

PUBLIC RECORDS POLICY

REQUESTS FOR ACCESS TO OR COPIES OF CITY RECORDS

PUBLIC DISCLOSURE POLICY – GENERAL STATEMENT OF INTENT

The City is required by RCW 42.56 (Public Records Act) to adopt and enforce reasonable rules and regulations, consonant with the intent of the chapter entitled “Public Records”, to provide access to public records, to protect public records from damage or disorganization and to prevent excessive interference with other essential functions of the City.

The citizens of the City have the right to expect that the City’s actions and deliberations will be conducted openly. It is the intent of the city, upon request, to make available, as promptly as is conveniently possible, public records (except those that are exempt as stated in RCW 10.97, Washington State Criminal Records Privacy Act, 42.56, Public Records, and elsewhere in the RCW’s) for inspection by the public and/or copying by staff.

DEFINITIONS

EXEMPT PUBLIC RECORDS means and shall include all public records, or portions thereof, which are defined as being exempt from public inspection and copying by state law, either directly in RCW 42.56, or in other statutes.

IDENTIFIABLE PUBLIC RECORD means that an agency is only required to disclose records already in existence that City staff can reasonably locate, since those are the only records that could be identified. An agency need not generate data in response to a request.

PUBLIC RECORD means and includes 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 or any board, commission, official, employee or agent thereof, regardless of physical form or characteristics.

PUBLIC RECORDS OFFICER is designated to be the City Clerk. The Public Records Officer will oversee compliance with the Public Records Act. The Public Records Officer shall provide the fullest assistance to requesters, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with the essential functions of the City.

TERRORIST ACT is defined in RCW 70.74.285 as, an act that is intended to: (1) Intimidate or coerce a civilian population; (2) influence the policy of a branch or level of government by intimidation or coercion; (3) affect the conduct of a branch or level of government by intimidation or coercion; or (4) retaliate against a branch or level of government for a policy or conduct of the government.

PUBLIC RECORDS

All public records shall be and remain the property of the city. Public records shall be preserved, stored, transferred, destroyed and otherwise managed in accord with this policy and applicable state law.

Original copies of all public records shall be and remain in the custody of the city clerk. They shall not be place in the custody of any other person or agency, public or private, or released to individuals except for disposition or destruction as provided by law.

REQUEST FOR RECORDS

All departments receive requests for information which are routine and noncontroversial and these records are regularly provided to the public without the use of request forms. Any person who wants to inspect or copy identifiable public records of the City is encouraged to make the request using the City's Public Records Request form or in writing in one of the following ways:

- 1. By using the City's request form available for pickup at City Hall or, by downloading it.

2. By letter, fax, or e-mail addressed to the Public Records Officer, [name].

The following information should be included in the request:

- Name and address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the requested records with enough specificity to allow the Public Records Officer to locate the records;
- The date and time of day of the request.

A requestor must reasonably inform the City that a request being made is for public records, and reasonably apparent to the City in a correspondence. A request should be for an identifiable record. A request for general information or for a report not in an existing record is not a request that is subject to the Public Records Act.

A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals and for a commercial purpose, the request will be denied. The Public Records Officer may also seek sufficient information to determine if another statute may prohibit disclosure.

The City may not deny a request for identifiable public records solely because the request is overbroad. However, the City may seek clarification, ask the requestor to prioritize the request so that the most important records are provided first, and/or communicate with the requestor to limit the size and complexity of the request. The City may also provide the responsive records in installments over time. When a request uses an inexact phrase such as "all records relating to", the Public Records Officer may interpret the request to be for records which directly and fairly address the topic. When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled. Due to limited staffing, larger and more complex requests, or requests likely to contain privileged or exempt information requiring redaction will delay the production of records.

RESPONSE TO REQUEST FOR RECORDS

Responses to requests for records will be made as soon as possible but not later than five (5) days from the date of request by doing one or more of the following:

- Make the record available for inspection or copying;
- Respond to a request to provide access to a public record by providing the requestor with a link to the City 's website containing an electronic copy of that record if it can be determined that the requestor has agreed and has internet access;
- If copies are requested, send the copies to the requestor;
- Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
- If the request is unclear or does not sufficiently identify the requested records, request clarification from the requester. Such clarification may be requested and provided by telephone;
- Notify third parties who may be affected by the request that a request has been made and the nature of the documents requested, and provide that party with 10 days for seek an injunction preventing the document production;
- Deny the request in whole or in part and provide the statutory authority for such denial.

If the City does not respond in writing within five business days of receipt of the request for disclosure, the requester should contact the Public Records Officer to ensure the request has been received by the City.

All assistance necessary to help the requestor shall be provided either by the City Administrator, his or her designee, or the employee of the appropriate department holding the records. It is the responsibility of the City Administrator to ensure that the City and its staff meet the requirements set forth in this policy and that a log of all formal records requests are maintained by the City.

If the requester does not respond to the City's request for clarification within 30 days of the City's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requester, and re-file the records.

Public records shall be available for inspection and/or copying between 8:00 AM and 4:30 PM Monday through Friday. Copies or records, including minutes, agenda packets, ordinances and resolutions, can be reviewed at City hall without charge. The requester shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. After inspection is complete, the Public Records Officer will arrange for copying. Making a copy of an electronic record is considered copying and not creation of a new record.

NOTE: RCW 42.56.80 provides that "Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person". The use of the term "identifiable" means that the City is only required to disclose records already in existence, and that could be identified. The City does not need to generate data in response to a request.

The City, and its officials or employees are not liable for loss or damage based on release of a public record if the City, official or employee acted in good faith in attempting to comply with the Public Records Act.

The City must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located and involve employees in other departments, as needed, to assemble the records. After the records are located, the Public Records Officer should take reasonable steps to narrow down the number of records assembled to those that are responsive.

Upon receipt of a public records request the Public Records Officer will notify each department that may have records associated with the records request. If a requested record is scheduled shortly for destruction under the City's records retention schedule, the record cannot be destroyed until the public records request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record or will notify the department that the record can be destroyed in accordance with the retention schedule.

When the request is for a large number of records, the Public Records Officer will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If the requester fails to inspect the entire set of records of one or more of the installments within 30 days, the Public Records Officer may stop searching for the remaining records and close the request. The Public Records Officer will provide the requester a description of what documents are included in each installment and notice when each installment is available.

When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

If the requester withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the Public Records Officer will close the request and indicate to the requester that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

If, after the Public Records Officer has informed the requester that the City has provided all available records, the City becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.

The City will not hold current records requests open to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of the City after a request is received by the City, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

RECORD COPY

Copying facilities are located in City Hall and can be made available under city staff supervision. To avoid unreasonable disruption of operations the City cannot offer these facilities for public use.

DENIALS OF REQUESTS FOR PUBLIC RECORDS

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.

The Public Records Officer shall promptly provide the petition and any other relevant information to the City Attorney or his or her designee to conduct the review. The City Attorney will promptly consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time to which the City and the requestor mutually agree.

Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

RECORDS EXEMPT FROM PUBLIC DISCLOSURE

If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact (strike out) the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. For example, to prevent an unreasonable invasion of personal privacy, the Public Records Officer shall redact identifying details such as social security numbers when she makes available or publishes any public record. In each case, the justification for the deletion shall be explained in writing in a redaction log.

Some records are exempt from disclosure, in whole or in part. The City is not required to permit public inspection and/or copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation. If the City believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld in an exemption log. If only a portion of the record is determined to be exempt, the Public Records Officer will redact the exempt portions and provide the non-exempt portions.

Pursuant to RCW 42.56.070(9), the City of Stevenson is prohibited from disclosing lists of individuals for commercial purposes.

