

**CITY OF SNOHOMISH
Snohomish, Washington**

RESOLUTION 1404

**A RESOLUTION OF THE CITY OF SNOHOMISH, WASHINGTON,
RELATING TO COMPLIANCE WITH THE PUBLIC RECORDS ACT,
RCW 42.56, INCORPORATING NEW LEGISLATIVE AMENDMENTS,
AND ORDERING PUBLICATION OF THIS RESOLUTION AND THE
PUBLIC RECORDS ACT RULES**

WHEREAS, Sections 42.56.040 and 42.56.100 of the Revised Code of Washington (RCW) require the City to make nonexempt public records available for inspection and copying; and

WHEREAS, the aforementioned RCW requires the City to establish and publish rules to facilitate disclosure of public records; and

WHEREAS, the Washington State Legislature adopted legislation affecting the manner in which the City is required to administer chapter 42.56 RCW; and

WHEREAS, due to the volume and variety of records requests to the City, determining actual costs of producing records is not feasible and would be unduly burdensome to staff time and City resources; and

WHEREAS, the City wishes to update its public records policy to comply with the current updates to the Public Records Act and adopt the default fees; and

WHEREAS, in order to incorporate these changes into the City's existing rules relating to the Public Records Act, the City Council deems it to be in the public interest to adopt the rules set forth in Attachment A;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH,
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. The Public Records Rules attached as Attachment A are hereby adopted as the rules the City will follow in handling public records requests.

Section 2. The City's Public Records Officer is hereby directed to publish this Resolution and the availability of these Rules, post and maintain the Rules on the City's website, and make them available for inspection and copying at the City Clerk's Office.

Section 3. This Resolution shall take effect and be in full force upon passage and signature hereon.

PASSED by the City Council and **APPROVED** by the Mayor this 17th day of September, 2019.

CITY OF SNOHOMISH

By John T. Kartak
John T. Kartak, Mayor

APPROVED AS TO FORM:

By Grant Weed
Grant Weed, City Attorney

ATTEST:

By Pat Adams
Pat Adams, City Clerk

ATTACHMENT A
PUBLIC RECORDS ACT RULES
FOR THE
CITY OF SNOHOMISH

Approved: Resolution 1404
Effective Date: 9/17/2019

PRA Rule 010. Authority and Purpose.

(1) **Authority.** Section 42.56.070(1) of the Revised Code of Washington (RCW) requires the City to make available for inspection and copying nonexempt public records in accordance with published rules. The Public Records Act ("the Act") under RCW 42.56.010 defines "public record" to include 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 any state or local agency regardless of physical form or characteristics."

(2) **Purpose of Rules.** The purpose of these Rules is to establish the procedures the City of Snohomish ("the City") will follow in order to provide full access to public records, fullest assistance to inquirers, and the most timely possible action as required by RCW 42.56.100, mindful of the further requirement that the Rules must also protect the records from damage or disorganization, and prevent excessive interference with other essential functions of the City.

These Rules provide information to persons wishing to request access to public records of the City, and establish processes for both requestors and City staff that are designed to best assist members of the public in obtaining such access.

PRA Rule 020. Public Records Officer.

Any person wishing to request access to public records of the City, or seeking assistance in making such a request, should follow the procedures set forth in these Rules and contact the Public Records Officer (the "PRO") of the City to submit such a request or to obtain assistance in making such a request:

City Clerk
City of Snohomish
PO Box 1589
Snohomish, WA 98291
Phone (360) 568-3115
Fax (360) 568-1375

As required by RCW 42.56.152, the PRO, and his or her designee(s), shall complete training on the Public Records Act (Chapter 42.56 RCW) and records retention (Chapter 40.14 RCW).

Police Records. The Police Department is responsible for the coordination, tracking, and fulfillment of requests for police records. The PRO will serve as an advisor to the Police Records staff, but will not provide oversight of the fulfillment process.

PRA Rule 030. Availability of Public Records.

(1) **Availability.** Public records are available for inspection and copying by appointment, Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding legal holidays. Inspection of records shall occur at Snohomish City Hall, 116 Union Avenue, unless another location is approved by the PRO or their designee.

(2) **Organization of records.** The City will maintain its records in a reasonably organized manner. While committed to fully comply with the Act and these Rules, the City must also take reasonable actions to protect records from damage and disorganization and prevent excessive interference with other essential functions of the City. A requestor shall not take City records from City offices. A variety of records are available on the City's website at www.snohomishwa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

PRA Rule 040. Public Records Requests.

(1) Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form attached as Exhibit A, or by letter, fax, or email addressed to the PRO. If the request is made by email it should be sent to adams@snohomishwa.gov. The City strongly encourages requestors to make their request via the City's website at: <https://www.snohomishwa.gov/121/Public-Record-Requests>.

The request should include the following information:

Name of requestor; address of requestor; other contact information, including telephone number and any e-mail address; identification of the public records adequate for the PRO to locate the records; and the date of the request.

(2) A public record request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the City's records.

(3) If the requestor wishes to have copies or scans of the records made instead of simply inspecting them, he or she should so indicate and make arrangements with the PRO to pay for copies or scans of the records as provided in PRA Rule 070 below.

(4) A form is available for use by requestors at the office of the PRO and on-line at www.snohomishwa.gov.

(5) Public records requests are public records and subject to inspection or copying.

(6) The PRO shall accept requests for public records that contain the above information by telephone or in person. The PRO will confirm receipt of the information and the substance of the request in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

(7) Records requests may only include existing records. They cannot be used to obtain copies of records not yet in existence.

(8) The City may deny a bot request that is one of multiple requests from the requestor to the agency within a twenty-four hour period, if the City establishes that responding to the multiple requests would cause excessive interference with other essential functions of the City. A "bot" request means a request for public records that the City reasonably believes was automatically generated by a computer program or script.

Police Records. The PRO shall transfer all requests for police records received by the City Clerk's Office or other City departments to the Police Department and document the transfer. The PRO will also provide the requestor with information confirming the transfer and contact information. The PRO will log all transferred requests with notation and date of transfer.

PRA Rule 050. Processing of Public Records Requests.

(1) **Providing "fullest assistance."** Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the PRO will process requests in the order allowing the most requests to be processed in the most efficient manner. In an effort to better understand the request and provide all responsive records, the PRO can inquire about the purpose for the request, but the requestor is not required to answer except to establish whether inspection and copying would violate RCW 42.56.070(9) (see PRA Rule 050(5) below), or other statute which exempts or prohibits production of specific information or records to certain persons.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, not including the day the request was received (as provided by RCW 1.12.040), the PRO will do one or more of the following:

- a) Make the records available for inspection or copying;
- b) If copies are requested and payment or payment of a deposit is made as provided in PRA Rule 070 below, or terms of payment are agreed upon, send the copies to the requestor;
- c) Provide a reasonable estimate of any additional time needed to respond to the request and a date by which the records will be produced in whole or in part depending on whether the records are being provided in installments. The factors used to estimate the additional time needed must be based upon objective criteria. Additional time is allowed under the following circumstances:
 - i. to request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. If the clarification is made by telephone, the PRO will confirm the scope of the clarification in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds

- with a supplemental request;
- ii. to locate and assemble the information requested;
- iii. to notify third persons or agencies in the event the requested records contain information that may affect rights of others and may be exempt from production;
- iv. to determine whether any of the information requested is exempt from production and that a denial should be made as to all or part of the request;
- d) Deny or redact the request, specifying the reasons for denial or redaction, including supporting legal citations.

(3) **Failure to Respond.**

- a) By the PRO. If the PRO does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the PRO to determine the reason for the failure to respond.
- b) By the Requestor. If the requestor fails to respond to an agency request to clarify the request, and the entire request is unclear, the City need not respond to it. Otherwise, the City must respond to those portions of the request that are clear.

(4) **Injunction.** Pursuant to 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.

(5) **Records exempt from production.** Some records are exempt from production, in whole or in part. If a record is exempt from production and subject to denial, the PRO will state the specific exemption and provide a brief explanation of the denial and how the exemption applies to the record being withheld. This explanation should be sufficient to enable the requestor to make a threshold determination of whether the claimed exemption and denial is proper. If only a portion of a record is exempt from production, but the remainder is not exempt, the PRO will redact the exempt portions, produce the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. (For the purposes of these Rules, “redact” means the exempt information will be covered in some manner and then the record will be scanned/photocopied and the scan/photocopy then disclosed.)

Some records by law require third party notification or consent. The PRO will notify the requestor of the notification or consent requirement and add sufficient time to the estimated response time.

The City is also prohibited by statute from producing lists of individuals for commercial purposes. Therefore, if a request is received for any type of list of individuals, an inquiry as to whether the requestor intends to use the list for commercial purposes must be answered before the list can be provided. If the answer is that it will be used for such purposes, the list cannot be produced.

(6) **Inspection of records.**

- a) Consistent with other demands, the City shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the City to copy or scan, if any, and provide payment for those copies or scans.

b) The requestor must claim or review the assembled records within 30 days of the PRO's notification to him or her that the records are available for inspection or copying/scanning. The PRO will notify the requestor, in writing, of this requirement and inform the requestor that he or she should contact the PRO 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 30-day period or make other arrangements, the PRO may close the request and re-file the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) **Providing records in installments.** When the request is for a large number of records, the PRO may provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that manner. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the PRO may stop searching for the remaining records and close the request.

