

RESOLUTION 2018-11-475

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SALMON,
WASHINGTON, ADOPTING PUBLIC RECORDS POLICY AND PROCEDURE**

WHEREAS, the City of White Salmon is committed to transparent government as the law allows. This Public Records Policy and Procedure is intended to facilitate public access to records and to minimize confusion or misunderstanding about the records request process; and

WHEREAS, the City of White Salmon is required by RCW 42.45.100 to adopt and enforce reasonable rules and regulations consistent with the intent of the Washington State Public Records Act (PRA), referenced in RCW Chapter 42.56 and Model Rules of WAC 44-14; and

WHEREAS, the City of White Salmon is required to provide access to public records, protect public records from damage and disorganization and to prevent excessive inference with other essential functions of the City; and

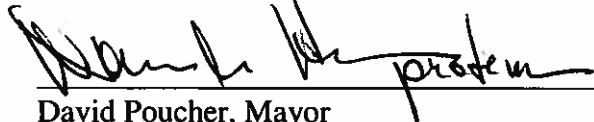
WHEREAS, the City of White Salmon is required to protect certain public records from disclosure subject to various legal exemptions; and

WHEREAS, the City of White Salmon finds that maintaining an index as provided for in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with agency operations given the high volume, various locations and types of public records received, generated and otherwise acquired by the city; and

WHEREAS, the City of White Salmon finds that calculating the actual cost of providing documents either via copying, scanning, uploading electronic files or in any other electronic format in order to fulfill public records request would be unduly burdensome and therefore will comply with RCW 42.56.120(2)(b).

NOW THEREFORE, BE IT HEREBY RESOLVED THAT CITY OF WHITE SALMON ADOPTS A PUBLIC RECORDS POLICY AND PROCEDURES ATTACHED.

ADOPTED by the Council of the City of White Salmon, Washington. Dated this 19th day of November, 2018.



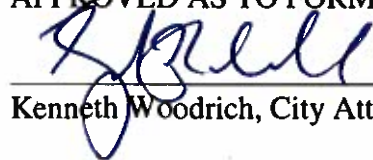
David Poucher, Mayor

ATTEST:



Jan Brending, Clerk Treasurer

APPROVED AS TO FORM:



Kenneth Woodrich, City Attorney

City of White Salmon
Public Records Policy and Procedure

1.0 Purpose

- 1.1** The City of White Salmon is committed to transparent government as the law allows. This Public Records Policy and Procedure is intended to facilitate public access to records and to minimize confusion or misunderstanding about the records request process.
- 1.2** The City of White Salmon is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations consistent with the intent of the Washington State Public Records Act (PRA), referenced in *RCW Chapter 42.56 and Model Rules of WAC 44-14*, and to provide access to public records, protect public records from damage and disorganization and to prevent excessive interference with other essential functions of the City. The City is also required to protect certain public records from disclosure subject to various legal exemptions.
- 1.3** This Public Records Act disclosure policy established the procedures the City of White Salmon will follow to provide for the fullest assistance to requestors including the most timely possible action on requests, while protecting public records from damage and preventing “excessive interference with other essential agency functions.” *RCW 42.56.100*.
- 1.4** The City is required to respond to public records requests pursuant to Chapter 42.56 RCW. The City is not required to respond to questions, do research, prepare reports, or to give information that is not the subject of an identifiable public record.
- 1.5** Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on the City. The City reserves the right to apply and interpret this policy as it reasonably sees fit, and to revise or change the policy at any time. Failure to comply with any provision of these rules shall not result in any liability imposed upon the City other than that provided in the Public Records Act.

2.0 Definitions

- 2.1** “The City of White Salmon” and “The City” includes any office, department, division, bureau, board, commission, or agency of the City of White Salmon. *RCW 42.56.010(1)*.
- 2.2** “Public Record” 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 of White Salmon regardless of the physical form or characteristics. *RCW 42.56.010(2)*.
- 2.3** “Writing” means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication representation including, but

not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all 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 existing data compilations from which information may be obtained or translated. *RCW 42.56.010(3)*.

2.4 “Identifiable Records” means an identifiable record is one in existence at the time the records request is made and the City staff can locate after an objectively reasonable search.

2.5 “Exempt record” includes all agency records that are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes. For information related to Public Record Exemptions please see Municipal Research Services Center’s (MRSC) publication “Public Records Act for Washington Cities, Counties, and Special Purpose Districts” on the City’s Website under Public Records Request.

3.0 Responsibility

3.1 Public Records Officer

The City of White Salmon’s Public Records Officer is the City Clerk. Other City staff members may also process public records requests, as needs require.

3.2 City Attorney

The City Attorney’s Office shall provide legal advice to the Public Records Officer or designee on those occasions when advice is sought. Additionally, the City Attorney’s Office will provide a timely written response to a written request for an explanation of a denial of the release of public information as provided in Section 17 of this policy.

3.3 Central and Field Offices

The City of White Salmon’s central office for requesting records is City Hall, 100 N. Main Street, White Salmon, WA 98672. The City is a non-charter code city governed by the provisions of RCW Chapter 35A.12 under the mayor-council form of government. The City has field offices located in various locations for departments such as Police and Fire Department. More information regarding the City of White Salmon’s departments may be obtained through the City’s website www.white-salmon.net.

4.0 Procedure

4.1 How to Request Records:

General Records Request- Any person requesting access to general public records or seeking assistance in making such a request must contact the City Clerk located at:

City Clerk/Public Records Officer	Phone: (509) 493-1133 x205
100 N. Main Street / P.O. Box 2139	Email:
White Salmon, WA 98672	janb@ci.white-salmon.wa.us
Hours: 8:00am to 5:00pm Mon-Friday	

Police Records Request- Any person requesting Police records must contact the Police Department located at:

Bingen-White Salmon Police Department	Phone: (509) 493-1177
142 E Jewett Blvd / P.O. Box 2139	Fax: (509) 493-1007
White Salmon, WA 98672	Email: info@bwspolice.com
Hours: 8:00 a.m. to 4:00 p.m. Mon- Thursday	

4.2 Request Format

While there is no specific required format for a public records request, a requestor must provide the City with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public record request, the requestor should point out the public record 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 a timely response to the request.

To help facilitate a prompt response, the City encourages that all requests be made in writing on a *Public Records Request Form*, which is available at the City Clerk's Office and on the City of White Salmon's website www.white-salmon.net. Requests may be submitted in person, orally, by mail, by fax, or e-mail. Mail, email and faxes will be considered received on the date the form is stamped "received", not on the date sent. Requests should include the following information:

- A. The requestors name, mailing address, and contact phone number;
- B. The date of the request;
- C. The nature of the request, including a detailed description of the public record(s) adequate for the city personal to be able to locate the records;
- D. A statement regarding whether the records are being requested for a commercial purpose (*RCW 42.56.070 (9)*);
And,
- E. Whether the requestor desires copies (and whether in a paper or electronic form), or to inspect the requested records. The City reserves the right to choose a form of copies where it is impracticable to respond in the requested form.

Request for public records made orally must be made during normal business hours. Requests for public records made orally must be confirmed by the Public Records Officer.

A variety of records are available on the City's website at www.white-salmon.net. Requestors may be directed to view the records available on the website in lieu of producing copies or physical inspection where records are so available and may be searched. The City Clerk or designee shall be available for technical assistance in that event.

4.3 Response to Requests

The City will process requests in the most efficient manner as the Public Records Officer (defined above) deems appropriate. 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.

Within five (5) business days of receiving a request, the City will either (A) provide the record; (B) acknowledge that the request has been received and provide a reasonable time estimate it will need to respond to the request; (C) seek clarification of the request; or (D) deny the request.

Additional time to respond may be based on the need to log the request, to clarify the intent of the request, to locate and assemble the records, to redact confidential or exempt information, to prepare a withholding index to notify third parties or agencies affected by the request and provide such parties/agencies with the opportunity to seek a court order preventing disclosure where appropriate and/or to 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 estimate to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain the changed circumstances that make it necessary.

The City frequently receives requests for public records identified in terms of “any and all documents related to” or similar language. The City has limited staffing resources and broad requests of voluminous documents, particularly those requiring review and redaction, will be provided only as City staffing allows and may result in long response periods. If the requestor is unable or unwilling to help narrow the scope of the documents being sought in order to expedite the City’s response and/or reduce the volume of potentially responsive documents, the Public Records Officer is allowed to err on the side of producing more rather than fewer documents in response to such a broad, general request. City staff shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requestor and the PRA does not allow a requestor to search through the City’s files for records which cannot be identified or described to the City. The City is not authorized to provide lists of individuals for commercial purposes and the City may inquire whether the requestor is using a list commercially in its initial response. The Public Records Officer may also seek sufficient information to determine if another statute or court order may prohibit disclosure. If the requestor fails to clarify an unclear request or verify a non-commercial intent within fifteen (15) working days, the City will treat the request as having been withdrawn. *RCW 42.56.520.*

If the Public records contains personal information that identifies an individual or organization rather than the subject of the requested public record, the City may notify that individual or organization to allow the party to seek relief pursuant to RCW 42.56.540, and the response time may be delayed (usually by ten days) to allow the third party to oppose the records release. Such relief may include a court injunction prohibiting release of the record because such examination would not be in the public interest and would substantially and irreparably damage any person or vital governmental function. The City may take the above into account when providing an estimate of when the records will be available. Nothing in this policy is intended to, nor does it, create any right to such notice.

When a request uses a 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. 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 if it can be determined that the requestor has internet access and the requestor agrees that the request has been satisfied.

When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the request for records have been provided and the remainder of the request may be cancelled.

4.4 Providing Records in Installments

When the request is for a large number of records, the City may provide access for inspection and copying in partial installments if reasonably determined that it would be practical to provide the records in that way. With each instance the City will notify the requestor of the response time for the next installment. Provided, however, if the requestor does not contact the Public Records Officer within thirty (30) working days to arrange for the review of the first installment, the City may deem the request abandoned and may stop fulfilling the remainder of the request. The City may prioritize record requests received after commencing to fulfill the larger request. *RCW 42.56.120.*

4.5 Electronic Records

The process for requesting electronic public records is the same as the process for requesting paper public records.

When a requestor requests records in an electronic format, if technically feasible, the Public Records Officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the City and is generally commercially available; or will provided the records in a format that is reasonably translatable to the format in which the agency keeps the record.

With the consent of the requestor, the City may provide customized access under *RCW 42.56.120* if the record is not reasonably translatable into the format requested. The City may charge a fee consistent with *RCW 42.56.120(3)(a)(i)* for such customizable access.

4.6 No Duty to Create Records

This policy does not require the City to answer written questions, summarize data or information, prepare reports, create new public records, or provide information in a format that is different from original public records; 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. *WAC 44-14-04003 (5).*

4.7 No Duty to Provide Information

This policy does not require the City to respond to requests for information, research, opinions or advice. Requests for information, research, opinions, advice, or similar requests will not be responded to pursuant to this policy.

4.8 No Duty to Supplement Responses

The City is not obligated to hold current records requests open to respond to request for records that may be created in the future. A new request must be made to obtain later-created public records.

4.9 Fees

A. The City finds that calculating the actual cost of providing documents either via copying, scanning, uploading electronic files or in any other electronic format in order to fulfill a public records request would be unduly burdensome for the following reasons:

1. The City's public records officer would be required to maintain a record of all employees who contributed to each part of a public record request and potentially charge different amounts for multiple documents and/or pages.
2. The City uses several scanning and copying machines with different costs and lease agreement fees which change from time to time. The cost of supplies for the City's various machines is subject to change based on current market rates. Calculating the portion of the machines and supplies used toward copying or scanning public records would require knowledge of the cost of supplies and an in-depth analysis of timing and application multiplied by each contributing employee's hourly rate of pay and benefits;
3. The response time to a public records request may be delayed in or order to calculate actual costs and creating an invoice with varying different rates of providing the public records.

RCW 42.56.120(2)(b).

B. The charges for responding to public records requests are as follows:

1. Fifteen cents (\$0.15) per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records. *RCW 42.56.120(2)(b)(i).*
2. Ten cents (\$0.10) per page for public records scanned into an electronic form or for the use of agency equipment to scan the records. *RCW 42.56.120(2)(b)(ii).*

3. Five cents (\$0.05) per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery. *RCW 42.46.120(2)(b)(iii)*.
 4. Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The city shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations. *RCW 42.56.120(2)(b)(iv)*.
 5. The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge. *RCW 42.56.120(2)(b)(v)*.
- C. The charges in (b) of this subsection may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.
- D. An agency may charge a flat fee of up to two dollars for any request as an alternative to fees authorized under (a) or (b) of this subsection when the agency reasonably estimates and documents that the costs allowed under this subsection are clearly equal to or more than two dollars. An additional flat fee shall not be charged for any installment after the first installment of a request produced in installments. An agency that has elected to charge the flat fee in this subsection for an initial installment may not charge the fees authorized under (a) or (b) of this subsection on subsequent installments.
- E. An agency shall not impose copying charges under this section for access to or downloading of records that the agency routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the agency provide copies of such records through other means.
- F. A requestor may ask an agency to provide, and if requested an agency shall provide, a summary of the applicable charges 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.
- G. No fee is charged for inspection of a public record or for locating a record. Fees may be waived due to the small amount of copies, scans or electronic formats made or other circumstances. Payment of fees is required prior to the release of records unless other arrangements have been made. *RCW 42.56.120*.

