

THURSTON COUNTY
PUBLIC RECORD ACT PROCEDURES

1. PURPOSE OF THESE PROCEDURES

- A. To establish uniform procedures by which Thurston County implements the provisions of the Washington State Public Records Act (chapter 42.56 RCW).
- B. To provide full access to Public Records, and provide information to persons wishing to request access to Thurston County's Public Records.
- C. To establish processes for both Requesters and Thurston County staff to assist members of the public in accessing Public Records.

2. SCOPE

These procedures apply to all County Agencies, as defined below that have adopted these procedures. Nothing in these procedures may be construed to create duties on the courts or other entities that are not "agencies" as defined by the Public Records Act, hereinafter "the Act", and other applicable law.

3. DEFINITIONS

- A. Act
The Public Records Act, chapter 42.56 RCW.
- B. County Agency
All elective offices, departments, divisions, boards, commissions or other local public entities/agencies within Thurston County's governmental structure to which the Public Records Act applies, including advisory groups comprised of volunteers appointed to make recommendations to elected officials. If an entity is not defined as an "agency" under the Public Records Act and other applicable law, such as a court, that entity is not a County Agency subject to this procedure.

- C. Exempt Information
Any information that may be redacted or is not subject to disclosure pursuant to the Act or any "other statute" that limits disclosure.

Requesters should be aware of exemptions outside of the Act that restrict the availability of some documents held by County Agencies as set forth in (Appendix B).

- D. Electronic Format

The format an electronic record originally exists as. For example a “Word” document’s native formation would have the “doc” extension.

- E. Public Records Request or Records Request
A request for Public Records made to a County Agency pursuant to the Act.
- F. Requester
The person or entity that has made a Records Request to the County Agency.
- G. Public Record
As defined in chapter 42.56 RCW: 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 any state or local agency regardless of physical form or characteristics. For purposes of this procedure, Public Record does not include court records.
- H. Public Records Coordinator (Coordinator)
Each Elected Officials’ Office and appointed department will appoint a Public Records Coordinator, (Coordinator) whose duties shall include responding to Public Records Requests for that specific Office or Department. See the County Agency list of Public Record Coordinators listed on the Thurston County Web site: www.co.thurston.wa.us/pr.
- I. Public Records Officer (Officer)
Public Records Officer is the person appointed by the Board of County Commissioners to assist with Public Record Requests. The Public Records Officer shall oversee the County’s compliance with the Act’s disclosure requirements, and shall serve as a point of contact for members of the public in requesting records from County Departments. References to “Officer” and “Coordinators” are interchangeable within the context of this procedure.

4. AVAILABILITY OF PUBLIC RECORDS

- A. Public Records shall be inspected at the County Agency that retains the Public Records requested unless a different location is selected by the County. The Requestor shall schedule an appointment for inspection with the County Agency. County Agencies must take reasonable actions to protect records from damage and disorganization. A Requester shall not take original County Agency records from any County Agency office without the permission of the Public Records Officer or Coordinator.
- B. All inspections of Public Records will occur during regular business hours of the County Agency.

- C. Pursuant to Thurston County Code 2.02.030, Thurston County has opted out of the indexing requirement (see RCW 42.56.070(4)). All County Agencies find that maintaining an index of all records in all the various County Agency offices is unduly burdensome and would interfere with Thurston County operations due to the number and complexity of records generated as a result of the wide range of county activities. Contact the specific County Agency to view any index of records that they may have available.
- D. Many County Agency records are available at no cost on the Thurston County Web site at www.co.thurston.wa.us. Requesters are encouraged to view the documents available on the Web site prior to submitting a Records Request.

Examples include: real property searches, Comprehensive Plan, Thurston County Budget, and Board of County Commissioners meeting agenda and minutes, ordinances, resolutions and the County Code.