(8) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the PRO will close the request and so inform the requestor.

(9) **Later discovered documents.** If, after the PRO has informed the requestor that he or she has provided all available records, and the PRO becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, he or she will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(10) **Requests for information or nonexistent records.** Requests for information are not public records requests. An agency is not required to conduct legal research for a requestor. An agency is not required to create records to respond to a request.

PRA Rule 060. Processing of Public Records Requests-Electronic Records.

(1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** If public records are requested in an electronic format, the PRO will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by PRA Rule 070 below.

(3) **Retaining electronic copies.** Because an electronic record is usually more susceptible to manipulation and alteration than a paper record, the City will keep, when feasible, an electronic copy of the electronic records it provides to a requestor to be able to show the exact records it provided if necessary.

PRA Rule 070. Costs of Providing Copies of Public Records.

- (1) No fee will be charged for the inspection of public records or locating public records and making them available for copying, except as described in RCW 52.56.120(3).
- (2) The City shall charge costs in accordance with the City's most current Council-adopted Fees Resolution, available on the City's web page at www.snohomishwa.gov.
- (3) The charges for public records in the City's Fees Resolution may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.
- (4) The City shall not impose copying charges under this section for access to or downloading of records that the City routinely posts on its website prior to receipt of a request, unless the requestor has specifically requested that the City provide copies of such records through other means.
- (5) A requestor may ask the City to provide, and if requested, the City shall provide, a summary of the applicable charge before any copies are made and the requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges.
- (6) The City may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If the City makes a request available on a partial or installment basis, the City may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the City is not obligated to fulfill the balance of the request. The City may waive any charge assessed for a request pursuant to City rules and regulations. The City may enter into any contract, memorandum of understanding or other agreement with a requestor that provides an alternative fee arrangement to the charges authorized in this section, or in response to a voluminous or frequently occurring request.
- (7) The PRO will not charge sales tax when it makes copies or scans of public records, but if the records are sent to a third party for copying/ scanning, that third party may charge sales tax and the requestor will be responsible for payment of that tax as well as the third party's actual charges for copies or scans.
- (8) **Payment.** Payment may be made by cash, check, or money order made payable to the City, or by credit/debit card.
- (9) **Other copying charges.** The Act generally governs copying charges for public records, but several specific statutes govern charges for particular kinds of records.
- (10) **Use of outside vendor.** An agency is not required to copy/scan records at its own facilities. An agency can send the project to a commercial copying/scanning center and bill the requestor for the amount charged by the vendor. An agency can arrange with the requestor to pay the vendor directly. An agency cannot charge the default per page copying/scanning charge when its cost at a vendor is less.

PRA Rule 080. Review of Denials of Public Records Requests.

(1) Administrative review of denial of access.

- a) If the City makes a denial or partial denial of a records request, the requestor may object to the initial denial or partial denial of a records request by petitioning in writing (including email) to the PRO for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the PRO or designee denying the request.
- b) The PRO shall promptly provide the petition and any other relevant information to the City Administrator or designee. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time as the City and the requestor mutually agree to.

(2) Consideration of petition for review. The denial or partial denial shall be deemed complete at the end of the second business day following the denial or partial denial of inspection, and shall constitute final agency action.

(3) Judicial review. Any person may obtain court review of: the City's denials or partial denial of public records requests; or the reasonableness of the estimate of the amount of time provided by the City; or the reasonableness of the City's estimate of the charges to produce copies of public records, as provided in RCW 42.56.550.

PRA Rule 090. Exemptions Provided by Other Statutes.

(1) Exemptions. RCW 42.56.070(2) requires the City set forth "for informational purposes" every law, in addition to the Act, that exempts or prohibits the production of certain public records. Requestors will be provided with the exemptions, outside the Act, that may restrict the availability of some records held by the City for inspection and copying/scanning.

EXHIBIT A

Public Records Request Form



CITY OF SNOHOMISH

PO BOX 1589 · SNOHOMISH, WASHINGTON 98291 · (360) 568-3115 · WWW.SNOHOMISHWA.GOV

REQUEST FOR PUBLIC RECORDS

CONTACT INFORMATION

Printed Name:	Date:
Address:	
Phone Number:	Email:

RECORDS REQUESTED

Title of Record:
Date of Record:

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

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

Signature: _____

# of pages:	# of copies:
Charge per page:	Postage:
TOTAL CHARGE:	\$

FOR CITY HALL USE ONLY

Date Received:	By:
Date Completed:	By: