

**CITY OF DUVALL
WASHINGTON**

RESOLUTION NO. 24 - 02

**A RESOLUTION OF THE CITY OF DUVALL
CITY COUNCIL ADOPTING AN UPDATED
POLICY FOR PUBLIC RECORDS REQUESTS,
REPEALING PREVIOUS RESOLUTIONS
RELATED TO THE SAME, AND PROVIDING
FOR SEVERABILITY AND ESTABLISHING AN
EFFECTIVE DATE.**

Whereas the accessibility and transparency of public records are essential components of a democratic society and

Whereas the City of Duvall acknowledges its responsibility to facilitate public access to records under applicable laws and regulations and

Whereas the City of Duvall's public records policy is currently regulated by Resolutions 17-13 and 17-15, both of which were passed by this City Council, and


Whereas it is imperative for the City of Duvall to establish clear guidelines and procedures for handling public records requests in a timely, efficient, and transparent manner.

**Now, Therefore, THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON,
DOES HEREBY RESOLVES THAT:**

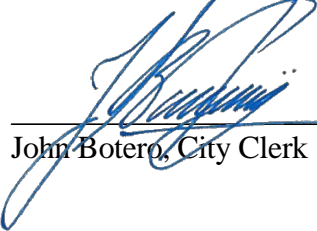
1. The City Council of the City of Duvall hereby adopts the updated policy for public records requests attached to this Resolution.
2. The City Council of the City of Duvall hereby repeals Resolutions 17-13 and 17-15 in favor of adopting this updated policy.
3. The effective date of this updated policy shall be April 1, 2024.
4. Staff will start implementing the new public records request portal, training staff on using the said portal and the responsibilities and obligations under this policy and applicable public records laws.

APPROVED BY THE DUVALL CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE NINETEENTH DAY OF MARCH 2024.

CITY OF DUVALL


Amy Ockerlander (Mar 25, 2024 16:11 PDT)
Amy Ockerlander, Mayor

ATTEST/AUTHENTICATED


John Botero, City Clerk



Small Town.



Real Life.

City of Duvall

Washington

City of Duvall

Public Records Request Policy (Resolution 24-02)

Effective April 1, 2024



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PUBLIC RECORDS POLICY

1. Authority and purpose.

- a. Authority.** RCW 42.56.070(1) requires each agency to make nonexempt public records available for inspection and copy them under published rules. The Public Records Act (the "Act" or "PRA") 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 the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Act, that exempts or prohibits the production of public records held by that agency.
- b. Purpose of Policy.** The purpose of this policy ("Policy" or "Rules") is to establish the procedures the City of Duvall (the "City") will follow to provide full access to public records, fullest assistance to inquirers, and the timeliest 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. This policy provides information to persons wishing to request access to the City's public records. It establishes processes for both requesters and City staff designed to best assist public members in obtaining such access.

Except as law mandates, the guidelines outlined 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 sees fit and to revise or change it at any time without further action by the City Council. Failure to comply with any provision of these rules shall not result in any liability on the part of the City other than as outlined in the Public Records Act (PRA). The policy's purpose is to provide the public full access to information concerning government conduct, to be mindful of individuals' privacy rights, and to ensure the efficient administration of government. This Policy will be interpreted in favor of disclosure. The City will be guided by the provisions describing its purposes and interpretation in carrying out its responsibilities.

- c. Amendment of the Rules.** The City Council's Resolution approving this Policy authorizes the City Administrator to amend the Policy as necessary to remain in compliance with evolving laws governing the handling of public records requests and to update it ~~as facts may require~~. The City Attorney must review amendments



to the Policy before the City Administrator's action. All amendments to the Policy will be reported to the City Council.

2. **Agency description, Contact information, Public Records Officer. Staffing Resources.**

- a. **Agency description.** The City provides the services of a municipality as prescribed by law, including but not limited to building and plans inspection, parks and recreation, planning and community development, public safety, and public works services, which are supported and supplemented by finance, administration, legislative, and executive. The City's central office is located at City Hall, 15535 Main Street, NE; Duvall, WA 98019.

The general course and method by which the City's operations are channeled and determined are through laws adopted and direction given by the City Council and other competent authorities in conformity with all applicable city, state, and federal laws, which are implemented by the City Administrator, Department Directors, and their designees following the requirements of those same laws. The City's rules of procedure are outlined in those same laws or in regulations adopted according to authority granted to others as provided in those laws.

- b. **Contact Information - Public Records Officer.** Any person wishing to request access to the City's public records or seeking assistance in making such a request should follow the City's Public Records procedures to submit such a request or to obtain assistance in making such a request. The requester may contact the City Clerk, who is the Public Records Officer, using the following contact information:

John Botero, City Clerk
City of Duvall
15535 Main Street, NE
Post Office Box 1300
Duvall, WA 98019

Phone (425) 788.1185
CityClerk@DuvallWA.gov

Information is also available at the City's website at www.duvallwa.gov

- c. **Designation of Public Records Officer.** The City Clerk shall be and fulfill the duties of the Public Records Officer. The City Clerk can entrust people of their



choosing to help perform and discharge their responsibilities as the City's Public Records Office.