4.10 Deposit

The City may require a deposit of up to ten percent (10%) of the estimated cost of copying records prior to copying the records for a requestor. The City may also require

payment of the remainder of the cost before providing all of the records, or the payment of the cost of copying an installment before providing that installment. *RCW 42.56.120*

4.11 Availability of Public Records

Public Records are available for inspection and copying at the City Clerk's Office during normal business hours: Monday through Friday, 8:00a.m. to 5:00 p.m., excluding the lunch hour (12:00noon-1:00pm) and excluding legal holidays. City personnel and the requestor may make mutually agreeable arrangements for time(s) of inspections and copying.

To the extent possible, given other demands for space and staff time, the Public Records Officer shall promptly provide space to inspect public records at the City Hall. The City deems it necessary, in order to comply with the PRA's mandate to protect public records, to require that inspections of public records be conducted in the presence of the Public Records Officer or designated staff. The City will make every effort to provide staff to oversee the expeditious inspection of the public records without unduly compromising or unreasonably interfering with the essential functions of the City. All assistance to help requestors locate and inspect 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 City Clerk or other duties of any assisting employee(s) in other City departments. In accommodating a request for public records inspection, the City may consider the size of the request, the ease with which the requested records can be made available for inspection and the special accommodations requested by the requestor necessary in order to inspect the records, the availability (schedule) of the requestor to conduct the inspection, the availability of City staff to observe the inspection, the time constraints on staff availability imposed by other current City business, and any other relevant circumstances.

After inspection is complete, the requestor shall indicate which documents he/she wishes to have copied using a non-permanent method of marking the desired records as approved by the Public Records Officer. The Public Records Officer will arrange for copying.

4.12 Preservation of Public Records

No member of the public may remove a public record from the City Clerk's Office without the Public Record Officer's permission. No member of the public may remove a public record from a viewing area, disassemble, or alter, fold, mark, deface, tear, damage or destroy any public record. Public records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by City staff. Copies of public records may be copied only on copying machines of the City unless other arrangements are made by the Public Records Officer. No food or drink will be permitted during time of inspection of public records. Access to file cabinets, shelves, vaults and other City storage areas is restricted to authorized City staff.

4.13 Organization of Public Records

The City finds that maintaining an index as provided in *RCW 42.56.070(3)* for use by the public would be unduly burdensome and would interfere with agency operations given by

the high volume, various locations, and types of public records received, generated and otherwise acquired by the City. *RCW 42.56.070(4)*. Notwithstanding the foregoing, the City will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.

4.14 Closing Abandoned or Unpaid Requests

If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records within thirty (30) days of notice that the records are available for inspection, or fails to pay the deposit, installment payment or final payment for the requested copies, City personnel will close the request. City personnel will document the closure of the request and the conditions that led to the closure. *RCW 42.56.120*.

4.15 Records Exempt from Public Disclosure

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 law or federal statute or regulation. The City is prohibited by statute from disclosing lists of individuals for commercial purposes. *RCW 42.56.070(9)*

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. *RCW 42.56.230 through 42.56.480* contains a large number of exemptions from public inspection and copying.

Other statutes outside the Public Records Act may prohibit and exempt disclosure of certain documents or information *RCW 42.56.070(1)*.

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

4.16 Denial of Request Due to Exemption

All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. *RCW 42.56.210(3)*. Redacted sections shall indicate the reason for the redaction.

4.17 Mechanism for Review of Denial

Any person who objects to the denial of a public record may petition in writing to the City Clerk for a review by the City Attorney of that decision. The petition shall include a copy of or reasonably identify the written statement by the City Attorney's Office or designee denying the request. The City Attorney shall perform a review at the end of the second business day following the denial to represent final action for the purposes of judicial review. *RCW 42.56.530*.

4.18 Retention of Records

The City is not required to retain all records it creates or uses. However, the City will follow *RCW Chapter 40.14, Preservation and Destruction of Public Records*, in the retention and destruction of public records. The Secretary of State, State Archives 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. The retention schedule for local agencies is available at www.secstate.wa.gov/archives. Retention schedules for documents vary based on the content of the record. WAC 4414-03005.

4.19 Loss of Right to Inspection

Inspection shall be denied, and the record withdrawn by the Public Records Officer if the requestor, when reviewing the record, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the City.

4.20 Disclaimer of Liability

Neither the City nor any officer, employee, official or custodian shall be liable, or shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy. This policy is intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of mandatory terms such as “shall”, nothing in this policy is intended to impose mandatory duties on the City beyond those imposed by statute and federal law.