



PUBLIC RECORDS ACT RULES

EFFECTIVE DATE:
February 4, 2015

APPROVED:
Resolution No. 2011-10

The Public Records Act (The Act), RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. Pursuant to Resolution No. 2011-10 the following Rules for responding to public records/disclosure requests are established.

The purpose of these rules is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our City government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City will be guided by the provisions of the Act describing its purposes and interpretation. Failure to comply with any provision of these rules shall not result in any liability imposed upon the City other than that required in The Act.

Section 1. Definitions/Explanations

a. Public record. A writing, regardless of physical form, 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.

b. Writing. Broadly defined, a writing means handwriting, typewriting, printing, photostating, 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; papers, maps, magnetic or paper tapes, 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. An email is a writing.

c. Identifiable record. An identifiable record is one in existence at the time the records request is made and that City staff can reasonably locate.

d. Exempt record. All agency records are available for review by the public unless they are specifically exempted or prohibited from disclosure by law or case law, either in RCW 42.56 or other laws and statutes. The Municipal Research and Services Center maintains an up-to-date

list of current exemptions and prohibitions on their website at www.mrsc.org. Search for publication titled "Public Records Act for Washington Cities, Counties and Special Purpose Districts" (scroll to Appendix C).

e. Counter document. A frequently requested document retained in the Public Records Center or within departments that is known to be public information and may be released without need to file a written public disclosure request.

f. E-mail. Electronic mail is an informational transfer system which uses computers for sending and receiving messages. It is comprised of individual units of information divided into an "envelope" and the message contents. The envelope, or message header, contains the mailing address, routing instructions, transmission and receipt information, and other information the system needs to deliver the mail item correctly. Classification of emails as public records is dependent on the content of the message. Email messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions.

Section 2. Description of City Services and Central Office

The City of Lake Stevens is a Washington municipal corporation that provides the full range of traditional municipal services through its various departments. These functions include but are not limited to maintaining public records. The Public Records Officer shall maintain descriptions of the City's organization and the process through which the public may obtain information from the City.

The City of Lake Stevens' City Clerk's Office is located at Lake Stevens City Hall, 1812 Main Street, POB 257, Lake Stevens, WA 98258, and several field offices are located throughout the City.

Section 3. Public Records Officer

Any person wishing to request access to public records or seeking assistance in making a request should contact the City's Public Records Officer. The City Clerk has been designated by the City Council as the City's Public Records Officer.

The Public Records Officer will oversee compliance with the Public Records Act, but may designate other City staff members who may process requests for public records. For Police records, the Public Records Officer has designated the Police Administrative Supervisor.

The Public Records Officer or his or her designees will provide the fullest assistance to requestors, 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.

When using these Rules, references to the Public Records Officer should be interpreted to also include his or her designees.

a. Requests for records other than Police records. Requests to inspect or copy any records maintained by the City, other than Police records, should be made to the Public Records Officer at:

City Clerk / Public Records Officer
City of Lake Stevens
1812 Main Street, PO Box 257
Lake Stevens, WA 98258
Telephone: 425-334-1012
FAX: 425-334-0835
E-mail: deputyclerk@lakestevenswa.gov

b. Requests for Police Records: Requests to inspect or copy records maintained by the City's Police Department should be made at:

Police Records
Lake Stevens Police Department
2211 Grade Road
Lake Stevens, WA 98258
Telephone: 425-3343-9537
E-mail: pdrecords@lakestevenswa.gov

c. Internet access to records. Many records are also available on the City of Lake Stevens' website at: www.lakestevenswa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

Section 4. Availability of Public Records

a. Hours for inspection. Public records are available for inspection and copying during the City's customary office hours: Monday through Friday, 9:00 a.m. to 5:00 p.m. (hours may vary by department), excluding legal holidays. City staff and the requestor may make mutually agreeable arrangements for times of inspection and copying.

b. Place of inspection. Records will be made available for inspection as determined by the Public Records Officer. City staff and the requestor may make mutually agreeable arrangements for inspection if the particular records being sought are maintained at field offices of the City. A requestor shall not take City records from City offices.

To the extent practical, the City will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the City may provide access to public records by providing links to the web site containing an electronic copy of the record, provide records on disk, or transmit the responsive record via e-mail. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records.

c. Records index. Resolution No. 2004-16, adopted by City Council on October 11, 2004, determined that maintaining a central index of City records is unduly burdensome, costly, and would interfere with City operations due to the number and complexity of records generated as a result of the wide range of City activities.

Other records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of the particular department. The Public Records Officer will coordinate responses to public records requests with the departments, and responsive records shall be made available for public inspection and copying at the City Hall or City field offices in accordance with Chapter 42.56 RCW and Resolution No. 2011-10.

d. Organization of records. City departments will maintain records in a reasonably organized manner and the City will take reasonable actions to protect records from damage and disorganization.

e. Retention of records. The City will retain its records in accordance with retention schedules available at www.secstate.wa.gov. The State Attorney General's Local Records Committee approves a general retention schedule for local agency records (including cities) that is common to most agencies. Individual agencies may seek approval from the Local Records Committee for retention schedules specific to their agency or that, due to their particular business needs, must be kept longer than provided in the general schedule. Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

Retention schedules vary based on the content of the record.

Section 5. Making a Request for Public Records

a. Reasonable notice that the request is for public records. A requestor must provide the City with reasonable notice that the request being made is for public records. There is no required format for a valid public records request. If a request is contained in a larger document unrelated to a public records request, the requestor should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.

b. Form. Any person wishing to inspect or copy identifiable public records of the City should make the request in writing in one of the following ways:

- On the provided request form (available at the Public Records Center located at Lake Stevens City Hall, and online at www.lakestevenswa.gov);
- By letter, fax, or e-mail addressed to the Public Records Officer; or
- Online at www.lakestevenswa.gov.

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 adequate for the Public Records Officer to locate the records (including the dates and title or types of records requested if known); and
- The date and time of day of the request.

c. Prioritization of records. The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first. A requestor need not prioritize a request.

d. Copies. If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to make a deposit or pay for the copies, as further discussed in Section 9 below. Costs for copies are set out on the City's fees schedule updated periodically by the Finance Director and made available at the Public Records Center and on the City's web site.

e. Oral Requests. The Public Records Officer may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer will confirm receipt of the information and the substance of the request in writing.

f. Requests made directly to City departments. Requests for public records that are made directly to departments shall be delivered to the Public Records Officer immediately upon receipt for coordinated processing. When a request is fulfilled by a City Department, the final disposition will be provided to the Public Records Officer, who will maintain an index of requests as set forth in the records retention schedule.

g. Purpose of request. 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, the Public Records Officer may ask the requestor if her/she intends to use the records for a commercial purpose. The City is not authorized to provide lists of individuals for commercial purposes.

The Public Records Officer may also seek sufficient information to determine if another statute may prohibit disclosure.

h. Overbroad requests. 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.

i. Inquires. The Act, RCW 42.56, requires Public Records Requests to be for existing, identifiable, public records. Requests asking for explanations or asking questions are not requests for existing, identifiable public records under the Act.

Section 6. Processing Public Records Requests

a. Providing “fullest assistance.” These Rules and related policies and procedures identify how the City will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors and provide the timeliest possible action on public records requests.

All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the Public Records Center or other duties of any assisting employee(s) in other City departments.

b. Order for processing requests. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

c. Acknowledging receipt and fulfilling requests. Within five business days of receipt of the request, the Public Records Officer will do one or more of the following:

- 1)** Make the record available for inspection or copying;
- 2)** If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

- 3) Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
- 4) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone; or
- 5) Deny the request.

The City may respond to a request to provide access to a public record by providing the requestor with a link to the City's web site containing an electronic copy of that record except that if the requestor notifies the City that he or she cannot access the records through the internet, then the City must provide copies of the record or make them available to the requestor in a mutually agreed-upon format.

d. Reasonable estimate of time to fully respond. If not able to respond within the five business-day period, the Public Records Officer must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare an Exemption/Redaction log for exempt or redacted records, notify third party persons or agencies affected by the request and/or consult with the City Attorney about whether the records are exempt from disclosure.

The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and the basis for the time estimated to respond.

e. Notification that records are available. If the requestor has sought to inspect the records, the Public Records Officer will notify him or her that the entire response or an installment is available for inspection and ask the requestor to contact the City to arrange a mutually agreeable time for inspection. If the requestor seeks copies, the Public Records Officer should notify him or her of the projected costs and whether a deposit is required before making the copies.

f. Consequences of failure to respond. If the City does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for failure to respond.

g. Consequences of failure to clarify a request. If the requestor 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 requestor, and re-file the records.

h. Consequences of disclosing a record in error. 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.

i. Searching for records. 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 Records Coordinators 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. The City will not intentionally “bury” a requestor with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requestor to select the ones he or she wants, particularly if the requestor is unable or unwilling to help narrow the scope of the documents being sought.

j. Preserving requested records. If a requested record is scheduled shortly for destruction under the City’s records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record in accordance with the retention schedule.

k. Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part (see Section 8).

If the City believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will provide an Exemption/Redaction log, which is a written statement that identifies the record, states the specific exemption and provides a brief explanation as to how the exemption applies to the record being withheld.

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 subject to an Exemption/Redaction Log. [See Section 6(m) below].

l. Protecting the rights of others.

NOTIFICATION OF AFFECTED PARTIES: INJUNCTIVE ACTION

Third Party Notice: When a request seeks disclosure of a particular record containing information regarding other persons, the City may, in its sole discretion, notify said persons in writing and inform them of their right to seek an injunction from the Superior Court enjoining the disclosure. In such circumstances, production of the requested record may be postponed for a reasonable period in order to provide the affected parties with a reasonable opportunity to seek injunctive relief to prevent or limit disclosure. The City shall honor any order enjoining disclosure of a particular record issued from a court of competent jurisdiction.

m. Redactions. If the Public Records Officer determines that the record is exempt in part but can be made available after redaction of exempt portions, the request shall be granted; provided, that such exempt portions shall first be redacted subject to an Exemption/Redaction Log. PROVIDED, that nothing herein shall be construed as requiring the City to disclose portions of a requested document if the entire document is exempt from disclosure.

n. Inspection of records. To the extent possible due to other demands, the Public Records Officer shall promptly provide space to inspect public records at the Public Records Center. The requestor must claim or review the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the agency to make arrangements to claim or review the records.

If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. If the same requestor makes a subsequent records request for the same or very similar records, the request will be processed as new requests and other public records requests can be processed before the new request in the most efficient manner determined by the clerk.

The Act does not allow a requestor to search through the City's files for records which cannot be identified or described to the City.

Members of the public may not remove documents from the viewing area or disassemble or alter any document.

o. Providing copies of records. The requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. The City may, in its sole discretion, require City personnel to remain physically present with the requestor during the record inspection process. 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.

p. Providing records in installments. When a request is for a large number of records, or requires extensive or complicated search or review of responsive records, the Public Records Officer will provide access for inspection and copying of responsive records in installments if he/she reasonably determines that it would be practical to provide the records in that way. If the requestor fails to inspect the entire set of records or one or more of the installments within 30 days, the Public Records Officer may stop searching for the remaining records and close the request.

q. Completion of inspection. 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.

r. Closing withdrawn or abandoned requests. If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit, installment payment or final payment for the requested copies within 30 days, the Public Records Officer will close the request and indicate to the requestor that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

s. Later discovered documents. If, after the Public Records Officer has informed the requestor 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 requestor of the additional documents and provide them on an expedited basis.

t. No duty to create records. The City is not obligated to create a new record to satisfy a records request; however, the City may, in its discretion, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.

u. No duty to supplement responses. The City is not obligated to 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.

Section 7. Processing Requests for Electronic Records

The Preservation of Electronic Records requirements are outlined in WAC 434-662. An "electronic record" includes those public records which are stored on machine readable file format. If a record is created in an electronic format, the electronic record is the primary record and is subject to provisions of RCW 42.56, the Public Records Act. Electronic records must be retained in electronic format and remain usable, searchable, retrievable and authentic for the length of the designated retention period. Printing and retaining a hard copy is not a substitute for the electronic version. Responses to public record requests for electronic records other than those in common file formats such as pdf or similar formats will be coordinated through the Public Records Officer.

Section 8. Exempt and Prohibited Disclosure of Public Records

The City is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation.

a. The City of Lake Stevens is prohibited by statute from disclosing lists of individuals for commercial purposes.

b. The Public Records Act, RCW 42.56, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer and is available on the Municipal Research and Services Center web site at www.mrsc.org. Search for publication titled "Public Records Act for Washington Cities, Counties and Special Purpose Districts" (scroll to Appendix C).

c. In addition, other statutes may exempt or prohibit disclosure of other documents and information. A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer. Alternatively, the requestor may review a list of other statutes outside the Public Records Act that may prohibit or exempt disclosure of certain information from the Municipal Research and Services Center web site at www.mrsc.org. Search for publication titled "Public Records Act for Washington Cities, Counties and Special Purpose Districts" (scroll to Appendix C).

d. The City's failure to list an exemption shall not affect the effectiveness of the exemption.

Section 9. Costs of Providing Copies of Public Records

Per state law, the City is not allowed to charge for locating a public record or for making records available for review or inspection. The City may charge, however, for the actual costs of copying public records, including the staff time spent making the copies. This provision includes responses to public records requests for electronic records.

a. Fee schedule. The charge for standard black-and-white photocopies is fifteen cents per page. The charge for scanned copies is ten cents per page.

The City Council authorizes the Finance Director to periodically update and post a fee schedule for various non-standard public records or those in other formats or media. The fee schedule may be found online at www.lakestevenswa.gov on the Finance Department's webpage. A statement of the factors and manner used to determine the specific fees will be provided upon request by the Public Records Officer.

If the City has to pay an outside firm for duplicating records in non-routine formats such as photographs, blueprints or tape recordings, the actual cost will be passed along to the requestor.

b. Certified copies. Where the request is for a certified copy, an additional charge may be applied to cover the additional expense and time required for certification.

c. Faxing and mailing charges. The City may also charge actual costs of long distance facsimile transmission and/or mailing or shipping, including postage, shipping costs and the cost of the shipping container.

d. Sales tax. The City will not charge sales tax on copies of records.

e. Use of other copying services. The City is not required to copy records at its own facilities and may determine to use a commercial copying center. The City will bill the requestor for the amount charged by the vendor.

f. Deposit or payment by installments. Before beginning to copy records, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying the records selected by a requestor. The Public Records Officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

g. Method of payment. Payment may be made by cash, check, or money order to the City of Lake Stevens or any other City approved payment method.

h. Waiver of copying charges. The Public Records Officer has the discretion to waive copying charges for small requests, or for individuals or government agencies doing business with the City if the Public Records Officer determines that this action is in the best interest of the City.

Section 10. Denials of Requests for Public Records

a. Petition for internal administrative review of denial of access. 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.

b. Consideration of petition for review. The Public Records Officer shall promptly provide the petition and any other relevant information to Public Records Officer's supervisor or other City official designated by the City to conduct the review. That person will immediately consider the petition and either affirm or reverse the denial within five (5) business days

following the City's receipt of the petition, or within such other time as the City and the requestor mutually agree to; and notify the requestor in writing of the decision. The written decision shall constitute final agency action for the purposes of judicial review.

c. Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 after the initial denial regardless of any internal administrative appeal.

**City of Lake Stevens
Organizational Chart
2015**

