

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, and 42.56, Public Records) for inspection by the public and/or copying by staff.

All departments for the City receive requests for records which are very routine and non-controversial and these records are regularly provided to the public without the use of request forms. In the event staff is requested to provide records listed as exempt or to provide records where there is a question regarding the disclosure of the record than use of the appropriate forms will be required.

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 RCW 42.56, and all portions of criminal history records information which are defined as being exempt by RCW Chapter 10.97. Further, exempt public records shall include privileged communications between attorney and client, the work-product of city employees and agents in connection with pending or threatened litigation, and all materials and communications relating to pending real estate transactions and labor negotiations.

IDENTIFIABLE PUBLIC RECORD means that an agency is only required to disclose records already in existence, 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.

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 placed 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.

RECORDS EXEMPT FROM PUBLIC DISCLOSURE

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. See Exhibit C of this policy. 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 dependants 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 not 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
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

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. If the requestor is asking for a record listed as exempt or a record where there is a question regarding the disclosure of the record then the form "City of Stevenson Request For/Access to Public Records" must be completed and signed by the requestor (Exhibit A).

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. 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 a record is denied a Denial of Request for Access shall be forwarded to the requestor (Exhibit B).

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.

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.

RECORD COPY CHARGE

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.

Copies of any disclosable public record (or portion thereof) shall be made at a rate as specified in the schedule of reproduction costs. The clerk/treasurer will maintain a copy of that schedule on file; and will annually review and appropriately alter those charges to ensure that the rates charged reflect actual photocopy costs.

Payment for the cost of reproduction of all public records shall be made at the time the request for public records is submitted to the clerk/treasurer. Requests by mail should be made with a stamped self-addressed envelope enclosed for the return of the copies being requested.

Explanation of Exhibit A

The form "Request For/Access to Public Records" is used when a request is received for information which will take at least 24 hours or more to research and provide. Also, it is used when there is concern that portions for the requested information may not be disclosable. This gives the City time to search for the record and determine if any portion of it is not disclosable.

A copy of the form is provided to the requestor. The original is filed in the respective Department.

EXHIBIT A

REQUEST FOR/ACCESS TO PUBLIC RECORDS

Department _____ Division _____

Person Receiving Request/Date _____

Date _____

Name _____

Address _____

City _____ State ____ Zip _____ Phone _____

If emergency request, indicate date desired: _____

RECORDS REQUESTED:

Title of Record _____

Date of Record _____

Please describe below the records you are requesting and any additional information that will help us locate them for you as quickly as possible.

I certify that the lists of individuals obtained through this request for public records will not be used for commercial purposes.

Signature _____

Number of copies _____

Number of pages _____

Per page charge _____

TOTAL CHARGE _____

Explanation of Exhibit B

The form "Denial of Request for Access" is used when a total record is denied because it is not disclosable per the Code. The form is completed citing the section of the law which exempts the total record.

A copy of the form is provided to the requestor. The original is filed in the respective Department.

EXHIBIT B

DENIAL OF REQUEST FOR ACCESS

The City of Stevenson has this date received the request of _____.

For access to a public record. In response to this request, the City is refusing to allow inspection or copying of _____

(Identify public record). This material is withheld pursuant to RCW 42.56. Section ____.

Give brief explanation of how exemption applies to the record withheld _____

These exemptions authorized the withholding of specific portions of the public record. The public record to which access was requested is exempt from disclosure requirements. Therefore, the request for access to the above-described record is denied.

CERTIFICATION

I certify under penalty of perjury that on _____

I hand-delivered/mailed to _____

at _____

the Denial of Request for Access document on which this certification appears.

Agent for the City of Stevenson

Date

Explanation of Exhibit C

The form identified as “Dear Employee” is used when a request is received for information on a City employee. The affected employee must be notified promptly of the request, using this form letter, and then the employee is given 48 hours to reply.

EXHIBIT C

Dear Employee:

We have received a public records request from _____

for the following information _____

Our initial review of your file indicates that this information is disclosable with the following exceptions:

If you dispute that the records are disclosable under the Public Records statute, we would be happy to discuss it with you. Disclosure is to be made promptly and so we ask to hear from you within 48 hours. (RCW 42.17.310(1)(b))