

## Handling Requests for Inspection and/or Copying of Public Records

### 801.1 PURPOSE

This Policy is established in accordance with Government Code section 6253.4, subdivision (a), which states: "Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section." This Policy sets forth the District policies and procedures regarding requests to inspect and/or copy public records. It is designed to be in compliance with the California Constitution, the California Public Records Act (Gov. Code § 6250 et seq.), and all existing laws pertaining to disclosure of public records. If any provision of this policy conflicts with current State or federal law, the law shall take precedence.

### 801.2 PROCEDURE

#### 1. Definitions

As used in this Policy, the following terms shall have the following meanings:

- (a) "District" shall mean the CHINO VALLEY INDEPENDENT FIRE DISTRICT.
- (b) "Person" shall mean any natural person, corporation, partnership, limited liability company, firm, or association. (Gov. Code § 6252, subd. (c).)
- (c) "Writing" means "handwriting, typewriting, printing, photostating, photographing, photocopying, electronic mail, facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored." (Gov. Code § 6252, subd. (g).)
- (d) "Public records" shall mean any writing containing information relating to the conduct of the District's business prepared, owned, used, or retained by the District, regardless of physical form or characteristics. (Gov. Code § 6252, subd. (e).)

Emails that pertain to District business are considered public records, under the definitions in the Public Records Act as stated above, and are subject to this Policy.

- (e) "Requestor" shall mean a person, or representative of a person, who has submitted a request for records to the District by mail, fax, e-mail, telephone or in person.

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

---

#### **2. Right to Inspect Records and Obtain Copies**

Disclosable public records of the District are open to inspection by any person during the normal business hours of the District's offices, in accordance with this Policy. To the extent possible, the District will make disclosable public records promptly available for inspection. However, if a request for public records requires staff time to gather and review documents prior to providing them for inspection, District staff may require a requester to schedule a time during normal business hours to inspect the requested public records.

Copies or certified copies of disclosable public records may be obtained by any person, subject to compliance with the procedures set forth in this Policy. District staff will make copies of identifiable and disclosable documents promptly available, upon payment of applicable copy charges or statutory fees, pursuant to the Fire District Fee Schedule.

Any disclosable portion of a record that can be reasonably separated from other parts of the record that are exempt by law shall be available for inspection and/or duplicating, including photographing, after the exempt portions have been redacted.

Documents responding to any request for records may be subject to review by the District's legal counsel prior to inspection or delivery or copies. Records exempt from disclosure shall be protected and handled according to applicable law.

#### **3. Records Exempt from Disclosure**

Records which are exempt from disclosure under applicable law include, but are not limited to, the following:

(a) Preliminary drafts, notes, interagency, or intra-agency memoranda which are not retained by the District in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure. (Gov. Code § 6254, subd. (a).)

(b) Records pertaining to pending litigation to which the District is a party, until such pending litigation has been finally adjudicated or otherwise settled. (Gov. Code § 6254, subd. (b).)

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

---

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 6354, subd. (c).)

(d) Statements of personal worth or personal financial data required by the District and filed by an applicant with the District to establish his/her personal qualification for a license, certificate or permit. (Gov. Code § 6254, subd. (n).)

(e) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made for or by the District relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreements are obtained; provided that the law of eminent domain shall not be affected by this provision. (Gov. Code § 6254, subd. (h).)

(f) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use. (Gov. Code § 6254.9.)

(g) The records made, if any, of closed sessions, along with any confidential information that has been distributed or acquired by being present in a closed session, are not public records subject to inspection. (Gov. Code §§ 54957.2, 54963.)

(h) "Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." (Gov. Code § 6254, subd. (k).) This exemption includes the Federal Health Insurance Portability and Accountability Act (HIPAA); the attorney-client privilege (Evid. Code §§ 952, 954); the "Official Information" privilege (Evid. Code § 1040); and the "Identity of Informer" privilege (Evid. Code § 1041).

(i) Social security numbers – State law requires local agencies to redact social security numbers from records before disclosing such records to the public. (Gov. Code § 6254.29.)

(j) Test questions, scoring keys, and other examination data used to administer an examination for employment are exempt from disclosure. (Gov. Code § 6254, subd. (g).)

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

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This partial list of exemptions is subject to applicable law, and any changes in law are automatically incorporated herein. A complete listing of exempt documents and documents which are not deemed to be public records is provided in the California Public Records Act. (Gov. Code § 6250 et seq.)

#### **4. Building/Construction Plans; Investigation/Incident Reports**

(a) Building plans and construction plans must be made available for inspection upon request, but they must not be duplicated through any means or method, including being photographed. To receive copies of building plans or construction plans, requesters must contact the city or county department that maintains the “official copy” of those plans, pursuant to Health and Safety Code sections 19850 and 19851. The city or county staff members can assist requesters to obtain the required written authorizations and can provide the affidavits needed for duplicating such plans. After the requirements are met, the city or county can provide copies of the plans to the requester.

(b) Incident reports related to emergency calls responded to by the District and investigation files and reports related to investigations conducted by the District “for correctional, law enforcement, or licensing purposes” are generally exempt from disclosure. However, the following information must be disclosed from incident reports and investigation files, *except* to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of an investigation:

(1) To victims of an incident, or their authorized representative (e.g., parent, attorney); an insurance company against which a claim has been/might be made; and any person suffering injury/property damage/loss as the result of an incident, you must disclose the following:

- (i) Names & addresses of involved persons and witnesses (not confidential informants);
- (ii) Description of property involved;
- (iii) Date, time, location of incident;
- (iv) Diagrams;
- (v) Statements of involved parties; and
- (vi) Statements of witnesses (not confidential informants).

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

---

The persons designated in paragraph (1) above may need to provide District staff with adequate proof/evidence of their status prior to receiving the above listed information.

(2) To members of the general public (including victims and other persons identified in paragraph (1)), you must disclose the following:

- (i) Time/substance/location of complaints/requests for assistance;
- (ii) Time and nature of response;
- (iii) Time/date/location of occurrence;
- (iv) Time/date of report;
- (v) Factual circumstances surrounding the incident;
- (vi) General description of injuries/property/weapons involved;
- (vii) Name/age of victim (unless name requested to be withheld).

Release of information from incident reports typically requires redacting the exempt information in the report before disclosing the document. The analysis or conclusions of the investigating officer are always exempt from disclosure and will be redacted from investigation/incident reports prior to any release of information.

#### **5. Requests to Inspect and/or Duplicate or Photograph Records**

***Requests Must be Submitted to the Clerk of the Board During Normal Business Hours.*** All requests for records must be submitted to the Clerk of the Board or his/her designee during normal business hours when District offices are open. Receiving requests during normal business hours helps District staff avoid any delays in responding to requests for inspection and/or copies of District records. This requirement complies with the Public Records Act mandate that public records must be “open to inspection at all times during the office hours of the state or local agency...” (Gov. Code § 6253, subd. (a).) (Emphasis added.) This requirement to submit records requests during normal business hours also complies with the Public Records Act provision that allows the District to “adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in [the Public Records Act].” (Gov. Code § 6253, subd. (e).)

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

---

**Requests Should be Submitted in Writing to the Clerk of the Board.** The District encourages members of the public to submit all records requests in writing to the Clerk of the Board or his/her designee, preferably using the Public Record Request form attached as Exhibit "A" to this policy. Written requests reduce any misunderstandings between the requester and District staff. Less misunderstandings assist District staff in responding to records requests in a timely manner and with greater efficiency. However, the District will not deny a request for records solely because it is not submitted in writing.

**All Verbal Requests Must be Submitted to the Clerk of the Board.** If any member of the public chooses to make a verbal request for records, such requests will only be accepted through the Clerk of the Board or his/her designee during normal business hours when District offices are open. District personnel in other District departments who receive verbal requests for records will direct the requester to contact the Clerk of the Board.

**Requests Should Clearly Identify Records.** The requester should, in writing, specify the records to be inspected/copied with sufficient detail to enable the District to identify the particular records. If the request seems ambiguous or unfocused, District staff will make a reasonable effort to obtain additional clarifying information from the requester that will help identify the record or records. Pursuant to Government Code Section 6253.1, District staff shall do all of the following, to the extent reasonable under the circumstances:

- Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- Describe the information technology and physical location in which the records exist; and
- Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

#### **6. Making Determinations on Records Requests/Taking Time Extensions**

The District, upon receiving a request to inspect or copy records, shall, within ten (10) days from receipt of the request determine whether the request, in whole or in part, seeks disclosable public records in the possession of the District and shall promptly notify the person making the request of the District's determination and the reasons for the determination.

In unusual circumstances, the time limit for providing the determination on a records request may be extended by written notice by the Clerk of the Board, or his/her designee, to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be provided. Any extension of time will not last more than fourteen (14) calendar days. A response to a written request for inspection or copies of public records

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

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that includes a determination that the request is denied, in whole or in part, shall be in writing. As used in this policy and pursuant to Government Code section 6253, subdivision (c), "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the District having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

If the requested record has been determined to be disclosable but additional time is still needed to locate the record, District staff shall notify the requester of the estimated date that the record will be available for inspection and/or copying. District staff shall make every effort to locate the record in a reasonable amount of time.

Documents that are obviously disclosable, such as current agendas, minutes, resolutions, ordinances, and budgets, shall be readily available for immediate inspection.

#### **7. Procedures for Producing Records**

Requests for inspection and/or copies of records determined to be disclosable will be handled as follows:

(a) Requests Received by Mail - The Clerk of the Board or his/her designee will notify the requestor of the fees to be paid to the District for copies of such records. Upon receipt of such fees, the Clerk of the Board or his/her designee shall prepare and mail copies or certified copies of such records to the requester. If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

# Chino Valley Fire District

## Fire Services Manual

### *Handling Requests for Inspection and/or Copying of Public Records*

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(b) Requests Received in Person – Copies of requested documents will be provided after payment of fees in accordance with the Fire District Fee Schedule. As previously stated, requests for records should be submitted in writing, preferably by completing the attached Public Records Request form (Exhibit “A”). If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

(c) Requests Received by Telephone – In response to a telephone request for copies of District records, the Clerk of the Board or his/her designee will explain the records request procedure (including established fees) as outlined above. Payment of fees is required before copies will be prepared. A Public Records Request form (Exhibit “A”) should be completed by the District employee receiving the request. If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

(d) Requests Received by Fax – In response to a faxed request for copies of District records, the Clerk of the Board will contact the requester and explain the procedures (including established fees) as stated above. Payment of fees is required before copies will be prepared. If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

(e) Requests Received by E-mail – In response to a request by e-mail for copies of District records, the Clerk of the Board will transmit to the requester an explanation of the procedures (including established fees) as outlined in subsections (1) and (2) above, and transmit Exhibit "A" to the requester. Payment of fees is required before copies will be prepared. If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

Any person in attendance at an inspection of District records may request a copy of any disclosable record being inspected. Upon completion of the written request and payment of the applicable fees, the Clerk of the Board or his/her designee will prepare the copies or certified copies of the requested records. If a requester asks for a large amount of copies after a records inspection, District staff may need additional time to make the requested copies.

# Chino Valley Fire District

Fire Services Manual

## *Handling Requests for Inspection and/or Copying of Public Records*

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### **8. Fees for Copies**

The District shall charge fees for copies or certified copies of identifiable public records or information as set forth in the Fire District Fee Schedule. If feasible, copies of disclosable public records may, upon request, be sent by email at no charge.

**Fire Chief's Signature** \_\_\_\_\_

EXHIBIT "A"



**PUBLIC RECORDS REQUEST FORM**

**Date of Request:** \_\_\_\_\_

In accordance with the California Constitution and the California Public Records Act (Gov. Code § 6250 et seq.), I am requesting to (check one):

- inspect the following public records
- receive copies of the following public records

**[Please provide sufficient detail to assist staff in locating the records you are seeking]**

Type of Record(s): \_\_\_\_\_ Date of Records: \_\_\_\_\_

Incident Location (if applicable):

\_\_\_\_\_

Additional Information:

\_\_\_\_\_

\_\_\_\_\_

I understand that the District will respond to all Public Records Act requests in compliance with State law.

For copies of the public records listed above, I understand that District copying fees or statutory fees for copying will apply. I understand that I will be responsible for payment of all copying fees in advance of delivery of any requested copies. I also understand that the District has 10 days to determine if the request seeks disclosable records in the District's possession. In some instances, the time may be extended by written notice if additional time is required to search for and collect the information requested, as set forth in the District Public Records Request Policy. All requests are subject to District legal counsel review to confirm legal compliance prior to releasing public records for inspection or delivery of copies.

District staff will assist the public in identifying the records and make every effort to locate the records in a reasonable amount of time.

If more than fifty (50) pages are requested, the District may require a deposit before making copies.

Name/Signature of Requestor (Optional):

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

Phone/Fax/E-Mail: \_\_\_\_\_