If the requested records contain information that may affect rights of others and may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to those whose rights may be affected by the disclosure. Generally, two weeks' notice will be given in order to make it possible to contact the requester and ask him or her to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request.

The Public Records Act, RCW Ch. 42.56 and other statutory sections referenced in that chapter and elsewhere in the state statutes, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. In addition, there are other statutes not listed in Chapter 42.56 RCW which may exempt or prohibit disclosure of certain documents. A partial list of common exemptions is listed below. The City's failure to list an exemption shall not affect the effectiveness of the exemption.

Personal Information

1. Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees. [Ref. 42.56.230 (1)]

2. Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy. [Ref. 42.56.230 (2)]

SPECIAL NOTE: When the City receives a public records request for personnel information, the affected employee will be notified of the request by a form letter. The City has an obligation to respond promptly to public records request so the employee is given 48 hours to reply to the Clerk. The employee has a right to prevent the City from releasing the record and may file an injunction against the City.

3. Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer (ii) be prohibited to such persons by RCW 84.08.210, RCW 82.32.330, RCW 84.40.020, RCW 84.40.340, or RCW 42.56.230(3).
4. Credit cards numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law. RCW 45.56.230(4)
5. Documents and related materials and scanned images of documents and related materials used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicaid. RCW 42.56.230(5)

Investigation/Law Enforcement

6. Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy. RCW 42.56.240 (1)
7. Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath. RCW 42.56.240(2)
8. Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b). RCW 42.56.240(3)
9. License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies. RCW 42.56.240 (4)
10. Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. RCW 42.56.240 (5)

Employment

11. Test questions, scoring keys and other examination data used to administer a license, employment or academic examination. RCW 42.56.250 (1)
12. All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant. RCW 42.56.250 (2)
13. The residential addresses and residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240. RCW 42.56.250 (3)

14. Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed. RCW 42.56.250 (4)
15. Investigative records compiled by an employing agency conducted a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment. RCW 42.56.250 (5)
16. Except as provided in RCW 47.64.220, salary and employee benefit information collected under RCW 47.64.220 (1) and described in RCW 47.64.220 (2). RCW 42.56.250 (6)

Real Estate

17. Except as provided by Chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal. RCW 42.56.260

Financial Commercial & Proprietary Information

18. Valuable formulae, designs, drawings, computer source code or object code and research data obtained by any agency within five years for the request for disclosure when disclosure would produce private gain and public loss. RCW 42.56.270
19. Financial information supplied by or on behalf of a person, firm or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.
20. Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapters, RCW 43.163 and RCW 53.31 and by persons pertaining to export projects under RCW 43.23.035.
21. Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapters 43.325, 43, 163, 43, 160 RCW, RCW 43.330 and RCW 43.168 or during application for economic development loans or program services provided by any local agency. RCW 42.56.270 (4)
22. Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.
23. Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information. RCW 42.56.270 (6)
24. Financial and valuable trade information under RCW 42.56.270 (7)
25. Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011. RCW 42.56.270 (11)
26. (a) When supplied to and in the records of the department of community, trade, and economic development: (i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050 (8); and (ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business; (d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter. RCW 42.56.270 (12)(a)(d)

27. Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business. RCW 42.56.270 (19)

Utility

28. The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order. RCW 42.56.330 (2)

Security

29. Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of (a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and (b) Records no subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism. RCW 42.56.420 (1)
30. Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety. RCW 42.56.420 (2)
31. Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school. RCW 42.56.420 (3)
32. Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific safety vulnerabilities. RCW 42.56.420 (4)
33. The *security section of transportation system safety and security program plans required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180. RCW 42.56.420 (5)

Other

34. Preliminary drafts, notes, recommendations and interagency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action. RCW 42.56.280
35. Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for cases pending in the superior courts. RCW 42.56.290, including communications between the city and the City Attorney or other attorneys representing the city. RCW 5.60.060(2).
36. Records, maps or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites. RCW 42.56.300