5. HOW TO MAKE A PUBLIC RECORDS REQUEST

To request access to Public Records of Thurston County, or seek assistance in making a request, the following procedures shall be followed:

- A. All requests must be directed to Thurston County's Public Records Officer, or County Agency's Coordinator in the specific office for which they are seeking the records. For a current list of Public Records Coordinators visit Thurston County's Web site www.co.thurston.wa.us/prs.
- If a request is made to any other person, the request is not subject to the strict timelines provided in the Act. It is the duty of the Requester to provide the Public Record Request to the appropriate County staff listed above.
- B. The County encourages that all requests be made in writing. A request form (Appendix A) is available at all County Agencies and on the Thurston County Web site. Requesters should include the following information:
- Name and address of Requester;
 - The date of the request;
 - Other contact information, including telephone number and any email address;
 - A detailed description of the Public Record being requested;
 - Whether the Requester wants copies, or wants to inspect the requested Public Records;

- The address where copies are to be mailed if copies are requested; and,
- A statement regarding whether any list of individuals contained in a record is being requested for a commercial purpose.

In-person requests must be made during the normal business hours of the County Agency or directed to the Thurston County Public Records Officer addressed below:

Thurston County Board of Commissioners
Public Records Officer

Mailing Address: 2000 Lakeridge Drive SW
Olympia, WA. 98502-6045

Physical Address: 2000 Lakeridge Drive SW
Building 1, 2nd Level, Room 269
Olympia, WA 98502-6045

- C. Email requests will only be accepted at the following Thurston County email address:

tcp@co.thurston.wa.us

- D. Oral requests shall be confirmed in writing as part of the County's initial five-day response. Any such requests must be made during the County Agency's normal business hours.

6. **PROCEDURES FOR HANDLING RECORD REQUESTS**

Any employee who receives a Public Records Request shall immediately forward the request to their Coordinator or to the County Public Records Officer. (This does not waive the requesters requirement that all requests shall be directed to the agencies designated Public Records Officer or Coordinator-PRA Policy Section 1, subsection (2))

All public records requests shall be tracked with the use of a documentation log or other method of tracking system.

All public records responses shall refer to the records that are being provided as "the installment of records", or the "Arabic numeral- No. 1," of the installment(s) and include an exemption log regardless of whether any records were withheld or redacted due to an applicable exemption.

Public Records Officer or Coordinators should seek legal assistance from the civil division of the Prosecuting Attorney's Office when there are legal questions or if the request is ambiguous.

A. Public Record Officer or Coordinators shall acknowledge receipt of Records Request.

Within five business days of receipt of the Records Request, the Public Records Officer or Coordinator will send an initial five-day response to the Requester as required by RCW 42.56.520. The initial response will do one or more of the following:

- Make the Public Records available for inspection or copying;
- If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the Requester;
- Provide a general explanation regarding both the places you intend to search and the search terms used;
- Provide a reasonable estimate of when records will be available;
- If the Records Request is unclear or does not sufficiently identify the requested Public Records, then the Coordinator should seek clarification. Such clarification may be requested and provided by telephone, but must be confirmed in writing when the Public Records are provided. The Public Records Officer or Coordinator may revise the estimate of when Public Records will be available when clarification is requested;
- If no Public Records exist responsive to the Records Request, then inform the Requester. If the Public Records Officer or Coordinator believes that the requested Public Records may be held by a different County Agency, that information should be provided with the response;

B. Nonresponsive Records Requests. If Thurston County does not respond in writing within five business days of receipt of the Records Request, the Requester should contact the Public Records Coordinator to determine the reason for the failure to respond and make sure the County is aware that a Public Records Request was submitted.

C. Protecting rights of others. In the event that the requested Public Records contain information that may affect rights of others, the Public Records Coordinator may, prior to providing the records, notify the other affected individuals. The County Agency should review any contracts with third parties that may contain special notice provisions. The notice to the affected persons should include a copy of the Records Request.

- D. Records exempt from disclosure. If a Public Record contains information that is exempt from disclosure and should be withheld, the Public Records Officer will prepare an exemption log that includes: type of document; date; author/sender; recipients (if applicable); statutory exemption and brief written explanation for withholding; number of pages. The explanation should provide enough information for a Requester to make a threshold determination of whether the claimed exemption is proper. See (Appendix B) for exemptions not listed in Chapter 42.56 RCW.

If only a portion of a Public Record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the non-exempt portions, and indicate to the Requester on an exemption log why portions of the Public Record are being redacted and note the specific statutory authority.

