

## **PUBLIC RECORD REQUEST**

This policy is to establish a process for responding to public records requests that are made to the Town of Stonewall.

The records official should be the Town Clerk, the Deputy Clerk shall fill in if the Town Clerk is unavailable. All records requests received by the Town of Stonewall should be forwarded immediately to the records official or his/her designee. If a record does not already exist, there is generally no duty to create a record in response to a public records request. The records official shall make no inquiry of a requestor, except an inquiry as to the age and identification of the person and may require the person to sign a register. Requestors must be at least 18 years of age.

The custodian must generally provide reasonable comfort and facility to the requestor to examine the records during regular office hours. After hours examinations are, absent exceptional circumstances, reserved for when the requestor asks for the same.

The records official may demand payment of fees for the reproduction of public records in advance, but no fee may be charged for examining the records in person. The fees may be waived for indigents. Requestors may bring in personal devices such as hand-held scanners to copy said public records and is not obligated to pay a fee for each page copied. Fees are based upon the uniform fee schedule adopted by the commissioner of administration.

Original public records must not be removed from the Town of Stonewall's Office during an inspection by members of the public and must be monitored by an employee while any review is being conducted.

### **Exceptions to Public Records:**

Certain records are not available to the public if it is declared by law to be confidential. There is a Constitutional right to privacy that must be considered even in the absence of an enumerated exception.

The following is a brief list of confidential information:

- Social Security Number
- Address & Telephone Number (when employee requests)
- Performance Evaluations
- Internal grievance documents
- Letters of counseling, warning or reprimand
- Documentation of Suspension Pending Investigation
- Medical Records
- Insurance Claim Forms
- Beneficiary information
- Bank Information
- Employee Tax Information
- College transcripts
- Information pertaining to pending investigations.
- Security procedures/techniques
- Statements to Code Enforcement Officers
- Municipal Bond Information
- Accident reports unless the requestor is a party to the accident, the parent or guardian of a minor who is a party to the accident, an insurer of a party subject to the report: or an attorney of the parties, is apart of a news-gathering organization, or the requestor is asking for a particular report.

### **Procedures:**

(a) All requests for public records should be forwarded immediately to the Public Records Official. The Records Official or his/her designee shall acknowledge receipt of the request in writing. If the request is received by email, this acknowledgment also may be sent by email.

(b) The Records Official ensures that within five (3) business days from receipt of the request, one of the following occurs:

- The requestor inspects the record(s) or receives copies of the record, as requested;
- If the record is clearly public record but is not immediately available because it's inactive use elsewhere, then the custodian must "promptly" certify that in writing to the requestor and provide a date and time for the disclosure of the records.
- If the Records Official does not have legal custody of the record written notice of that fact and the name and address of the governmental entity that has legal custody of the record, if known, is provided to the requestor;
- If the record has been destroyed pursuant to the Town's record retention schedule, written notice of that fact is provided to the requestor;
- If the Town is unable to provide the record by the end of the third business day after the request is received, written notice of that fact and a date and time after which the record will be available for the person to inspect or copy is provided to the requestor. If this is known at the time the acknowledgment is sent to the requestor, see above paragraph (a), this information may be included with the acknowledgment sent by the records official or his/her designee; or
- If there is a question as to whether or not the record is public, the custodian shall notify the requestor in writing of the determination and the reasons why (with legal citation); the notification should likewise contain a reasonable time for the disclosure of the parts of the records that are public. The records official has the authority to redact out information that is not public record.
- If a record contains information deemed confidential, a request to inspect or copy the record cannot be denied if the confidential information can be redacted, deleted, concealed or separated from the record, so the remainder of the record can be inspected or copied.
- Public records must be provided in any medium in which they are readily available. The custodian of the record shall not refuse to provide a copy of the record in a readily available medium because he/she has already prepared or would prefer to provide the copy in a different medium.

(c) The requestor is to be advised, in advance, of the volume or list of records encompassing the request and the potential cost to provide the records if applicable. Copies of records shall be furnished upon payment of associated fees.

- If the cost of reproduction exceeds \$25, the requestor is to be advised that advance payment in full will be required to process the request(s).
- If the request is so expansive that sorting out what is public record would be unreasonably burdensome or expensive, then the custodian must state that in writing to the requestor and state the location of the requested record.

Any Custodian who violates the Public Records Law may be issued with a writ of mandamus or declaratory relief, together with attorney fees, costs, and damages, in district court. Custodians are solidarily liable with the public body for the money damages unless he/she acted on the advice of counsel. As per R.S. 44:37, custodians may be fined up to \$2,000 and up to six months in jail.