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PUBLIC RECORDS ACT COMPLIANCE POLICY and STAFF GUIDE FOR DISCLOSURE OF CITY RECORDS

INTRODUCTION



In the interest of an informed citizenry and accountable public servants, the City of Sequim is committed to making its records accessible to the public to the full extent allowed by law.

Requests for access to City records may be made by members of the public, litigants, courts, and other governmental agencies. The procedures for responding to a particular type of request may vary, but in all cases, it is our top priority to provide full and timely access to City records, while remaining mindful of individual privacy rights and efficient government administration.

This "Public Records Act Compliance Policy and General Guide for Disclosure of City Records" ("Guide") sets forth the City's obligations in public records disclosure and provides procedures for staff and requesters to follow. The initial version of the Guide was adopted by the City Council via Ordinance 2017-022, now codified as Sequim Municipal Code Chapter 2.50. The City Manager is authorized to approve future amendments to comply with evolving statutes, regulations, court rules, and case law, and to keep pace with best practices.

Except where mandated by law, this Guide establishes no affirmative duty or liability upon the City. Questions from City staff may be addressed to the City Clerk or to the City Attorney's Office.

This version supersedes all prior versions; anyone who seeks to rely on information contained in a superseded version does so at their own risk. The current Guide will be made available to the public on the City website and at the Sequim Civic Center as required by Washington State law.

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TYPES OF RECORDS REQUESTS

The most common requests received by the City are made under the Public Records Act (PRA) found in Chapter 42.56 of the Revised Code of Washington (RCW) and regulated in part by Washington Administrative Code (WAC) Chapter 44-14. These are sometimes called "freedom of information" or "sunshine law" requests. The PRA is a complex and ever-changing law that, in addition to ensuring transparency and accountability, can involve legal risk and financial liability for the City. It is essential that the law be followed diligently, as set forth in the policy and procedures below.

The City also receives records requests under statutes other than the PRA, including but not limited to insurance company requests for police reports, requests from investigative agencies such as Child Protective Services or the Crime Victims Compensation Program, or from quality assurance boards involved in the licensure and discipline of various professions.

Another common type of records request involves litigation discovery demands, court orders, or subpoenas issued by judges or attorneys. This Guide, however, directs Staff compliance with the PRA.



All records requests, no matter the type or the manner of receipt, should be immediately directed to the City Clerk, who is our official Public Records Officer as required by WAC 44-14-02002, or to the Clerk's designee.

DEFINITIONS

The following words and phrases appear throughout this Guide. Some are defined by law; others have been chosen for use in the interest of clarity and consistency. Where there is a conflict between the definitions provided in law and those in this Guide, those defined under State law control.

Active Investigation: A matter for which there is an active, ongoing investigation being conducted by an investigative, law enforcement, penology, or professional disciplinary body. See RCW 42.56.240.

Categorical Exemption: A legal basis for withholding a record in its entirety based on a specific status.

Clarification, Request For: City Staff's request to a requester to provide clarification of unclear or partially unclear requests as allowed under RCW 42.56.520(2) and WAC 44-14-04003(8).

Commercial Purposes: The Washington State Court of Appeals has interpreted "commercial purposes" in the context of RCW 42.56.070(8) to mean "any business activity intended to generate profits" and includes "business activity by any form of business enterprise intended to generate revenue or financial benefit."

Digital/Digitized/Born Digital/Hardcopy/Electronic: Records that originated in an electronic form, such as an email, are considered digital or born digital records. Records that have been converted from a

paper or other hardcopy form through a physical imaging process (such as scanning) into an electronic record are considered digitized.

Disclosure: The act of revealing the existence of a record or the record itself to a requester.

Exempt Record/Exemptions/Exemption Log/Exception to Exemption: The legal authority to prevent disclosure as directed by RCW 42.56, other statutes, or as defined by case law.

Fulfillment: When the City believes it has completed production of records in response to a request. See WAC 44-14-04006.

Identifiable Record: A record that exists at the time the records request is made, and that City staff can reasonably locate. See WAC 44-14-04002(2).

Information, Requests For: Different from a records request; the requestor is seeking an explanation or information about specific government conduct or about the records themselves.

Inspection/Inspection Appointment: Inspecting the records beforehand instead of receiving copies; in such cases the requestor may arrange with the Public Records Officer a date and time to do so. See RCW 42.56.090.

Interagency Requests: Requests for records made by other governmental agencies in their role as investigative or disciplinary bodies.

Over the Counter/"OTC" Requests: A records request that is received and fulfilled in an expedited interaction between staff and the requester, usually in person at a Civic Center counter. OTC requests are allowed on a case-by-case basis at the sole discretion of the PRO or designee.

Portal: Describes the official and preferred method for requesting records from the City.

Production: The act of providing a requester with a copy of or access to a record for inspection with or without copying. Records may be produced with certain material withheld or redacted pursuant to available exemptions.

Public Records Act/PRA: The Public Records Act (PRA) is a Washington State statute found in the Revised Code of Washington (RCW) 42.56 *et seq*. It governs the most common type of disclosure request submitted to public agencies. The PRA is intended to be liberally construed and its exemptions narrowly construed.

Public Records Officer/PRO: The City employee(s) responsible for overseeing compliance with the Public Records Act and other disclosure rules and regulations. Unless otherwise noted, references to "PRO" include the PRO's designee(s). See WAC 44-14-02002.

Public Records Request/PRR: "PRR" is the abbreviation for "Public Records Request."

Record/City Record/Public Record: A "public record" is a writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or

proprietary function, that is prepared, owned, used, or retained by the City. The law requires that "public record" be broadly defined. See WAC 44-14-03001.

Redaction: An obscuring mark, usually solid black, placed over exempt material in a record to prevent disclosure. Redaction also may refer to the blurring or muting of audio, audiovisual, and photographic records.

Repository: Online archive of City records of many commonly requested public records, such as meeting agendas and minutes, that are publicly available and do not require a PRR. See WAC 44-14-03006.

Retention Schedule: The retention and destruction schedules established by the State Archives (a division of the Secretary of State's Office) and other schedules that may be adopted by the City.

Third-Party Notification: The limited advance notice sent to people whose rights may be affected by disclosure, advising them of their option to seek an order from a court to prevent or limit the disclosure. See RCW 42.56.540; WAC 44-14-04003(12).

Withhold/Withheld Record: A record that is not produced and provided to the requestor.

Writing: Broadly defined, a writing means handwriting, typewriting, printing, photostatting, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; voicemails; papers, maps, magnetic or paper tapes, sticky notes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated, including email and text messages and anything else that can be captured in writing or electronically. See RCW 42.56.010(4); WAC 44-14-03001(1).

Section 1

PUBLIC RECORDS ACT COMPLIANCE POLICY

This section of the Guide describes the policy and procedures for handling a request for records made pursuant to the Public Records Act (RCW 42.56) or where the requester has not specified another statute under which the request is being submitted. Public Records Act requests ("PRRs") are the most common type of request received by the City. They should be handled by the Public Records Officer or designee with the full and prompt assistance of all City Staff.

1.1 Public Records Officer/PRO/Portal: The City Clerk is the City's Public Records Officer who, among other duties, serves as the official recipient of records requests. See WAC 44-14-02002. The Public Records Officer administers the City's Public Records Portal, an online portal hosted by NextRequest, which is the City's primary means of fulfilling records requests. The City Clerk may assign other employees as PRO Designees for purposes of fulfilling a particular request, or a particular genre of request.

1.2 Records Request – Submission – Initial Processing

- Online through NextRequest-hosted Records Portal (*preferred method*): https://cityofsequimwa.nextrequest.com
- By mail: Public Records Officer/City Clerk, 152 West Cedar Street, Sequim WA 98382
- By hand: Public Records Officer/City Clerk, 152 West Cedar Street, Sequim WA (2nd floor)
- By phone: (360) 681-3428 (see section on Oral Requests below)
- By email: Clerk@sequimwa.gov

The City's Records Portal offers the most efficient method for processing and fulfillment of requests. The Records Portal also serves as the City's mechanism for maintaining a log of PRRs as required by RCW 40.14.026 and WAC 44-14-04003(14).

If a requester cannot or prefers not to use the Records Portal, a request can be made using the methods described above. Although no particular format is required for a request (WAC 44-14-03006), the City has developed a form that is appended to this Guide and available on the City website (https://www.sequimwa.gov/). Regardless of the form, however, requestors who wish to seek records under the PRA must give the City fair notice that the request is made pursuant to the PRA. (See Section 1.3.)

Sometimes a request can be fulfilled by referring the requester to the online repository where many commonly-requested City records are archived for public convenience. The repository can be accessed through a link on the Records Portal page on the City website.

Requesters should include all of the following information in their records requests:

- Name and mailing address of requester.

- Other contact information, including telephone number and email address.
- The date of the request.
- The preferred method of production (e.g., online Records Portal, photocopies, email transmission, portable device).
- Whether inspection of the records is preferred before receiving copies.
- Reasonable identification of the requested records to allow the PRO to locate the records.
- Requester's signature (may be electronic) or, if the request was made orally, requester's confirmation to the Staff person transcribing the request that the request has been correctly transcribed.
- Requester's statement under penalty of perjury that the information provided about the requestor's relationship to the requested record is truthful, and that a request for a list of individuals is not being made for commercial purposes.

This information is critical for the PRO to determine the nature of the request and to communicate with the requestor.

The following information is recommended to expedite search procedures and to ensure that requesters receive available records:

- A date range in which to search.
- Subject names and dates of birth (using only initials for names of minor children).
- Police Department case or incident numbers; incident dates and types.
- Relationship, if any, of the requester to involved parties (e.g., victim, suspect, parent, legal representative [documentation of representation is required]).
- Permit numbers; addresses; project names; contractor names.
- Meeting or public hearing dates; description of agenda items.
- Any search or production prioritization.

1.3 Fair Notice of Submission: The Public Records Act requires that an agency be provided fair notice that a PRR has been submitted. PRRs should not be buried in other communications or otherwise delivered in an unapproved or roundabout manner. Requests made via social media will not be accepted because City Staff do not monitor those sites on a regular basis. Failure to provide fair notice of submission may result in delayed production of records. Unless otherwise set forth in this Guide, the PRO is the official recipient of all public records requests made to the City of Sequim. For this reason, requesters are strongly encouraged to use the form provided by the City or submit their request through the City's online Records Portal. See WAC 44-14-04002.

1.4 Purpose of Request; Exception: A requester is not required to divulge the purpose of a request and, except in certain limited circumstances, City Staff should not inquire about the purpose. RCW 42.56.080; WAC 44-14-04003(2). One exception to this rule is that the City may ask the requester to certify, in writing, that a request for a list of individuals will not be used for a commercial purpose. See RCW 42.56.070(8); WAC 44-14-3006.

1.5 Good Faith Compliance with the Public Records Act: The City's officials and employees are not liable for loss or damage based on the release of any record if the official or employee acted in good faith in attempting to comply with the Public Records Act. See RCW 42.56.060.

1.6 Oral Requests: Use of the City's online Records Portal is strongly encouraged. However, the City accepts oral requests made via telephone, voice mail, or face to face. Staff other than the PRO who receive an oral request for records may refer the requester to the PRO or, if the request is in a voicemail, may forward the voicemail to the PRO for handling. If not practicable to refer the requester to the PRO, Staff may accept the oral request, put it in writing on the City's form, and submit that form to the PRO. The PRO will create a trackable request on the NextRequest Records Portal, attaching the written request form. Any Staff fielding an oral records request should seek verification from the requester that the request has been accurately transcribed.

1.7 Availability: Public records are available for inspection and copying during the City's customary office hours, Monday through Friday, currently 7:30 a.m. to 4:00 p.m., excluding legal holidays (see WAC 44-14-03002). Records inspections occur at the Civic Center. To avoid interference with other City functions, in almost all cases a requester will be asked to schedule an appointment for inspection and copying and should not expect immediate over-the-counter service. The Public Records Act allows an agency 5 business days to provide an initial response to a request. See RCW 42.56.520.

1.8 Records Index: As codified in Sequim Municipal Code 2.50.050, maintaining a current central index of public records as described in RCW 42.56.070 is unjustified because it would be unduly burdensome, costly, and interfere with City operations. Therefore, the creation and maintenance of such an index has not been undertaken and does not exist. See WAC 44-14-03003(2).

1.9 Multiple Requests by the Same Party: Where a requester makes multiple, separate requests or makes one or more additional requests while a prior request is open, the PRO will process the requests in the order in which they were received. The PRO is not required to work on additional requests until the original request is fulfilled and closed. Requesters are solely responsible for informing the PRO if they want to re-prioritize the order of their requests.

1.10 "Bot" Requests: "Bot" requests are those that the PRO reasonably believes were generated by a computer program or script. The PRO will not respond to more than one "bot" received within any 24-hour period due to excessive interference with other City functions. See RCW 42.56.080(3); WAC 44-14-03006.

1.11 Commercial Purposes: If a request is for a list of individuals to be used for commercial purposes, it will be denied and the request will be closed without further action, pursuant to RCW 42.58.070(8) and RCW 19.02.115(3)(g). If the PRO reasonably believes that the request may be for commercial purposes, the PRO is legally obligated to inquire about the nature of the request.

1.12 Withholding Records: In limited circumstances, a record must be withheld from production to the public, including victims (RCW 7.69.030). For example, most active investigations fall under a categorical exemption requiring that the City withhold related records.

