



**CITY OF TUKWILA
ADMINISTRATIVE MANUAL**

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TITLE: PUBLIC RECORDS REQUEST POLICY

PURPOSE:

To provide direction regarding the processes and procedures for public records requests.

REFERENCES:

RCW 42.56 – Public Records Act
WAC 44-14 – Public Records Act – Model Rules
RCW 40.14 – Preservation and Destruction of Public Records
Tukwila Municipal Code Chapter 2.21
Administrative Policy – 400-04, Records Management, Retention and Archives

STATEMENT OF POLICY:

RCW 42.56, the Public Records Act (the “Act”), requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. The purpose of the Act is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals’ privacy rights and the desirability of efficient administration of our City government. The Act and associated laws will be interpreted in favor of disclosure.

DEFINITIONS, EXPLANATIONS AND PROCEDURES:

SECTION 1. Definitions/Explanations

a. The City of Tukwila. “The City of Tukwila” and “the City” includes any office, department, division, bureau, board, commission or agency of the City of Tukwila.

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

c. Public record. A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the City.

d. Writing. Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers; maps; magnetic or paper tapes; photographic films and prints; motion picture, film and video recordings; magnetic or punched cards; discs, drums, and diskettes; sound recordings; and other documents including data compilations from which information may be obtained or translated. An e-mail is a “writing.”

e. E-mail. Electronic mail is an informational transfer system that uses computers for sending and receiving messages. Classification of e-mails as public records is dependent on the content of the message. E-mail messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions.

f. Records index. Ordinance No. 1923, adopted by the Tukwila City Council on August 21, 2000, states that maintaining a central index of City records would be unduly burdensome and costly, and would interfere with City operations due to the number and complexity of records generated as a result of the wide range of City activities. The City Clerk will, however, index and maintain the following general administrative records in the City Clerk's Office to make them available for public inspection and copying:

- Ordinances
- Resolutions
- Minutes of the City Council
- City Council Agenda Packets
- Active Contracts and Agreements
- Active Interlocal Agreements

Other records that relate to the specific function or responsibility of a specific department shall be maintained in the offices of that department.

g. Separate statutes may be applicable to disclosure of records from individual departments. The Public Records Officer will coordinate responses to public records requests with the departments, and responsive records shall be made available for public inspection in accordance with Chapter 42.56 RCW and Tukwila Municipal Code Chapter 2.21. Tukwila Municipal Court records are not subject to the Public Records Act.

SECTION 2. Description of City Services and Central Service Office

The City of Tukwila is a Washington municipal corporation that provides the full range of municipal services through its various departments. The City of Tukwila's Central Service Counter is located at Tukwila City Hall, City Clerk's Office, 6200 Southcenter Blvd., Tukwila, WA 98188, 206-433-1800.

SECTION 3. Public Records Officer

The City Clerk is the Public Records Officer for the City of Tukwila. The Public Records Officer will oversee compliance with the Public Records Act, but may designate other City staff members to process requests for public records. The City's Public Records Officer shall receive training within 90 days after assuming those responsibilities, with refresher training at least every four years. Training shall cover chapter 42.56 RCW (Public Records Act) and chapter 40.14 RCW.

Additionally, the City's Records Management Program makes training available to key records stewards and other staff in the City based on job duties and responsibilities; there is an expectation that staff acquire the training necessary to understand and apply the laws associated with municipal records responsibilities.

SECTION 4. Contact Information

Refer to Section 5 for additional information on submitting a request for public records. If the scope of a request identifies documents that may be maintained by multiple City departments, the request must be transmitted to the City Clerk's Office for a coordinated response. A request for information that does not pertain to identifiable records does not constitute a public records request.

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a. Requests for City records: Requests to inspect or copy any records maintained by the City (other than records specifically identified in items b through d on Page 3) should be made to the Public Records Officer at:

Public Records Officer
Tukwila City Hall – City Clerk’s Office
6200 Southcenter Boulevard
Tukwila, WA 98188
Telephone: 206-433-1800
FAX: 206-433-1833
E-mail: TukwilaCityClerk@TukwilaWa.gov

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

Tukwila Police Records Manager
6200 Southcenter Boulevard
Tukwila, WA 98188
Telephone: 206-433-1808
FAX: 206-244-6181

c. Requests for Fire Department records: Requests to inspect or copy records maintained by the City’s Fire Department relating to fire protection systems, fire inspections and underground storage tanks should be made to the Tukwila Fire Department at:

Tukwila Fire Station 51
444 Andover Park East
Tukwila, WA 98188
Telephone: 206-575-4404
FAX: 206-575-2475

d. Requests for Building Department records: Requests to inspect or copy records relating to building permits issued by the City’s Building Department should be made to the Department of Community Development at:

Department of Community Development
City of Tukwila
6300 Southcenter Boulevard, Ste. 100
Tukwila, WA 98188
Telephone: 206-431-3670
FAX: 206-431-3665

e. Internet access to records. Many records are available on the City of Tukwila’s website at: <http://www.TukwilaWA.gov>. Requestors are encouraged to view the documents available on the website prior to submitting a public records request. To the extent practical, the City will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the City may provide access to public records by providing links to the website containing an electronic copy of the record, provide records on a disk, or transmit the responsive record with notification via e-mail. There will be no charge for records routinely posted on the City’s website.

SECTION 5. Making a Request for Public Records

- a. Form.** Any person wishing to request identifiable public records of the City should make the request in writing in one of the following ways:
- On the applicable Public Records Request form (available at the City Clerk's Office and online at www.TukwilaWa.gov), or
 - By letter, fax, or e-mail addressed to the Public Records Officer or applicable departmental staff (as noted in Section 4, items a through d)

The following information should be included in the request:

- Name and address of requestor;
- Contact information, including telephone number and e-mail address;
- A description of the requested record(s) adequate for the Public Records Officer to locate the record(s); and
- The date of the request

b. Oral requests. There is no statutorily required format for a valid public records request (WAC 44-14-03006). A request can be sent in by mail, email, fax, or made orally. The Public Records Officer or his or her designee may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer or his or her designee will confirm receipt of the information and the substance of the request in writing.

c. Reason for request. The purpose of a public records request is not required of requestors except to establish that inspection or copying would not violate specific prohibitions defined in state law.

d. Requests made directly to City departments. Requests for public records (other than "department specific records" as identified in Section 4) that are made directly to City departments shall be delivered by City staff to the Public Records Officer immediately upon receipt for coordinated processing.

e. Overbroad requests. The City may not deny a request for identifiable public records solely because the request is overbroad. The Public Records Officer or his or her designee may seek clarification, and the City may provide the responsive records in installments over time, as allowed by State law. When a request states "all records relating to", the Public Records Officer will interpret the request to be for records that directly address the topic. A request for "all or substantially all records" of the City will not be considered a valid request for "identifiable" records under the Public Records Act.

SECTION 6. Hours and Inspection of Public Records

- a. Hours for inspection.** Public records are available for inspection and copying during the City's normal business hours: Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding legal holidays. City staff and the requestor will make mutually agreeable arrangements for times of inspection and copying.

b. Place of inspection. To the extent possible, the Public Records Officer shall provide space to inspect public records at Tukwila City Hall or at another City facility, to be determined at the discretion of the Public Records Officer or his or her designee. City staff and the requestor will make mutually agreeable arrangements for inspection.

c. Notification. If the requestor has requested to inspect the records, the Public Records Officer will notify the requestor that the entire response or an installment of records is available for inspection and ask the requestor to contact the City Clerk's Office to arrange a mutually agreeable time and place for inspection. If the requestor seeks paper copies of records, the Public Records Officer will notify the requestor of an estimated prepayment amount for the records. That amount will include the cost of a mailing container and postage fees if the requestor asks for the responsive records to be mailed to their mailing address.

d. Inspection of records. The requestor must review the assembled records within 30 calendar days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that the requestor contact the agency to make arrangements to view the identified records. There is no fee for inspection of public records. A requestor may not remove documents from the viewing area or disassemble or alter any document, and a City staff member will be present during the records inspection. If the requestor fails to claim or review the records within 30 days or make other arrangements, the Public Records Officer will close the request.

e. Providing copies of records. Upon completion of the requestor's review of records, the requestor shall indicate which documents they would like to have copied, if any, by using a mutually agreed upon non-permanent method of identifying the desired records. After inspection is complete, the Public Records Officer will arrange for the copying of the selected records.
(Refer to Section 10 for information on costs associated with obtaining copies of records.)

f. Completion of inspection. When the inspection of the assembled records is complete and all requested copies are provided, the Public Records Officer will provide written notice to the requestor that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection, and that their request is considered fulfilled.

SECTION 7. Processing Public Records Requests

a. Providing public service. The City will provide full access to public records, while protecting the records from damage or disorganization and preventing excessive interference with essential functions of the City. Staff will provide the fullest assistance to requestors and provide timely action on public records requests. All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the City Clerk's Office or other duties of any assisting employee(s) in other City departments. The City may deny frequent, automatically generated "bot requests" received from the same requestor within a 24-hour period where the City establishes that responding to the multiple requests would cause excessive interference with other essential functions of the City.

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

c. Acknowledging receipt and fulfilling requests. A response to a public records request must be provided within 5 business days of receipt of the request. In calculating the 5-day response time, the day the request was received, legal holidays, and Saturday and Sunday are excluded. Within the 5-business-day period, the Public Records Officer will do one or more of the following:

1. Make the record available for inspection or copying; or
2. Provide an internet address and link on the agency's website to the specific records requested; or
3. Acknowledge that the request has been received and provide a reasonable estimate of when records will be available; or
4. Deny the request and provide a statutory reason as to why the request is being denied.

The Public Records Officer or his or her designee may seek clarifying information from the requestor as needed to fulfill the request. When seeking clarification, a reasonable estimate of the time that it will take the City to respond if the request is not clarified shall be provided. If a response to a request for clarification is not received, the City shall still respond to portions of the request that are clear. If the entire request is unclear, and the requestor does not provide the requested clarification, the City is not obligated to respond beyond the 5-day letter.

d. Reasonable estimate of time to respond. If the City is not able to provide the requested records within the 5-business-day period, the Public Records Officer must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed by staff to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare an exemption log, and/or consult with the City Attorney about whether the records are exempt from disclosure. 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.

e. Unanticipated issues affecting response. If the City does not respond in writing within 5 business days of receipt of the request for disclosure, the requestor is encouraged to contact the Public Records Officer to ensure the request was received. Unanticipated issues with technology or postal mail could affect the deliverability of requests to the Public Records Officer.

f. Record production installments/deposit. If the identified records constitute a large volume, the Public Records Officer may require a deposit of 10% of the estimated cost and establish an installment plan to provide responsive documents to the requestor. Upon completion of the first installment, the Public Records Officer will notify the requestor in writing of the quantity of records available and include the costs associated with the first installment. The Public Records Officer will also include in the notice an estimated date for the next installment. Payment for installments must be made within 30 days of notification of availability in order for further installments to be provided. If the requestor fails to pay the deposit, inspect a set of records, and/or pay for an installment within 30 days of notification, the Public Records Officer may stop searching for the remaining records and close the request, per RCW 42.56.120.

g. Closing cancelled or abandoned requests. If a request is cancelled or a requestor fails to fulfill their obligations to inspect the records, fails to pay the deposit or final payment for the requested copies, or fails to clarify an unclear request, the Public Records Officer will close the request and indicate to the requestor that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

h. Documents discovered later. If, after the Public Records Officer has informed the requestor that the City has provided all available records, the City becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.

i. Consequences of disclosing a record in error. The City and its officials or employees are not liable for loss or damage based on release of a public record if the City, official or employee acted in good faith in attempting to comply with the Public Records Act.

j. No duty to create records. The City is not obligated to create a new record to satisfy a records request or provide information in a format that is different from the original record. However, the City may, at 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.

k. Supplemented responses. The City is not obligated to hold current records requests open to respond to requests for records that may be created in the future.

l. Departmental log of public records requests. All departments of the City accepting and fulfilling public records requests shall maintain an electronic log of the requests to include the following information, but not limited to: identity of the requestor, date of request, request description, date of 5-day letter, date of fulfillment, detail of responsive documents (to include quantity and amount charged for copies, and file location and name for electronic copies), a description of any redacted or withheld records and the reasons for any redactions or withholding, and the date documents related to processing the request can be destroyed. (Use of the timecard PA reporting code shall be used by staff City-wide in capturing time spent on requests, eliminating the need for tracking time on a log.) When network drives and e-mail systems are searched in response to a public records request, keyword lists and information regarding the drives searched shall also be maintained.

SECTION8. Records Retention

a. Retention of records. The City is not required to retain all records it creates or uses. The City will retain its records in accordance with the Washington State Archives Records Retention Schedules, which are available at www.secstate.wa.gov/archives/gs.aspx. Retention periods vary based on the content of the record.

b. Preserving requested records. Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending. If a requested record is scheduled for destruction under the State's records retention schedule, the record may not be destroyed until the public disclosure request or litigation has been resolved and met its retention. Once a request has been closed, the Public Records Officer may destroy the record in accordance with the retention schedule.

SECTION9. Exempt and Prohibited Disclosure of Public Records

a. Records exempt from disclosure. The Public Records Act provides that a number of document types and information are prohibited from being disclosed or are exempt from public disclosure, in whole or in part (RCW 42.56.210). The City is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation. If the City believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. When a public record is exempt from disclosure under the Public Records Act, the exemption does not apply if the information that might violate personal privacy or vital government interests can be deleted from the records being disclosed.

A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer and are contained in RCW 42.56. Information on other specific exemptions and prohibition statutes can be found on the Municipal Research and Services Center of Washington (MRSC) website in their publication titled "Public Records Act for Washington Cities, Counties and Special Purpose Districts" (Appendix C).

b. Redactions. If only a portion of a record is exempt from disclosure, the Public Records Officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record have been redacted. Deleted or redacted portions of disclosed records will be identified in an exemption log.

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

d. Per RCW 42.56.070(9), the City is not authorized to provide lists of individuals to be used for commercial purposes.

e. Protecting Rights of Others. For requested records that contain information that may affect the rights of others and may be exempt from disclosure, the Public Records Officer may give notice to those whose rights may be affected by the disclosure prior to providing the records to the requestor.

SECTION10. Charges for Providing Copies of Public Records

Per state law, the City is not allowed to charge for locating a public record or for making records available for review or inspection. The City may charge for the costs of copying/scanning and transmitting public records, including the staff time spent making the copies/scans.

a. Fee schedule.

Paper records: The charge for standard size (8-1/2 x 11) black-and-white photocopies is \$0.15 per single-sided page and \$0.30 per double-sided page. Actual costs of reproduction of off-size or color copies and non-standard formats such as photographs or blueprints will be billed directly to the requestor. (Reference Section 7.f for information on deposits.)

Electronic records:

Default fees per the Public Records Act: The City shall follow the default fee structure outlined in the Public Records Act as it has determined that calculating the actual costs of producing electronic

records would be unduly burdensome when considering the various classification levels, including benefits and wages, of staff throughout the City involved in fulfilling public records requests, and the diverse nature of requests received.

The City may charge \$0.05 for each four electronic files or attachments uploaded for electronic delivery, and \$0.10 per gigabyte for the transmission of records in an electronic format or for the use of City equipment to send the records electronically.

Alternatively, the City may charge a flat fee of up to \$2.00 for the entire request as long as the cost of uploading and transmitting the electronic-records is reasonably estimated to equal or exceed that amount. Only one \$2.00 flat fee per request is authorized for electronic records produced in installments.

When records are provided electronically on a CD, DVD, thumb drive, flash drive, or other electronic device, the requestor will be charged for the cost of the electronic storage device.

The City may charge an actual-cost service charge for requests that require use of IT expertise to prepare data compilations or provide customized electronic access services when not used by the City for other purposes. A cost estimate and explanation will be provided to the requestor before incurring the costs.

b. Scanning paper documents. If a requestor asks for responsive paper records to be converted to an electronic format, such as PDF, the cost of \$0.10 per page will be assessed to scan the paper records, in addition to delivery costs per Section 10.

c. Option to waive charges. The City may waive charges associated with fulfilling a request. The decision will be based on various factors, including the volume and format of the responsive documents. The decision to assess fees for fulfilling a public records request shall be made on a consistent and equitable basis, dependent primarily upon the amount of staff time required for copying, scanning, shipping, uploading, and/or transmitting the records associated with fulfilling a request.

d. Certified copies. If the requestor is seeking a certified copy of a City record, an additional charge of \$1.00 per each complete document may be applied to cover the additional expense and time required for certification.

e. Mailing charges. The City will charge actual costs, to include the mailing container and postage associated with the mailing of packages to the requestor.

f. Sales tax. The City will not charge sales tax on the cost for copies of records made at City facilities.

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Title: PUBLIC RECORDS REQUEST POLICY	Initiating Department: City Clerk's Office Approved by City Attorney <u>Rachel B. Turpin</u> Rachel B. Turpin
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Effective Date: July 23, 2017	Supercedes: 400-03 – 6/5/12	Mayor's Office Approval Signature: <u>David Cline</u> David Cline, City Administrator
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