- d. **Staffing Resources.** RCW 42.56.100 obligates the City to adopt reasonable rules and regulations to prevent public disclosure demands from causing excessive interference with other essential City functions. The purpose of this Policy is to set forth the number of resources the City can currently devote to processing public record requests ("PRRs") while at the same time not interfering excessively with the City's essential functions. To determine a reasonable level of effort to devote to responding to requests for public records that is commensurate with the available resources and staffing (to prevent excessive interference with other essential functions of the City), the City has quantified the vital functions provided by the key staff involved in processing public records requests. The City will use the time allocations set forth herein to estimate reasonable response times to public records requests according to RCW 42.56.520. The City Clerk shall spend no more than 15% of allocated resources on Public Records processing per week, document redaction, and any other activity involved with fulfilling their responsibilities as the Public Records Officer under Resolution 17-13, Exhibit A, section 1.

3. Public Records.

- a. **Availability.** Public records that can be made available through copying or physical inspection are available for inspection and copying during regular business hours of the City, Monday through Thursday, 9:00 a.m. to 4:00 p.m., excluding legal holidays. Examination of records shall occur at the central offices of the City unless the Public Records Officer or their designee approves another location.
- b. **Records Index.** By the Resolution approving this policy, the Duvall City Council issued a formal order finding that the maintenance of an index was unduly burdensome. This finding was based on the fact that the City Government comprises many departments, with divisions and subdivisions. The different departments maintain separate data and records in other systems to index records and information. Because these records are diverse, complex, and stored in multiple locations and multiple computer systems and databases, it is unduly burdensome to maintain a central index of records. Resolution 10-04 (March 25, 2010.)



- c. **Organization of Records.** The City will maintain its records in a reasonably organized manner. While committed to fully complying with this Policy, 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. The requester shall not take City records from City offices. Various records are available on the City's website at www.DuvallWA.gov. Requesters are encouraged to view the documents available on the website before submitting a records request.
- d. **Retention of Records.** The City will retain its records as prescribed by the Secretary of State of the State of Washington, or according to law. A requester may find a copy of the retention schedules at www.sos.wa.gov. The retention schedules may vary based on the content of the record. Public records may not be destroyed according to the retention schedule if a public record request, actual, or anticipated litigation is pending.
- e. **Records Request Log.** Under RCW 40.14.026(4), the City must maintain a log of all Public Records Act requests, which must contain:
 - (i) The requester's name, if provided by the requester.
 - (ii) The date of the request.
 - (iii) The Text of the original request.
 - (iv) A description of the records produced in response to the request.
 - (v) A description of the records redacted or withheld, and the reason for the redaction and the withholding, and
 - (vi) The date of the final disposition of the request.

The log itself is a public record and must be retained under the relevant retention schedule.

4. Making a Request for Public Records.

- a. **How to Submit a Public Records Request.** Any person wishing to submit a public records request to the City is highly encouraged to make their request to the City:
 - (i) in writing on the City's request form, (ii) through the City's Public Records Request online portal (located at duvallwa.nextrequest.com), (iii) in person, or (iv) by letter, fax, or e-mail addressed to the Public Records Officer. The City may direct the requestor to make a request in a form and manner most efficient for the City to fulfill the information request. However, the City shall not deny a public



records request for failure to submit its request through the City's Public Records Request online port or by letter, fax, or e-mail to the Public Records Officer.

When the Public Records Officer receives a public records request by telephone or in person, they 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 requester responds with a different statement of the scope.

A form is available for use by requesters at the office of the Public Records Officer and online at www.duvallwa.gov/313/Public-Records-Request.

- b. **Content of Request.** All requests should include the following information:
- i. Name of the requester.
 - ii. Address of the requester.
 - iii. Other contact information, including telephone number and any e-mail address; identification of the public records adequate for the Public Records Officer to locate the records; and the date and time of day of the request.
 - iv. The "identifiable records" requested.
 - v. Whether the requester desires copies, electronic versions of the responsive records, or to inspect the requested records; and
 - vi. The preferred method of receiving the records. By default, the Public Records Officer will make all responsive records available using the online request portal.

Records requests may only encompass existing records. They cannot be used to obtain copies of records not yet in existence.

- c. **Identifiable Record Requirement.** A requester must request an "identifiable record" or "class of records" before the City responds. An identifiable record is a record that is capable of being identified by a City employee. The Act does not allow a requester to search through City files for records that cannot be reasonably identified or described to the City. A request for all or substantially all of an agency's records is not valid under the PRA, provided that a request for all records regarding a particular topic or containing a specific keyword or name shall not be considered a request for all of an agency's records. See RCW 42.56.080
- d. **Requests for Information or Nonexistent Records.** Information requests are not public records requests. The City is not required to conduct legal research for a requester or create records to respond to a request under the Public Records Act.