The City will withhold records in their entirety in the following circumstances:

- The record is subject to a categorical exemption (e.g., Active Investigations pursuant to RCW 42.56.240(1) and RCW 42.56.050).
- The record relates to a juvenile offense or dependency matter and the requester is not authorized to receive it under RCW 13.50.050 or RCW 13.50.100.
- The record is held only in evidence by the Sequim Police Department.

1.13 Disclosure. Except in very rare cases, the City has a duty to disclose the existence of a record, but the duty to *produce* a copy or allow inspection depends on the nature of the record and the requestor. Example: If a requester asks for employee Social Security Numbers (SSN), the City must disclose that it does possess records of employee SSNs, but those records are exempt from release to the public.

1.14 Exemptions and Redactions. Every request fulfilled under the PRA must include a list of any exemptions that were relied upon, commonly referred to as an "exemption log." The City uses a system of codes contained in redaction marks as part of an exemption log. Some requesters may have a relationship to a record that makes them an "exception to an exemption." For example, pursuant to current Washington case law, a criminal defendant or corrections inmate may request and receive their own criminal history record information unredacted. Exceptions to exemptions are rare but must be considered during disclosure activities. In compliance with WAC 44-14-06001, the City's current exemption log is published on the City website and includes exemptions listed under the PRA and other statutes. Infrequently, circumstances exist where redaction is not feasible or effective and may cause a record to be withheld from production in its entirety.

1.15 Retention. The City is not required to permanently retain every record it creates or uses, and depending on the record, may not be required to retain it in its original form. Records that have been destroyed pursuant to Retention Schedules are no longer available for disclosure. See WAC 44-14-03005.

1.16 Clarifying and Identifying Records/Narrowing and Prioritizing Requests/Reasonable Response Time. The City will provide its fullest assistance in producing records for the public upon request. The City will fulfill requests in the order that allows for the most requests to be processed in the most efficient manner. If a request cannot be fulfilled within the initial 5 business day period, those requests will be processed in the order received, and the requester will be notified of the anticipated fulfillment date.

Requests will not be unreasonably delayed. The PRO will inform requester when additional time is needed and briefly explain why. Reasonable explanations for extended deadlines include, but are not limited to:

- Expanded time to locate and assemble the records.
- Expanded time to redact exempt material.
- Notification of third parties affected by the request.
- Consultation with legal counsel or risk manager regarding the request.

- Need to accommodate temporarily reduced PRO staffing levels.

The City may not deny a request for identifiable public records solely because the request is overbroad, time-consuming, or diverts Staff from other tasks. See WAC 44-14-04002.

A request for all or substantially all of an agency's records is not a valid request unless the request contains a specific topic or provides a particular keyword or other means of identifying the subject of the request.

The City may seek clarification, ask the requester to prioritize the request so that the most important records are produced first, and/or communicate with the requester to reduce the size and complexity of the request. Date ranges may also be suggested as a means of narrowing a request.

When a request uses an inexact phrase such as "all records relating to", the PRO may interpret the request to be for records that directly and fairly address the topic. When the requester has found the records they are seeking, the requester should advise the PRO that the requested records have been produced and that the remainder of the request may be canceled.

The requirement that a record be "identifiable" does not mean that only precisely described records need to be produced for the requester. Rather, the PRO has a duty to assist the requester in clarifying the request in an attempt to identify the records they are looking for. The PRO also has a duty to produce records that may only be partially responsive. See WAC 44-14-04003 et seq.

1.17 Essential Functions. Public records requests are an essential function of the City Clerk's Office. However, the City must also protect against excessive interference with other essential City functions. Due to the size of the City, its Staff, and the nature of services the City provides, the PRO will dedicate no more than 20% of time responding to public records requests. The PRO will monitor time using the NextRequest reporting function. (RCW 42.56.100; WAC 44-14-04003(3).

1.18 Installments. The City may produce records in installments, particularly for larger requests. The PRO will inform the requester in advance that the records may be produced in installments, and that, if applicable, a partial payment as described in Section 1.31 for each installment must be paid before the next installment will be produced. The PRO will document the production of each installment and send a final fulfillment letter when all records responsive to the request have been produced. See WAC 44-14-07006.

1.19 Searching for Records/Search Log. The City must conduct an objectively reasonable search for responsive records. The PRO will determine where responsive records are likely to be located and involve Staff from other departments, as needed, to assemble them. After the records are located, the PRO should take reasonable steps to reduce the assembled records to those that are in fact responsive. For complex requests, a search log will be prepared to document where and how the search was conducted. See WAC 44-14-04003(10).

1.20 Preserving Requested Records – Avoiding Spoliation of Evidence – Anticipating Litigation or Claims. Upon receipt of a request, the PRO will determine which department or person might possess

records associated with the request. If a requested record is scheduled for imminent destruction under a Retention Schedule, the record cannot be destroyed until the disclosure request has been resolved. This is true for all types of requests (PRRs, subpoenas, etc.). Destruction of records required to be preserved due to outstanding requests, claims, or lawsuits can result in allegations of "spoliation" being brought against the City. If the City receives a records request concerning a subject known to involve pending, threatened, or anticipated litigation, the PRO will promptly notify the City Attorney and Risk Analyst. The response information and the date of response must be documented at the time the PRR is fulfilled. Once the records request is fulfilled or the litigation resolved (allowing for timely appeals), the record may be disposed of pursuant to the appropriate Retention Schedule. See RCW 42.56.100; WAC 44-14-03005.

1.21 Abandoned or Withdrawn Requests. A PRR will not be considered "abandoned" solely because a requester does not respond to the City's queries regarding clarification, reduction of scope, or method of production. While awaiting contact from the requester, the PRO will assemble at least a first installment of identifiable records and prepare them for production. If the requester does not respond within 30 calendar days to a written notification that the records are ready, the requestor may receive a closing letter. The closing letter should state that the request has been closed, explain why the request was closed, and inform the requester that the City will take no further action. If the requester contacts the City after the closing letter went out, the requestor will be required to submit a new PRR.

If a request is withdrawn by the requester, the PRO should document the date and circumstances in a Closing Letter to the requester and obtain written acknowledgment of the withdrawal from the requester, if possible. See WAC 44-14-04003(4); WAC 44-14-04006

1.22 Inmate Requests. The City will occasionally receive records requests from individuals who are in jail or prison. The PRO will first determine whether the request is made under the PRA or some other basis, such as a discovery demand by a "pro se" defendant or litigant in a lawsuit or criminal case. Second, the PRO will confirm that the inmate has not been prohibited by a court from making records requests. Third, the PRO will ensure that all correspondence with the inmate will be marked on the outside of the envelope as "NOT LEGAL MAIL – PUBLIC RECORDS RESPONSE." (The purpose of this notation is to distinguish the City's correspondence from that of the inmate's legal counsel.) Fourth, the PRO will review the requested records for potential third-party notice issues. Pursuant to and in conformance with RCW 42.56.565, the City may seek to enjoin the inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities. Aside from the above steps, the request will be handled the same as if it were any other person or entity making the request. Note that inmates and other persons convicted of crimes may be considered "exceptions" to the exemption regarding their own criminal history record information and may be able to obtain their own such information *without redaction*.

1.23 "No Record Found" Letters. If no identifiable record can be located based upon the information provided on a PRR and the requester does not provide clarification, or if no such record exists in the possession of the City or its contractors, the City will inform the requester in writing that the request is

being closed because no identifiable record was found. The City may, if applicable, suggest alternate agencies to which the requester might submit a request. See WAC 44-14-04002(2).

1.24 Later Discovered Records. If, after the PRO has informed the requester that the City has provided all available records, the City becomes aware of additional responsive records that existed on the date of the request, the PRO will promptly inform the requester of the additional records and produce them on an expedited basis. See WAC 44-14-04003(13).

1. 25 No Duty to Create Records. The City is not obligated to create a new record to fulfill a records request or to convert an existing electronic record into a different file format solely for the convenience of a requester. However, the City may, at its discretion, create a new record to fulfill the request where it is more efficient to create the new record than to collect and make available voluminous existing records containing fragments of the requested information. The City and requester must agree in advance in writing to fulfillment by means of the created record. See RCW 42.56.120; WAC 44-14-04003(6).

1.26 Translating Record Formats. It is not considered creating a record to translate an existing record into a different format if the City can accomplish the conversion in a reasonably efficient manner with software and hardware on hand. This includes converting originals or photocopies into electronic scans, or Excel spreadsheets into pdfs, or Word documents into text files. Translating formats may be considered a feature of providing the fullest assistance to requesters. The City is not obligated to purchase software or hardware for the purpose of translating a record format for a requester and may charge any available statutory fee for the converted records. See WAC 44-14-05002.

1.27 Requests for Information. Requests for *information* as opposed to *documentation* – that is, questions that cannot be answered by providing access to an existing identifiable record – will not be handled as public records requests under the Public Records Act. The PRA does not require an agency to go outside its own records and resources to try to identify or locate the record requested, nor does it require agencies to research or explain public records; the only duty is to make records accessible to the public. See WAC 44-14-04002.

1.28 No Duty to Supplement Responses; No "Standing" Requests. The City's duty is to produce records in its possession that exist *at the time of the request.* If a record is created or comes into the possession of the City after the PRR receipt date, that record is not responsive to the PRR and will not be produced. A new PRR must be submitted to obtain later-created public records. See WAC 44-14-04007.

1.29 Inspection Appointment. The PRA gives a requester the option of inspecting records in person prior to or instead of receiving copies. For security and operational reasons, a prearranged appointment will need to be made in most cases. The PRO and the requester will agree upon a time and date, and the PRO will assemble the responsive non-exempt records in a file, carton, disk drive, or segregated location on a computer (laptop or desktop). The PRO will then provide the necessary space, workstation, and supervision at the Civic Center for the requester to conduct the inspection. The PRO will confirm the inspection appointment date in writing. Inspection appointments will occur only during regular business hours, excluding legal holidays. If the requester fails to show up for the appointment, the PRO will notify

requester that another appointment must be made within 30 calendar days or the request will be deemed abandoned, the PRR closed, and the records re-filed. See WAC 44-14-04005.

During the inspection appointment requesters may not remove records from the viewing area or dis-assemble or alter any record. Requesters may not photograph, videotape, or "dub" any record without the express approval of the PRO, who may choose to supervise the activity. Requesters may ask for copies of any and all non-exempt records at the time of the appointment, and the PRO will provide those copies then and there, if possible. If making the copies would unduly disrupt City business, the PRO may choose to make and produce the copies after the inspection appointment and will do so on an expedited basis.

1.30 Common Records – Access Via Website Repository. The City's duty is to make records accessible to the public. The City will post in its Repository electronic copies of common public records, including but not limited to City Council meeting notices and minutes, ordinances, resolutions, etc. If a request is made for a record that exists in the Repository or website, the City may direct the requester to that source and provide a link. Once provided, this constitutes providing the requestor with access. If the requestor is unable to find the records on the City's Repository and asks for assistance, Staff should provide reasonable assistance. See WAC 44-14-04004(2).

1.31 Fees Associated with Public Disclosure Requests – Requests for Deposits. The City is not allowed to charge a requester for Staff time required to locate a record or prepare it for production in response to a PRR. However, advance payment may be collected on a per-page, per-device, per-scan, or per-electronic file basis. Postage fees may also be collected. All fees will be assessed in accordance with the current fee schedule, Sequim Municipal Code Chapter 3.68. The City may waive charges or adopt alternate or customized fees consistent with RCW 42.56.130 or 42.56.240(14)(f) (body worn and dash camera recording redaction costs). See RCW 42.56.130; WAC 44-14-070.

The City may, but is not obligated to, require a requester to pay a deposit of up to 10% of the estimated production costs before records are produced. The City may request a deposit for each installment before producing another installment for the same request; the City may decline to produce additional records and choose to close the request if any requested deposit is not timely received. Deposit amounts are credited toward final production costs. Any unused amount will be refunded to the requester.

1.32 Native Format/Metadata. The City is not required to assume that a request for records means a request for those records in their native format or with their digital metadata included. A requester must specifically ask for records to be produced in native format or to include metadata. If no such specific request is made, the PRO will produce the records in the format(s) that most readily allow organization, pagination, and redaction of exempt material.

1.33 Denials of Requests for Public Records – Appeal/Petition for Internal Review of PRO Action – Judicial Review. When a requester disagrees with the PRO's decision to withhold or redact a record or portion thereof, the requester may appeal that action by submitting a petition to the PRO asking for an internal review. The petition must be in writing (email is allowed) and must clearly describe the action of

the PRO that is being appealed, preferably by including a copy of the PRO's denial letter and/or log of claimed exemptions.

The PRO will promptly transmit the requester's petition and any other relevant information to the City Attorney to conduct an internal review of the denial/exemption decision. Within 5 business days of receipt of the petition, or within such other time period mutually agreed upon by the City Attorney's Office and requester, the City Attorney will affirm or reverse the PRO's denial/exemption. If the denial/exemption is affirmed, the requester may seek judicial review pursuant to RCW 42.56.550. If the denial is reversed, the PRO will promptly produce the record for requester.

A requester is free to seek judicial review even while an internal review is pending and may do so as early as two days after receiving the denial notice. See WAC 44-14-08001.

Section 2

STAFF GUIDE FOR DISCLOSURE OF CITY RECORDS

2.1 To receive a request for City records:

If you are the PRO or the PRO's designee, first determine whether it is in fact a Public Records Request (PRR) and not a request for information, a non-City record, a subpoena, discovery demand, or an interagency request. If you are not the PRO or the PRO's designee and you are unsure if the request is a PRR, contact the PRO or the PRO's designee.

If it appears to be a PRR, take the following steps:

- Encourage the requester to visit our website and use our online Records Portal to submit the request. If the person does not wish to go to the website, take whichever following step best fits the situation:
- If the requester is physically present, have them complete the paper request form or submit their own written request; forward that to the PRO or the PRO's designee.
- If the request occurs over the phone, transcribe it onto the paper request form, get verbal confirmation that the information has been taken down correctly, and read the "penalty of perjury section" to the requester and let them know you are signing and dating the form on their behalf. Then forward the paper request to the PRO or the PRO's designee.
- If the request arrives via voicemail, you can forward the voice mail itself to the PRO or the PRO's designee.

It is essential that a requester receive a response from the City within 5 business days and that no request is lost or ignored.

Different kinds of disclosure requests call for different kinds of responses. The PRO will determine the nature of each request. Is it made under the Public Records Act? Is it connected to a court matter, such as a subpoena? Is it a request from an insurance company or insurer service, a lawyer, a crime victim, a corrections inmate, a law enforcement agency, an investigative body, or a disciplinary board? Some of the different responses are described below.

2.2 Court Orders/Subpoenas/Discovery Demands ("Requests for Production of Documents"; "Interrogatories" etc.). The PRO or the PRO's designee will refer these to the City Attorney and follow their instructions for the response.

2.3 Accident/Collision Reports (Simple). RCW 46.52.030 states that the Washington State Patrol is the official custodian of vehicle accident/collision reports. For purposes of this policy section, a simple accident/collision report is defined as the printed form entitled "State of Washington Police Traffic Collision Report" consisting of driver, registered owner, vehicle, and insurer information, a diagram of

the collision, and a brief officer's narrative. A simple accident/collision report does not involve a criminal investigation, death, or significant injury. Requests for simple accident/collision reports should be directed to the Washington State Patrol at their website www.wsp.wa.gov or by mail at Washington State Patrol, Collision Records Section, P.O. Box 42628, Olympia, WA, 98605-2628.

If the request for a simple accident/collision report comes from an insurer service company such as LexisNexis or Metropolitan Reporting Bureau, the request together with the uncashed check should be returned to the company in the prepaid envelope they provided, along with a note telling them to seek the record from the Washington State Patrol. If the request is for a vehicle accident/collision report that involved death, significant personal injury, or a criminal charge or investigation, please see Section 2.4 below.

2.4 Accident/Collision Reports Involving Crimes, Death, or Significant Personal Injury. Requests for police reports that involve a vehicle accident/collision that resulted in death, significant personal injury, and/or a criminal investigation or charge, should *not* be diverted to the Washington State Patrol and should instead be handled in the same manner as a PRR. If the requester is an insurer service company such as LexisNexis or Metropolitan Reporting Bureau, their $3.00 check should be accepted as payment for all fulfillment costs unless otherwise agreed between the City and the insurer service.

2.5 Insurer Service Requests Generally. Insurer service companies will occasionally request police reports that do not involve vehicle accidents or collisions, but do describe a loss to their insured, such as burglaries, auto theft, or malicious mischief. These requests may be handled in a hybrid fashion, using PRA exemptions on the produced records but accepting the collision report statutory fee (currently $3.00) in lieu of actual fulfillment costs.

2.6 Law Enforcement/Disciplinary Board/Investigative Agency (aka "Interagency" Requests). The City often receives requests from other governmental agencies for investigative purposes. When the City receives an interagency request from a bona fide law enforcement or investigative agency, the request can usually be fulfilled by Sequim Police Department records specialists without requiring redaction or taking any other PRA-related steps, including JLARC tracking. In situations where the police records specialists feel an interagency request should be handled as a PRR instead, they may refer it to the PRO. Requests by court-appointed individuals, such as guardian ad litem, should be handled by the PRO. When assessing an interagency requester's access to otherwise exempt records, it is appropriate to have the requester provide a statutory basis and/or copies of court documents authorizing access.

2.7 Public Records Act Requests. The following procedure should be followed by the PRO upon receipt of a PRR.

- **Load the request into the Record Portal (if applicable).** If the request was not originally received through our NextRequest-hosted Records Portal, the PRO must create a request on requestor/customer's behalf. Only the PRO or the PRO's designee may create a request and upload all necessary documents, such as the paper version of the request.

- **Send out a 5-day initial response.** A 5-day initial response is available on the NextRequest. The 5-day response should be carefully reviewed and modified, if necessary, before sending it out. It is important to fill in any editable text boxes, especially the "interpretation" portion. See RCW 42.56.520(1).

  In cases where the requested record is available in the Repository, it is appropriate to respond by providing a link to the electronic location. However, if the requester notifies the City that they do not have access to the internet, the City must produce the record in the requested manner instead or provide the requestor with a computer terminal available for the requestor's use. See RCW 42.56.520; WAC 44-14-03004.