- E. Inspection of Public Records. Thurston County shall provide space to inspect Public Records. No member of the public may remove a document from the viewing area or disassemble or alter any original document. The Requester shall indicate which documents he or she wishes the County Agency to copy.
- The Requester must claim or review the assembled Public Records within 30 calendar days of notification to him or her that the Public Records are available for inspection or copying.
 - Thurston County will notify the Requester in writing of this requirement and inform the Requester that he or she should contact the County Agency to make an appointment to claim or review the Public Records.
 - If the Requester or a representative of the Requester fails to claim or review the Public Records within the 30 day period or make other arrangements, Thurston County may close the Records Request and re-file the assembled Public Records.
- F. Providing copies of records. After inspection is complete, the Public Records Officer or Coordinator shall make any requested copies or arrange for copying after any charges are paid (see section 10).
- G. Providing public records in installments. When a Records Request is for a large number of Public Records, the Public Records Officer or Coordinator may provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the Public Records in that fashion.

- If the Requester fails to claim or review/inspect an installment of Public Records, within 30 days, the County Agency is not obligated to fulfill the balance of the Records Request, may stop searching for the remaining Public Records, and close the Records Request.
- H. Completion of inspection. When the inspection of the requested Public Records is complete and all requested copies are provided, the Public Records Officer or Coordinator will notify Requester that the County Agency has made all located non-exempt Public Records available for inspection and close the Records Request.
- I. Closing withdrawn or abandoned Records Request. When the Requester either withdraws the Records Request or fails to fulfill his or her obligations to inspect the Public Records (see section 6(E) above) or pay the deposit or pay for an installment, the Public Records Officer or Coordinator will close the Records Request and notify the Requester that the Records Request is closed.
- J. Later discovered documents. If, after the Records request has been closed, the Public Records Officer or Coordinator becomes aware of additional Public Records that existed at the time of the Records Request; these Public Records will be provided to the Requester on an expedited basis.

7. HANDLING ELECTRONIC RECORD REQUESTS

- A. The County does not warrant or in any way guarantee the accuracy or completeness of electronic records. The County may include a disclaimer to this effect in responding to a Records Request.
- B. If the Requester has requested an electronic Public Record and did not specify that the Public Records needed to be provided in any particular medium or format, the County may produce the Public Record in paper format. If a Requester requests a copy in electronic format, the records may be copied to a compact disc or other available medium in accordance with Sections 10 and 11 below.
- If the Requester asks to review the Public Record or has requested a copy but lacks the necessary software to review the Public Record in electronic form, the County may make a computer available to allow the Requester to review the Public Records electronically in the corresponding County Agency office or may provide paper copies for review.
- C. Requests received by email for identifiable Public Records may be responded to by email and by providing the Public Records by email if the County system has the capacity to handle the Records Request. The County's system limits email attachments to 20 megabytes as of October

2010. The County's system capacity may change without notice.

D. Returned email (unsuccessful and returned email responses back to the County).

- If the County's emailed response is returned to the County by the Requester's email server, the response will then be filled by regular mail if the Requester has provided their name and address.
- If no other contact information was provided, the Records Request will be considered closed.

E. Electronic Public Records containing no Exempt Information.

- Electronic Public Records that do not contain Exempt Information should be produced in Electronic Format if requested and the County has the capacity to feasibly provide the Public Records electronically.

F. Electronic Public Records containing Exempt Information.

- When a Public Record contains Exempt Information, the Exempt Information shall be redacted before the Public Record is produced.
- Redactions may be made by either printing the Public Record and redacting Exempt Information by hand or converting the Public Record into an Electronic Format and electronically redacting the Exempt Information.
- If the Requester wants the Public Record in Electronic Format, then the County shall treat the Records Request as seeking customized access, to be handled in the manner described in Section 11.

8. RECORD RETENTION AND HOLD ORDERS

A. Retention

Public Records must not be destroyed if they are subject to an existing Public Records Request, regardless if these Public Records are subject to destruction in accordance with the State of Washington Record Retention Schedule. Record Requests shall be retained for a minimum of one year after the Public Records Request was fulfilled according to the Washington State Record Retention Schedule.

The one-year retention requirement excludes the actual Public Records that are the subject of the Public Records Request (which must be retained in accordance with the applicable records series).

For Record Requests of potentially controversial subject matter, it is recommended that County Agencies retain the actual Public Records

produced with the Record Requests and responses for the one-year retention period.

B. Hold Orders

Any County Agency may request a hold on any Public Records that may be responsive to a Public Records Request that may be in the possession of another County Agency. All Public Records affected by this hold must be retained until the County Agency holding the Public Records is advised of a collection plan or a release. If in doubt about whether a Public Record is responsive, the Public Record should be retained. The Public Records Officer will provide written notification when the Public Records are to be collected or if the hold is lifted.

- Hold requests on Public Records include email, voicemail, and any other electronic media, as well as handwritten notes and drafts of documents related to or referring to the subject matter of the Records Request. If backup tapes exist that would contain this information, they should be removed from the back-up cycle and preserved.

C. Sample Hold Order/Request

- “[**REQUESTER**] has filed a Public Records Request to [**AGENCY**] for documents that may be in your possession. (attach the request) Therefore, **you must maintain** all information that could be responsive and suspend all ordinary document destruction and recycling procedures with respect to documents that are potentially responsive.”

9. PROTECTION OF PUBLIC RECORDS

County Agencies shall adopt and enforce reasonable rules to protect Public Records under their control from damage and disorganization and to prevent excessive interference with essential functions as required by the Act. Such rules and regulations shall provide for the fullest assistance to Requesters by following the listed practices and procedures:

- No Public Records shall be removed from the County Agency’s office by a Requester without the Public Records Officer’s or Coordinator’s permission;
- Inspection of any Public Records shall be conducted in the presence of the Public Records Officer or Coordinator;
- No Public Record may be marked, defaced, torn, damaged, destroyed, disorganized or removed from its proper location or order by a member of the public;

- Public Records maintained in a file jacket or binder, or in chronological order, may not be dismantled except for the purpose of copying, and then only by County Agency staff;
- Public Records of County Agencies may be copied only on the copying machines of the County Agency unless other arrangements are made by the County; and
- Inspection of original Public Records shall be denied if the Requester, when reviewing Public Records, acts in a manner which will damage or substantially disorganize the original Public Records or interfere excessively with other essential functions of the County Agency. The Requester may be limited to reviewing copies of the Public Records.

10. COSTS FOR PUBLIC RECORDS

The current lists of fees are posted on the County's Web site. All fees are subject to change at any time without notice. If a fee is charged, most County Agencies will only accept checks or money orders payable to "Thurston County." There is no fee for inspecting Public Records. No fee shall be charged for locating Public Records and making them available for copying.

The County Agencies may:

- Require a deposit of up to ten percent of estimated cost before making copies;
- Provide copies in installments;
- Require advance payment before providing any installments; and
- Require a deposit for requests that are copied by a commercial vendor based on the estimated cost before copying.

Waiver of Charges:

For administrative convenience and efficiency purposes, County Agencies have the discretion to waive copy charges for Records Requests valued at five dollars or less. Additionally, County Agencies have the discretion to charge less than the posted fee.

11. CUSTOM ELECTRONIC PRODUCTS

Custom electronic products are created by performing any of the following in order to respond to a specific Record Request:

- acquiring data
- running custom queries

- programming software
- testing models
- reformatting data
- configuring the product

County Agencies do not have the obligation to convert an electronic Public Record to a digital format that is different than the format maintained by the County, or the original Public Record. This type of conversion or customization of a Public Record creates a new Public Record. If an electronic Public Record is redacted in electronic form, it too would be considered creating a new Public Record, but may also be the only way to provide a Requester with the Public Record.

Custom electronic products may be used at the discretion of the County Agency for efficiency purposes in responding to Public Records Requests.

Costs estimates for custom electronic products

The actual costs to provide a custom product may be estimated in writing and provided to the Requester prior to the creation of the custom electronic product. Payment of estimated fees may be required before any work will be performed.

Fees may include but are not limited to:

- Design and processing costs and chargeback fees to commercial vendors;
- Actual salary and benefits for the employee for consulting and producing the custom electronic product;
- Delivery charges;
- Actual cost for magnetic tapes, computer paper, microfiche, disks, and/or other media used to provide the product; and
- Subcontractor fee or service costs incurred as a result of obtaining secondary services to respond to the Records Request.

12. DISCLAIMER OF LIABILITY

No Public Records Officer, Coordinator, employee, official or records 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 these procedures.

These procedures are not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as “shall,” nothing in these procedures are intended to

impose mandatory duties on Thurston County or its agencies beyond those imposed by state and federal law.