- e. **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 according to this policy.
- f. **Bot Requests.** Should the Public Records Officer, or the City in general, receive multiple requests from the same requester within a 24 to 48-hour period and reasonably believe these to be “bot requests” (i.e., requests automatically generated by a computer program or from a script), the Public Records Officer may deny the requests if the Public Records Officer or their designee reasonably believes that responding to all requests would excessively interfere with essential office functions.
- g. **Requests for Police Accident Reports.** Under Chapter 46.52 RCW, a request for a Police Accident Report will not be deemed a Request for Records under this Policy or the Act if the requester certifies, in writing, to the City that the requester is an “interested party.” If the requester does not certify they are an “interested party, “their Request for a Police Accident Report will be processed under this Policy. For purposes of this Policy, “interested party shall mean any party authorized to receive a copy of an accident report as authorized in RCW 46.52.080 or RCW 46.52.083, as they now appear or are hereafter amended, and “Accident Report” shall mean any accident report or supplemental report required by Chapter 46.52 RCW, as it now appears or is hereafter amended.

5. Public Records Officer’s Processing of Public Records Requests.

- a. **Processing.** The Public Records Officer must provide their “fullest assistance” to the extent reasonably possible. The Public Records Officer will process all requests in order of receipt or in an order that allows requests to be processed most efficiently. To better understand the request, the Public Records Officer may require information to ascertain the range of responsive records better.
- b. **Inquiries Regarding Requests.** The Public Records Officer may inquire about the purpose of the request. Still, the requester is not required to answer except to establish whether inspection and copying would violate RCW 42.56.070(8) or other statutes that exempt or prohibit the production of specific information or records to certain persons.



- c. **Communications from City Staff.** In consultation with and with approval from the Public Records Officer, a City staff member may contact the requester directly to ask the requester to narrow and/or clarify the nature of the request. The Public Records Officer will then be notified of the contents of the discussion with the requester and then contact the requester directly with a summary of the conversation between the said requester and City staff.

- d. **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 Public Records Officer will do one or more of the following:
 - (i) Provide copies of the requested records or make the requested records available for inspection or copying, provided the requester submits payment of the necessary fees beforehand.

 - (ii) Acknowledge receipt of the request and provide a reasonable estimate of any additional time needed to respond to the request and a date by which the records would 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 criteria that can be articulated and may be presented in the response estimating the extra time required. However, additional time is only allowed under the following circumstances:
 - a. To locate and assemble the information requested.
 - b. To gather all the data needed to start processing the request.
 - c. To notify third persons or other agencies if the requested records contain information that may affect the rights of others and may be exempt from Public Records production. Such notice should be given to make it possible for those other persons to contact the requester and ask them to revise the request or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request or a statement of the request if no written request was received and/or
 - d. To determine whether any of the information requested is exempt from Public Records production and whether a denial should be made as to all or part of the request.

 - (iii) Acknowledge receipt of the request and request clarification from the requester if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by



telephone, e-mail, or in writing. If the clarification is made by telephone, the Public Records Officer will confirm the scope of the clarification in writing via letter or e-mail. The confirmation will be deemed the correct statement of the scope of the request unless the requester responds with a different statement of the scope.

- (iv) Deny the request, specifying the reasons for the denial.
- e. **Requester's Failure to Clarify.** If an entire request is unclear, and the requester does not respond to the City's request for clarification within thirty days of the City's request, the Public Records Officer may consider the request abandoned, send communication to the requester, and close the request. If only portions of the request are unclear and a requester fails to respond to a request for clarification, the City must respond to the clear parts of the request.
- f. **Injunction.** Under 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.
- g. **Receipt of Requests.** The request shall be considered received on the day it was sent to the City, except requests sent outside of regular City business hours, which shall be deemed received by the City on the following business day.
- h. **Searching Non-City Accounts and Devices for Public Records.** In conducting its adequate search for responsive records, the Public Records Officer may determine that potentially responsive documents may be located on former or current City employees' or Officials' personal devices. In such case, the Public Records Officer will ask the affected individuals to search for and locate potentially responsive records and provide a reasonably detailed and non-conclusory affidavit or declaration from the affected individual that attests to the nature and extent of their search for public records on personal devices. See *Nissen v Pierce County*, 183 Wn. 2d 863, 885 (2015).

The Public Records Officer will make a reasonable effort to contact and engage any former City employee or Official to secure responsive records or the said affidavit or declaration.



6. Managing the Queues.

- a. The Public Records Officer is responsible for managing the records request queues based on the following criteria:
 - (i) The number of records responsive to a given request.
 - (ii) The number and size of other records requests in the queue.
 - (iii) The processing required for the subject request or requests and other requests in the queue.
 - (iv) The status of a particular request that is waiting for third-party review or requester action; and
 - (v) The current volume of other City work, as it affects the amount of staff time that can be devoted to the subject request or requests.

7. Categories of Requests.

- a. When a public records request is received, the Public Records Officer and/or the designated department representative receiving the records request will categorize the request according to the nature, volume, and availability of the requested records as follows:
 - (i) **Category 1.** These records requests require immediate response in the interest of public safety (imminent danger). These requests shall take priority over all other requests.
 - (ii) **Category 2.** Records requests are routine or readily filled requests for easily identified and immediately accessible records requiring little or no coordination between departments.
 - (iii) **Category 3.** Records requests are routine requests that involve:
 - a. many records; and/or
 - b. records not easily identified, located, and accessible; and
 - c. records requiring coordination between departments.
 - (iv) **Category 4.** Records requests that are complex and which may be especially broad or vague which involve:
 - a. Many records that are not easily identified, located, or accessible, requiring significant coordination between multiple departments; and
 - b. research by City staff who are not primarily responsible for public disclosure and/or
 - c. Review by the City Administrator or the City Attorney to determine whether any records are exempt from production.



- (v) **Category 5.** Records requests that are complex and that may be especially broad or vague which involve:
 - a. Many records that are not easily identified, located, or accessible, requiring coordination between multiple departments; and
 - b. Research by City staff who are not primarily responsible for public disclosure and/or
 - c. Legal review and creation of an exemption log. These requests may require additional assistance from third parties in identification and assembly.

After initial categorization, records requests may be re-categorized in response to unanticipated circumstances or additional information.

8. Standard Time Periods for Response.

- a. The following time standard periods for response to all categories of records requests are established as goals. The City may not be able to comply with the goals but will notify the requester if the goal is unmet.
 - (i) **Category 1 Records Requests.** Generally, the City will respond to Category 1 records requests immediately or the next business day after receiving the request.
 - (ii) **Category 2 Records Requests.** The City generally responds to Category 2 records requests within five business days. If records cannot be made available within five business days, the City may extend the above response time.
 - (iii) **Category 3 Records Requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The forecast is made on a case-by-case basis. Depending on the nature and scope of the request, Category 3 records requests usually require between 5 and 30 business days.
 - (iv) **Category 4 Records Requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The forecast is made on a case-by-case basis. Depending on the nature and scope of the request, Category 4 records requests may require several weeks to several months.
 - (v) **Category 5 Records Requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The forecast is made on a case-by-case basis. Depending on the nature and scope of the request,



Category 5 records requests may require several weeks to several months. They may require the Public Records Officer to deliver the request in installments.

9. Records Request Queues.

- a. All Category 3, 4, and 5 record requests shall be maintained and tracked in record request queues, with a separate queue for each category. The queues shall identify the status of the records as "pending," "active," or "completed."
- b. Records requests will initially be entered in the respective queues in the chronological order in which the City receives them. Responding to a records request is not always a sequential process. The Public Records Officer or their designee(s) will manage the active queues by moving between requests based on circumstances that may include, but are not limited to the following:
 - (i) A request waits for records to be retrieved from storage.
 - (ii) A request is waiting for records to be retrieved from persons or entities that hold them on behalf of the City (e.g., employees, consultants).
 - (iii) A request is waiting for the requester to respond to a request for clarification.
 - (iv) A request waits for a response after notifying a third party named in a record.
 - (v) A request waiting for the expiration of the time allowed a third party to obtain an order from a court enjoining the release of records.
 - (vi) A request is waiting for the resolution of a legal action filed by a third party to enjoin the release of records.
 - (vii) A request is waiting for legal review of records to determine if they meet the definition of a public record or the applicability of exemptions and production of an exemption log.
 - (viii) A request is waiting for consideration of a petition to review the denial of access.
 - (ix) A request is waiting for the requester to pay for copies of the records, an electronic storage unit, or scanned copies of documents.
 - (x) A request that is waiting for external vendor production of records or
 - (xi) A request is waiting for the requester to claim an installment or physically inspect records.



10. Redactions and Exemptions

- a. **Exemptions.** The Public Records Act authorizes the City to redact/withhold certain public records if the information/record falls within the specific exemptions provided in RCW 42.56.070(8), Chapter 42.56 RCW, or any “other statute” which exempts or prohibits disclosure of specific information or records. A current list of “other statutes” that prohibit or exempt disclosure of specific information or records is provided in Exhibit A to this Policy and may be updated periodically. The City’s failure to list all possible bases for exemption on the list below shall not affect the City’s ability to rely on such an exemption.
- b. **Redacting/Withholding Records from Production.** Records can be exempt from production in whole or in part. Suppose a record is exempt from production and should be withheld. In that case, the Public Records Officer will withhold the document and provide the requester with an Exemption Log under Section 10(c) below. Suppose only a portion of a record is exempt from production, but the remainder is not exempt. In that case, the Public Records Officer will redact the exempt portions, produce the nonexempt portions, and provide the requester with an Exemption Log per Section 10(c) below. (For these Rules, redact means the exempt information will be covered in some manner, and then the record will be photocopied, and the photocopy will then be disclosed.)
- c. **Exemption Log.** If a record is withheld from production or a produced record is redacted, the Public Records Officer shall provide the requester with an Exemption Log. For every record that is withheld or redacted, the exemption log should provide the record’s identifying information, identify the specific exemption that the City is relying upon for each redaction or withheld record, and provide a brief explanation regarding how the exemption applies to the record or information being withheld. The record’s identifying information should include the type of record, its date and number of pages, and, unless otherwise protected, the author and recipient, or if protected, other means of sufficiently identifying particular records without disclosing protected content.
 - i. The City may use a coding method instead of an Exemption Log. This method involves identifying a code for each statutory exemption, placing that code on the redacted information, and attaching a list of codes and their corresponding brief explanations to the City’s records response. WAC 44-14-04004(5)(b).
- d. **Lists for Commercial Purposes.** The City is prohibited by statute from producing lists of individuals for commercial purposes. Therefore, if a request is received for



any list of individuals, an inquiry as to whether the requester intends to use the list for commercial purposes must be answered before the list can be provided. The list cannot be produced if the answer is that it will be used for such purposes.

11. Inspection of Records.

- a. **Inspection of Records. THERE IS NO FEE FOR INSPECTING PUBLIC RECORDS.** If a public records request asks to inspect public records—rather than copies of public records—the City shall provide the requester with a public space to inspect the requested records. During inspection, no member of the public may remove a document from the viewing area or disassemble or alter any document. If, during the inspection, the requester asks to copy or scan public records, indicate which documents they wish the City to copy or scan, if any, and provide payment for those copies or scans. The requester must review the assembled records within 30 days of the Public Records Officer’s notification that the records are available for inspection or copying/scanning. The Public Records Request will notify the requester, in writing, of this requirement and inform the requester that they should contact the Public Records Officer to plan to claim or review the records. Should the requestor fail to review the records within 30 days or make other arrangements, the Public Records Officer 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. Individuals inspecting public records in person may take photographs of records with a camera or camera phone.
- b. **Loss of Right to Inspect.** The Public Records Officer shall deny inspection and withdraw the records if the requester, when reviewing the records, acts in a manner that will damage or substantially disorganize them or interfere excessively with other essential functions of the City.
- c. **Providing Records in Installments.** When the request is for the inspection of many records, the Public Records Officer may provide access for inspection and copying in installments if they reasonably determine that providing the records in that manner would be practical. If, within 30 days, the requester fails to inspect the entire set of records or one or more of the installments, the Public Records Officer may stop searching for the remaining records and close the request.
- d. **Determining Level of Access.** The Public Records Officer has the discretion to determine the level of accessibility when releasing electronic records to the public



archive for requester inspection. Depending on the nature of the documents and the requester's relationship to them, the Public Records Officer can release the records simultaneously to both the requester and the public or the requester only. Records provided only to the requester would also be made available to any subsequent requester, subject to applicable exemptions.

- e. **No Access to City Network Systems.** Requesters shall not be permitted to access or connect to City networks or copy records using their personal devices or equipment that may need to be connected to City equipment.
- f. **Copying and Scanning of Public Records.** Copies and scans of public records may only be made by City staff on City-owned equipment only unless the Public Records Officer makes other arrangements. Since copying facilities are located in the "employee only" areas of City facilities, the City cannot offer these facilities for public use to avoid disruption of operations. City staff will make the requested copies/scans or arrange for copying/scanning, and the requester will be charged for copies under the fee schedule.

12. Providing Copies of Hard-Copy and Electronic Records.

- a. **Requests for Records.** Requesters may request "hard copies" or electronic copies of public records.
- b. **Requests for Electronic Records.** The process for requesting electronic public records is the same as for requesting paper public records. Suppose public records are requested in an electronic format. In that case, 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 in a format that is reasonably translatable from the format in which the City keeps the record. The City is not required to provide electronic records in a particular or specific electronic format. The City's Fee Schedule governs costs for providing electronic records.
- c. **Customized Data Compilations and Customized Electronic Access.** With the consent of the requester, the City may provide customized access under 42.56.120(3) and (4) if the City estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when the agency does not use such compilations and customized access services for other agency purposes. The City



may charge a fee consistent with those statutes for such customized access. See Section 16 below.

- d. **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 requester to show the exact records it provided, if necessary.
- e. **Electronic Records – Redaction.** If the electronic record necessitates redaction due to an exemption, the City is under no obligation to provide the record electronically and may provide the record in hard-copy format instead.

13. Denial of Requests for Public Records.

- a. **General.** A public records request may be denied in its entirety for any of the following reasons:
 - i. The request is not a valid public records request under the PRA.
 - ii. The request is a request for information; or
 - iii. The request is for a list of individuals requested for commercial purposes.
 - iv. The request asks for all or substantially all records of the City not relating to a particular subject or
 - v. An order from a court of competent jurisdiction authorizes the City to deny a request based on the records requested or the requester's identity.
- b. **Notice of Denial.** If a public records request is denied, the City must notify the requester in writing and identify the specific statutes relied upon to deny the request.

14. Abandoned Requests, Withdrawn Requests, Failure to Pay Fees, and Failure to Clarify a Request

- a. **Abandoned Requests.** Suppose an installment of records is not claimed or reviewed within thirty (30) days from the date the Public Records Officer informs the requester that records will be available for the requester to review and/or claim the records. In that case, the City may close the request as abandoned, and City staff or the Public Records Officer will document the closure of the request and the conditions that led to the closure.



- b. **Withdrawn Requests.** When the requester withdraws their request, the Public Records Officer will close it and inform the requester. City staff or the Public Records Officer will document the closure of the request and the conditions that led to the closure.
- c. **Non-Payment of Fees.** When a requester fails to pay a deposit for fees or fees for copies of public records, the Public Records Officer will close the request and inform the requester. City staff or the Public Records Officer will document the closure of the request and the conditions that led to the closure.
- d. **Failure to Clarify a Request.** As indicated above, if a requester fails to respond to a request for clarification of their request and the entire request is unclear, the Public Records Officer may consider the request abandoned, send communication to the requester, and close the request. City staff or the Public Records Officer will document the closure of the request and the conditions that led to the closure.

15. Review of Denials of Public Records Requests.

- a. **Petition for Internal Administrative Review of Denial of Access, Redaction of a Public Record, or Withholding of a Public Record.** Any person who objects to the denial of a records request, withholding of a public record, or redaction of a produced public record may petition the Public Records Officer in writing (including e-mail) to review that decision. The petition shall include a copy of, or reasonably identify, the written statement by the Public Records Officer denying the request or a copy of the exemption log.
- b. **Consideration of Petition for Review.** The Public Records Officer shall promptly provide the petition and any other relevant information to the City Administrator to conduct the review. The City Administrator will immediately consider the petition and either affirm or reverse the denial within ten business days following the City's receipt of the petition or within such other time as the City and the requester mutually agree.
- c. **Other Remedy for Denials.** Any person may obtain a court review of denials of public records requests under RCW 42.56.550 at the conclusion of two business days after the initial denial, regardless of any internal administrative appeal. Actions under this section must be filed within one year of the City's claim of



exemption or the last production of a record on a partial or installment basis. See RCW42.56.550(6)

16. Fees Associated with Records Requests.

- a. **Fees.** The City will impose fees for public records requests under the statutory default fees established in RCW 42.56.120. The City finds that calculating actual costs for producing paper and electronic records is unduly burdensome, given the limited staff resources dedicated to this research and analysis.
 - a. **Costs for Copies/Electronic Files.** A requester may obtain paper copies or electronically produced copies of records (electronic files) as provided under RCW 42.56.070, 42.56.120, and WAC 44-14-07001; the City will charge for those copies/files according to the fee schedule herein.
 - b. **Costs for Scans.** A requester may obtain scans of paper records as provided under RCW 42.56.070, 42.56.120, and WAC 44-14-07001, provided the City may charge for scanning documents not already in electronic format. The City can, at its discretion, send the project to a commercial copying/scanning center and bill the requester for the amount charged by the vendor, but fees in such case may only be charged following subsections (d) or (e) below.
 - c. **Other Costs.** For records in other forms, the City will charge the actual cost it pays for the medium used to record or transfer the record(s) provided. Those mediums include but are not limited to tapes, floppy disks, CDs, DVDs, USB flash drives, and paper that costs more than \$0.15 per page. The statements providing those costs are the invoices paid to obtain them and are available for public inspection and copying.
- b. **Deposits.** The City may require a deposit not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge.
- c. **Sales Tax.** The Public Records Officer does not charge sales tax when it copies or scans public records.
- d. **Fee Waivers.** No fee is charged for public record inspection or locating a record. The PRA does not require cities to provide fee waivers for copies of documents. Fees may be waived if the records request is for a counter document, a collision report, a police incident report, or the responsive records, in total, is ten pages or less. The City will not grant a fee waiver under any other circumstance. All requests for waivers will be denied.



- e. **Use of Outside Vendors.** The City is not required to copy/scan records at its own facilities. At its discretion, the City can send the project to a commercial copying/scanning center and bill the requester for the amount charged by the vendor. The City can arrange with the requester to pay the vendor directly. However, the vendor cannot charge the requester fees that exceed the City's proposed costs under Section 15(b) above.
- f. **Customized Service Charges.** With the consent of the requester, the City may charge the requester a customized service charge if the City determines that the request would (i) require the use of information technology expertise to prepare data compilations or (ii) provide customized electronic access services when the City does not use such complications and customized access services for other City purposes.
- g. **Requests for Police Body-Worn Camera Recordings.** RCW 42.56.240(14) allows the City to charge requesters to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body-worn camera recording before disclosure to comply with exemptions in the PRA. However, certain requesters are exempt from this charge. To request a waiver of video redaction processing fees for Police Body-Worn Camera Recordings, the requesters must submit with their request (a) photo identification verifying their identity or (b) if the requester is an attorney representing a party directly involved,, their bar association number.

17. Closing & Closed Public Records Requests

- a. **Close-Out Communication.** Upon closing a public records request—due to fulfillment of the request, the requester's abandonment of the request, or denial of the request—the City shall send a message to the requester informing them that the request has been closed as the reasons underlying closure of the request.
- b. **Later-Discovered Documents.** If, after the Public Records Officer has informed the requester that they provided all available records, the Public Records Officer becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, they will promptly inform the requester of the additional documents and provide them on an expedited basis.



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

18. Miscellaneous Provisions

- a. **Disclaimer, General.** Neither the City nor any officer, employee, official, or custodian shall be liable, nor 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. See RCW42.56.060
- b. **No Rights Established.** This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite using any mandatory terms such as "shall," nothing in this policy is intended to impose required duties on the City beyond those levied by state and federal law.
- c. **Governing Law.** If any of the rules in this policy directly conflict with federal or state law, they shall be followed instead. This Policy includes both statutory requirements and best practices.
- d. **Affirmative Duty.** Except where mandated by statute, any duties identified in this Policy are discretionary or advisory only and shall not impose any affirmative duty on the City of Duvall, its staff, agents, or officers.
- e. **Disclosing a Record in Error.** The City and its officials or employees are not liable for loss or damage based on releasing a public record if the City, Public Records Officer, official, or employee acted in good faith in attempting to comply with the requirements outlined in the Public Records Act.
- f. **No Basis for Liability.** This Policy is not intended to and shall not be construed to create or form the basis of any liability on the part of the City of Duvall or its officers, staff, or agents for any injury or damage resulting from any action or inaction on the part of the City of Duvall related in any manner to the enforcement of this Policy by its elected officials, officers, staff, or agents.
- g. **Amendments or Corrections.** The City of Duvall reserves the right to apply and interpret this Policy and to revise or change it at any time. The City Clerk, as Public



Records Officer, is authorized to make necessary technical, non-substantive corrections to this Policy, including, but not limited to, the correction of scrivener's or clerical errors, references, numbering, section/subsection numbers, and any references to them.

- h. **Severability.** Suppose any section, subsection, paragraph, sentence, clause, or phrase of this Policy is declared unconstitutional or invalid for any reason. In that case, such a decision shall not affect the validity of the remaining parts of this Policy.



Exhibit A – Other Statute Exemptions

* All are RCWs unless otherwise specified.

2.64.111	Judicial Conduct Commission investigations of Judges and Initial Proceedings.
4.24.550	Information on Sex Offenders.
4.24.601	Trade secrets and confidential research, development, or commercial information regarding products or business methods.
4.24.611	Trade secrets and confidential research, development, or commercial information regarding products or business methods.
5.60.060	Privileged communications.
5.60.070	Mediation records.
7.07.070	Mediation records.
7.68.140	Victims' compensation claims.
7.69A.030(4)	Name, address, and photographs of child victims or child witnesses.
7.69A.050	Child victims and witnesses of certain crimes - Protection of addresses.
7.75.050	Records of Dispute Resolution Centers.
9.02.100	Reproductive privacy.
9.41.097(2)	Mental health information regarding persons purchasing pistols or applying for Concealed Pistol Licenses.
9.41.129	Concealed Pistol License applications.
9.51.050	Disclosing transactions of Grand Juries.
9.51.060	Disclosures of Grand Jury depositions.
9.73.090(1)(c)	Prohibition on disclosure of law enforcement dash cam videos until final disposition of litigation.
9.73.230	Name of confidential informants in written reports on wiretapping.
9A.44.138	Offender registration information given to School Districts or institutions of higher education related to an employee or a student.
9A.82.170	Records from financial institutions related to the Criminal Profiteering Act.
10.27.090	Grand Jury testimony or evidence.
10.27.160	Grand Jury reports - Released to public only by Judicial Order.
10.52.100	Records identifying child victims of sexual assault.
10.77.205	Information regarding victims, next of kin, or witnesses requesting notice of release of a person found not guilty of a sex, violent, or felony harassment offense by reasons of criminal insanity and the notice itself.
10.77.210	Records of persons committed for criminal insanity.
10.97.040	Criminal history information released must include disposition, with some exceptions.
10.97.050	Conviction and criminal history information.



- 10.97.060 Deletion of certain criminal history record information and/or conditions
- 10.97.070 Disclosure of the identity of the suspect(s) to the victim.
- 10.97.080 Inspection of criminal record by subject.
- 10.97.130 Information about victims of sexual assault under the age of eighteen.
- 10.101.020(3) Information given by an accused regarding determination for indigent defense.
- 13.34.115 Court dependency proceedings.
- 13.40.217 Juveniles adjudicated of sex offenses - Release of information.
- 13.50.010 Maintenance of, and access to juvenile records.
- 13.50.050 Juvenile offender records.
- 13.50.100 Juvenile/Children records not related to offenses.
- 13.60.020 Information of and regarding missing children or endangered persons.
- 18.04.405 Confidentiality of information gained by CPA.
- 18.19.060 Notification of clients by Counselors.
- 19.34.240(3) Private digital signature keys.
- 19.215.020 Destruction of personal health and financial information.
- 19.215.030 Compliance with federal rules.
- 26.04.175 Name and address of domestic violence victim in marriage records.
- 26.12.170 Reports of child abuse/neglect with courts.
- 26.26.041 Uniform Parentage Act - Protection of participants.
- 26.26.450 Confidentiality of genetic testing.
- 26.33.330 Sealed court adoption records.
- 26.33.340 Agency adoption records.
- 26.33.343 Access to adoption records by a confidential intermediary.
- 26.33.380 Adoption - identity of birth parents is confidential.
- 26.44.010 Privacy of reports on child abuse and neglect.
- 26.44.031 Information related to reports of child abuse or neglect.
- 26.44.125 Reports, reviews, and hearings related to a review of abuse findings.
- 29A.08.710 Voter Registrations records - Certain information is exempt.
- 29A.08.720 Voter Registrations records - place of registration and any decision not to register to vote is confidential.
- 35.102.145 Municipal business and occupation tax - Local ordinances can protect return or tax information.
- 36.28A.060(8) Tactical and intelligence information provided to the Washington Association of Sheriffs and Police Chiefs.
- 39.10.470(2) Alternative public works - Trade secrets or other proprietary information submitted by the bidder concerning an alternative public works transaction if data is identified and reasons stated in writing.



- 39.10.470(3) Alternative public works - Proposals submitted by design-build finalists until the highest-scoring finalists are notified.
- 42.23.070(4) Municipal officer disclosure of confidential information prohibited.
- 42.41.030(7) Identity of local government whistleblower.
- 42.41.045 Non-disclosure of protected information by whistleblower.
- 42.56 Records exempt from production or inspection.
- 43.43.762 Contents of statewide criminal street gang database.
- 46.52.065 State toxicologist records relating to analyses of blood samples.
- 46.52.080 Traffic accident reports - confidentiality.
- 46.52.083 Traffic accident reports - available to interested parties.
- 46.52.120 Traffic crimes and infractions - Confidential use by Police and the Courts.
- 46.52.130(2) Abstract driving record - Limited disclosure.
- 48.62.101 Local government insurance/risk management liability reserve funds established to settle claims.
- 50.13.060 Access to employment security records by local government agencies.
- 50.13.100 Disclosure of confidential employment security records allowed if identifying information is deleted or with consent.
- 51.28.070 Confidential Worker's Compensation records - Limited disclosure.
- 51.36.060 Physician information on injured workers.
- 60.70.040 No duty to disclose records of Common Law liens.
- 68.50.105 Autopsy reports - confidential, of limited disclosure.
- 68.50.320 Dental identification records - Only available to law enforcement agencies.
- 70.02 Medical records - Access and Disclosure, entire chapter.
- 70.05.170 Child mortality reviews by local health departments.
- 70.24.022 Public health agency information regarding sexually transmitted disease investigations - Confidential.
- 70.24.024 Transcript and records of hearings regarding sexually transmitted diseases.
- 70.28.020 Local health department TB records - Confidential.
- 70.41.200 Hospital quality improvement committee records and accreditation reports.
- 70.48.100 Jail records and booking photographs.
- 70.28.055 Birth certificates - Certain information is confidential.
- 70.58.104 Vital records, research confidentiality safeguards.
- 70.94.205 Washington Clean Air Act - Confidentiality of data.
- 70.96A.150 Registration and other records of alcohol and drug abuse treatment programs.
- 70.123.075 Client records of domestic violence programs.



- 70.125.065 Records of community sexual assault programs and underserved populations provider in discovery.
- 71.05.425 Notice of Release or Transfer of committed persons after offense dismissal.
- 71.05.445 Release of mental health information to the Department of Corrections.
- 71.05.620 Access to court records related to mental health cases under chapter 71.05 RCW.
- 71.24.035(5)(g) Mental health information system - State, county, and regional support networks - Confidentiality of client records.
- 71.34.335 Mental health treatment of minors - Records confidential.
- 71A.14.070 Records regarding developmental disability - Confidentiality.
- 72.09.345 Notice to the public about sex offenders - Department of Corrections access to information.
- 72.09.585 Disclosure of inmate records to local agencies - Confidentiality.
- 73.04.030 Veterans' discharge papers exemption (See related RCW 42.56.440)
- 74.04.060 Applicants and recipients of public assistance.
- 74.04.520 Food Stamp program confidentiality.
- 74.13.075(5) Juvenile's status as a sexually aggressive youth and related information.
- 74.13.280 Children in out-of-home placement - Confidentiality.
- 74.20.280 Child Support Enforcement - Local agency cooperation, information
- 74.34.095 Abuse of vulnerable adults - Confidentiality of investigations and reports.
- 82.32.330 Disclosure of tax information.
- 84.36.389 Confidential income data in property tax records held by assessors.
- 84.40.020 Confidential income data regarding real property was supplied to assessors.

FEDERAL STATUTES

- 18 USC § 2721-2725 Driver and license plate information.
- 20 USC § 1232g Family Education Rights and Privacy Act.
- 23 USC § 409 Evidence of certain accident reports.
- 42 USC 290dd-2 Confidentiality of substance abuse records.
- 42 USC § 40(c)(2)(C)(viii)(I) Limits on the use and disclosure of Social Security Numbers.
- 42 USC 654(26) State plans for Child Support.



- 42 USC 671 (a)(8) State plans for foster care and adoption assistance.
- 42 USC 1396a (7) State plans for medical assistance.
- 7 CFR 272.1 (C) Food Stamps applicants and recipients.
- 34 CFR Part 2 (2.1 - 2.67) Confidentiality of alcohol and drug abuse patient records.
- 42 CFR 431.300 - 307 Safeguarding information on applicants and recipients of medical assistance.
- 42 CFR 483.420 Client protections for intermediate care facilities for the mentally challenged.
- 42 CFR 5106a Grants to states for child abuse and neglect prevention and treatment programs.
- 45 CFR 160-164 HIPAA Privacy rules.
- 46 CFR 40.321 USCG regulations regarding confidentiality.

List as of March 25, 2019.






Revised Public Records Policy (Final Version)

Final Audit Report

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