City may fulfill smaller requests received after a large request prior to fulfilling the large request. RCW 42.56.120

3. 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. Reference to Website. The City may fulfill requests by providing a link to the records published on the City's public website.

5. Unclear Requests. If a public record request is vague or otherwise unclear, the City shall request clarification from the requestor. If the requestor fails to clarify the request, the City may deem the request as having been abandoned.

C. Exemptions

1. Exemptions. After the City has gathered responsive records, the City shall determine whether an exemption applies to all or part of the record. The City need not make available for inspection and copying Public Records exempt from public inspection and copying under Chapter 42.56 RCW and other records exempt from public inspection and copying under state or federal statute or regulation, including but not limited to:

- (a)** Records that are protected by trade secrets law;
- (b)** 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;
- (c)** 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;
- (d)** 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;
- (e)** All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;
- (f)** The residential addresses and telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers; or

- (g) Any record which is exempt from disclosure under state or federal law.

D. Copying Public Records

No fee shall be charged for the inspection of Public Records.

1. **Copies.** The City will charge one or more of the following charges for copies:

- (a) Fifteen cents per page for standard black-and-white copies;
- (b) Ten cents per page for any paper documents that are scanned so they can be produced in electronic format.
- (c) The actual cost of copying for any non-standard copies or items, including the charge for staff time necessary for making such copies at an hourly rate. Because the hourly rate may vary, the City shall advise the requestor of the hourly rate prior to making the copies;
- (d) Cost of taxes actually charged by any third-party vendor used to make copies; and
- (e) Postage and shipping costs, including the cost of any containers used in shipping.

The Public Records Officer may elect to waive these fees. Fees will be waived when the expense of billing exceeds the cost of copying and postage.

2. **Electronic Copies.** The City has no duty to scan paper copies of records into electronic documents. If the City elects to do so, however, it may charge for staff time spent making the electronic copies and other costs incurred in reproducing and disclosing the records.

3. **Deposits.** Before copying any record, the City may charge a deposit up to 10% of the estimated costs. 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 15 business days, the City is not obligated to fulfill the balance of the Records Request.

E. Inspection of Records

1. **Notice.** Once the Public Records Officer 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 Public Records Officer shall notify the Requester that the records are available.

2. Response by Requester. If the Requester does not contact the Public Records Officer to arrange for payment of the copies or for review of the records within 15 business days after the Notice of Availability Letter was sent, the City may consider the Records Request abandoned, unless the Requester seeks an additional amount of time to review the records. Requests for additional time shall be made in writing and addressed to the City Clerk.

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

(a) No Public Records shall be removed from City Hall without the Public Records Officer's permission;

(b) Inspection of any Public Records shall be conducted in the presence of the Public Records Officer or designated staff;

(c) 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;

(d) 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 the Public Records Officer or his/her designee; and

(e) Public records of the City may be copied only on the copying machines of the City unless other arrangements are made by the Public Records Officer.

4. Loss of Right to Inspect. Inspection shall be denied and the records withdrawn by the Public Records Officer if the Requester, 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.

5. Closing the File. Once all copies of requested records have been provided to the Requester, the Requester has reviewed the requested records, or 15 business days have passed since the Requester was notified that the records were available and the Requester has failed to contact the Public Records Officer to arrange for the review of those records or for payment for copies, the Public Records Officer shall treat the request as closed.

F. Index of Public Records

For the reasons stated in Resolution 2007-19, incorporated herein by reference, the City finds that it would be unduly burdensome and would interfere with City operations to maintain an index of records. The City will make available for public disclosure all indices which may at a future time be developed for City use.

G. 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.

H. Protection of Public Records and Resources

The City has very limited resources. The City adopts the following reasonable procedures to ensure that the City's mandate to provide full public access to public records does not excessively interfere with other essential City functions:

(a) Public record requests will generally be handled on a first-come, first-serve basis. However, the Public Records Officer may fulfill smaller requests received after a large request prior to fulfilling the large request.

(b) To prevent excessive interference with the essential City functions, the Public Records Officer will designate a specific amount of time per week to work on public records requests.

(c) In response to large public records requests, the Public Records Officer will provide records in batches whenever possible in order to expedite the request.