- **Identify sources and assistants.** Determine which City departments, individuals, officials, or contractors might possess records responsive to the request or have the necessary skills or access to assist in assembling them (e.g., IT; SPD; Finance). Usually, the nature and likely location of the records will be apparent to the PRO from experience and expertise.

- **Assign activities.** Using the NextRequest tools, assign Staff to conduct searches, collect responsive records, provide documentation of payments, or perform other activities related to the PRR. The PRO is ultimately responsible for improperly handled requests and should carefully supervise Staff assigned to complete activities.

- **Assemble records.** As records are assembled, the PRO will do the following:
  - Narrow the records down to those that are genuinely responsive, eliminating clear duplications when feasible.
  - Review for exempt or withheld material, with the City Attorney's assistance if necessary.
  - Determine whether any third-party notifications need to be issued.
  - Calculate fulfillment costs, if any.
  - Prepare at least a first installment for production by marking redactions and logging exemptions.

- **Notify third parties (if applicable).** The PRA is weighted heavily in favor of disclosure unless the record falls under a recognized exemption. "Privacy" is *not* a stand-alone exemption and requires a secondary recognized basis, such as protected medical records or a risk of identity theft or stalking. Embarrassment, job security, reputation, and other similar factors cannot serve as sufficient reasons to withhold/redact a record or delay responding to a PRR in order to forewarn a third party. The PRO should only issue third-party notifications in situations where they believe a court would likely grant an order preventing disclosure. In no event will the PRO unreasonably delay disclosure of non-exempt records or extend response deadlines solely to accommodate a third party's efforts to obtain an injunction against disclosure. Third-party notice delays should not exceed 30 calendar days.

Situations where a third-party notification may be appropriate include, but are not limited to: victims or witnesses of serious crimes; witnesses or reporting parties who requested confidentiality at the time of the report; parents of minor children who could be identified from the record even if all allowed exemptions are employed.

The PRA provides that an agency's officials or employees are not liable for loss or damage to any person, including a third party, based on the release of a City record if the employee or official acted in good faith in attempting to comply with the PRA.

- **Redact the records.** Before arranging an inspection appointment or producing any record, the PRO must make a diligent effort to prevent disclosure of non-public (that is, exempt) material. Sometimes this means that an entire record must be withheld (after its existence is disclosed), but usually the PRO is able to redact only the exempt portions and release the remainder. Where a document can be redacted and still have some benefit to the requester, the PRO will redact and produce the document.

  The City has modified for its own use the Washington State Attorney General's system for redacting and logging exemptions. The index of exemptions in effect at the time this Guide was adopted or amended is appended hereto.

- **Arrange inspection appointment or begin producing records.** If an inspection appointment was requested, the PRO should contact the requester with the information that the records, in whole or in part, are ready to view at the Civic Center. This correspondence should be in writing and may contain a search log and other information about the records assembled so far, such as the type, format, or volume. It should include a specific date and time for the inspection appointment and require the requester to confirm the appointment or suggest an alternate date. The letter should also state that if the requester does not appear at the appointment or reschedule it, the City may deem the PRR abandoned after 30 calendar days, close the request, and re-file the records. Preparation for an inspection appointment may include working with the IT Department to make a computer available on which potentially responsive electronic records that have been gathered for the requester can be segregated from the City's network. No fee can be charged for an inspection appointment that does not result in copies of records being produced.

  If no inspection appointment was asked for, the records or first installment should be timely produced by the method requested (e.g., Records Portal, photocopies, email, portable device), after receipt of advance payment, if appropriate. A cover letter should be included with each installment, including a synopsis of the records contained in the installment, an exemption log, and a search log if the request was broad or complex. See RCW 42.56.080; WAC 44-14-04004(2).

- **Fulfill the request.** Along with or immediately after the production of the final installment of records, a fulfillment letter must be sent to the requester. Our NextRequest system includes various

boilerplate fulfillment letters. They should be carefully reviewed and modified, if necessary, before sending to the requester.

- **Close the request without production.** For requests that were abandoned, withdrawn, deemed to be requests for information rather than records, or where no identifiable record was located, the request must still be formally closed in writing. Our NextRequest system includes various boilerplate closing letters to cover these situations.

2.8 Additional Resources Available on Website or by Request:

Exemption Log

Hard copy request letter

SUBJECT: Public Records Act Compliance Policy and Staff Guide for Disclosure of City Records (GS50-01-24)	
Effective Date: November 1, 2023	Approved by: Matthew B. Huish, City Manager Clerks Office Approval: Legal Department Approval: