



## Mason County Public Records Policy

### **A. PURPOSE**

The purpose of this policy is to provide clear guidelines by which Mason County implements and ensures compliance with the provisions of RCW 42.56, Public Records Act. These guidelines will allow for the fullest assistance to requestors and ensure the timeliest possible action for requests for records while preventing excessive interference with other essential functions of Mason County.

### **B. OTHER CONSIDERATIONS**

1. "Public Record" means 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 County regardless of physical form or characteristics. Records created or received by employees using privately owned devices only qualify as public record if the employee was acting within the scope of employment when the record was created or received or when the record is subsequently used for a County purpose. Mason County strongly discourages employees from using personal devices when conducting business. If an employee does use a personal device for County business, the employee may be required to surrender their device to the County for inspection.
2. A public record request only applies to records that exist at the time of the request. Requestors cannot make "standing" requests.
3. When the same requestor simultaneously submits multiple separate requests or makes one or more additional requests when previous requests are open, staff may queue the requests in the order in which they were received. Staff is not required to work on additional requests until the initial request(s) are completed and closed.
4. Automatically generated, or bot, requests received from the same requestor within a 24-hour period may be denied if the requests cause excessive interference with the other essential functions of the County.
5. If a request is for all, or substantially all, records of an office or department of Mason County that is not relating to a particular topic, the request can be denied.

### **C. INTERPRETATION AND CONSTRUCTION**

The provisions of this policy shall be liberally interpreted and construed to promote full access to the County's public records in order to assure continuing public confidence in government; provided, that when making public records available, the County shall prevent unreasonable invasions of privacy, protect public records from damage, loss, disorganization, and prevent excessive interference with essential government functions.

#### **D. PUBLIC RECORDS AVAILABLE**

Public records are available for public inspection and copying pursuant to this policy except as otherwise provided by law. Public records shall be available for inspection and copying during regular business hours. The Public Records Officer may ask the requestor to make an appointment to inspect the records.

Some records are available on the Mason County website at: <https://www.masoncountywa.gov/>. Requestors are encouraged to view the documents on the website prior to submitting a request. Frequently asked questions can be found on the Public Records Center website.

#### **E. DESIGNATING A PUBLIC RECORDS OFFICER**

The Public Records Officer shall serve as the point of contact for members of the public who request the disclosure of public records.

1. Each of the County's elected officials shall appoint a Public Records Officer who shall be responsible for the implementation and compliance with this policy and the Public Records Act. If a Public Records Officer is not appointed, the Public Records Officer shall be the Elected Official. The departmental Public Records Officer will be available for assistance to the public and may delegate any of their responsibilities to department staff but will ultimately remain responsible for overseeing compliance with the Public Records Act and Public Records Policy.
2. An alternate Public Records Officer shall be designated by each appointing authority to act when the designated Public Records Officer is not available due to vacation, sick leave, or is otherwise unavailable to act.
3. Unless otherwise designated by the Board of County Commissioners:
  - a. The Clerk of the Board of County Commissioners shall be the Public Records Officer for the Board of County Commissioners and for Mason County.
  - b. The Public Records Officer for the departments reporting to the Board of County Commissioners shall be the department head.
  - c. The Public Records Officer for every volunteer board appointed by and reporting to the Board of County Commissioners shall be the Clerk of the Board.
4. The departmental Public Records Officer shall:
  - a. Complete all training course requirements for the Public Records Act and for records retention no later than ninety (90) days after assuming responsibilities as a Public Records Officer pursuant to RCW 42.56.150 and 42.56.152;
  - b. Complete refresher training at intervals of no more than four (4) years as long as they maintain the Public Records Officer designation;
  - c. Be responsible for creating and implementing department processes regarding disclosure of public records;
  - d. Serve as the principal contact point with any requestor who has made a records request;
  - e. Track and log departmental time spent responding to public records requests using GovQA;

- f. Assist in gathering data and information required for reporting requirements under RCW 42.56; and

Mason County encourages all employees to obtain and continue public records training.

5. Each Public Records Officer shall maintain a record of all public record requests made to their office using the GovQA Public Records software and include:
  - a. The requesting party's contact information including name, address, telephone number, and email address if provided;
  - b. Record(s) requested;
  - c. Date the request was received;
  - d. Date of the five-day response letter;
  - e. If a time extension was given;
  - f. If clarification was sought;
  - g. If responsive records were provided;
  - h. If the responsive records were provided in an installment basis;
  - i. If physical records were provided and/or scanned in;
  - j. An estimated completion date;
  - k. An actual completion date;
  - l. Type of requestor (individual, business, law firm, etc.);
  - m. Description of records redacted or withheld and the reason and RCW for redaction or withholding;
  - n. Fees charged; and
  - o. Time spent locating and/or redacting responsive records.
6. A list of the County's Public Records Officers and their contact information shall be made available to the public, without cost, and shall be posted on the County's website. A copy of this policy and Public Record Request forms shall also be made available to the public, without cost, and shall be posted on the County's website. The individuals serving as the Public Records Officer is subject to change. Information for the individual(s) serving as the Public Records Officer shall be communicated to the Clerk of the Board who will ensure that the most accurate information is reflected on the County website and in the Public Records Center.

## **F. PUBLIC RECORDS REQUESTS – HOW MADE**

Requests to inspect or copy a public record must be made to the Public Records Officer. Public records may be inspected and/or copies may be obtained under the following procedures.

1. Public record requests should be made via the Public Records Portal or in writing and should include the following information:
  - a. The requestor's name, mailing address, email address, and telephone number;
  - b. The date of the request;
  - c. If in writing, a clear indication that the document is a "Public Records Request";
  - d. Whether responsive records are to be sent via the Public Records Portal, email, physical mail, or inspected in person;
  - e. A clear description of the public records requested for inspection and/or copying; and
  - f. If the request is for a list of individuals, a Declaration of Non-Commercial Purpose Form, incorporated herein as "Exhibit A", must be signed and submitted to the County stating that the list will not be used for any commercial purposes or that the requestor is authorized

- or directed by law to obtain the list of individuals for commercial purposes with a specific reference to such law.
2. The County does not accept public record requests via social media as social media sites are not monitored.
  3. The Public Records Officer shall document all verbal requests for public records. The Public Records Officer will make their best effort to capture what the requestor intended to request and will verify with the requestor what documents are being requested. The Public Records Officer's documentation will prevail against any claim made by the requestor that the documented request was inaccurate or incomplete. A person making an oral request for public records must provide the information listed in the subsection above. The Public Records Officer shall seek a written request if the response may include any of the following:
    - a. A list of individuals;
    - b. Requests not identifying a specific public record;
    - c. Subjects of current, threatened, or potential litigation;
    - d. More than 100 pages of records; or
    - e. Public records or information exempt from disclosure.
  4. It is the requestors obligation to provide Mason County with fair notice that a public records request has been made. When a requestor does not use the Public Records Portal or an official Public Records Request form, or makes a request to an employee who is not a Public Records Officer, or includes a request as part of other documents provided to the County for reasons other than making a public records request, the requestor may not be providing fair notice.
  5. Record requests are deemed received by the County during normal business hours only. Requests sent on a weekend, holiday, or outside of business hours shall be considered received at 8:00 a.m. the next business day.

## **G. RESPONSE TO PUBLIC RECORD REQUESTS**

1. The Public Records Officer shall, to the extent practicable, assist requestors in identifying the public records sought.
2. There is no obligation to allow inspection or provide a copy of a public record on demand.
3. Within five (5) business days after receiving a public record requests, excluding weekends and holidays, the Public Records Officer shall respond to the request in writing. The Public Records Officer shall provide one or more of the following responses:
  - a. The request for inspection of public records is approved and whether an appointment for inspection needs to be scheduled by the requestor;
  - b. The request for copies of public records is approved and the copies of all requested records are enclosed with the responsive or a link to the responsive documents is given;
  - c. The request has been received by the Public Records Officer and additional time is needed to respond to the request and stating a reasonable estimate of time required to respond. In addition, a revised reasonable time estimate may be needed based on:
    - i. Unexpected or unforeseen delays encountered during the processing of the request;
    - ii. Additional requests submitted by the same requestor while the initial request is in process;
    - iii. Change in staffing, resources, general workload, schedule; and/or

- iv. Other changed circumstances or other considerations ascertained during processing.
    - d. The request has been received by the Public Records Officer and the records shall be provided on a partial or installment basis as the records are identified, located, assembled, and/or made ready for inspection or copying;
    - e. The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record;
    - f. The requesting party is asked to provide a down payment equal to 10% of the estimated cost of providing the records sought; or
    - g. The request has no responsive records.
4. When a request is for a large volume of records, the Public Records Officer may elect to provide the records on an installment basis. If the requestor fails to arrange for the review of the first installment within thirty (30) days of receiving a response from the Public Records Officer, the Public Records Officer may deem the request abandoned and stop fulfilling the remainder of the request. The Public Records Officer shall inform the requestor in writing that the public record request is closed.
5. If, after responding to the request, additional records are found, the Public Records Officer shall notify the requestor of the finding within two (2) business days of the finding.
6. Additional time to respond to a request may be based upon the County's need to:
  - a. Clarify the intent of the request;
  - b. Identify, locate, assemble, and/or make the records ready for inspection or disclosure;
  - c. Notify employees or third parties affected by the request pursuant to RCW 42.56.540; or
  - d. Determine whether any of the records or information requested is exempt from disclosure and whether a denial or redaction should be made to all or part of the request.
7. If a requestor fails to clarify a request within thirty (30) business days of receiving a response from the Public Records Officer seeking clarification, the Public Records Officer shall respond to the portion(s) of the request that are not in question. If the entire request is unclear and no response is received within thirty (30) business days, the Public Records Officer need not respond further to the request and will inform the requestor in writing that the public record request is closed.
8. If the Public Records Officer does not respond in writing within five (5) business days after receipt of a request for public records, the requestor should contact the Public Records Officer to determine the reason for failure to respond. The requestor is entitled to seek review by the Elected Official/Department Head or Prosecuting Attorney/Prosecuting Attorney's designee.
9. If the Public Records Officer provides an estimate of time required to respond to the request and the requestor believes the amount of time stated is not reasonable, the requestor may request that the Elected Official/Department Head or Prosecuting Attorney/Prosecuting Attorney's designee review the estimate of time.
10. When a request for public records is received that concerns a subject known to involve litigation that is pending, threatened, or anticipated, the Public Records Officer shall promptly notify the Prosecuting Attorney of the request.

11. Staff shall not be obligated to create electronic or other records, or to convert electronic records into a format or medium in which the records are not already maintained. When asked by a requestor to convert an electronic record into a different format, staff is encouraged to do so if reasonable and technologically feasible, provided such conversion is not unduly burdensome and does not interfere with other essential job functions. Requestors may request paper copies of electronic records, subject to applicable copying charges.
12. Responses to public record requests, including responses by email, are subject to the provisions of the Public Records Act and the retention requirements of the Office of the Secretary of State and shall be maintained accordingly.

## **H. NOTIFICATION**

1. Per RCW 42.56.540, the Public Records Officer may send a third-party notice to specific individuals to notify them that their name appears in or is the subject of a responsive record. These individuals may seek a court order, injunction, to prevent or limit the disclosure of the record(s).
2. Individuals will have no less than seven (7) business days to notify the Public Records Officer of their intent to seek injunction.
3. Notification will include:
  - a. Cover letter;
  - b. Copy of the original request;
  - c. Copy of the applicable statute;
  - d. All responsive records applicable to the addressee of the notification in the format in which they will be released to the requestor.
4. All records regarding an ongoing investigation are exempt from public disclosure while the investigation is ongoing. Complainants, other accusers, and witnesses must be informed that their identities will be redacted from investigation records (including the investigation report) unless they consent to disclosure.

## **I. EXEMPTIONS**

1. When denying or redacting a public record, the Public Records Officer shall provide the requestor with an index showing the title of the record, the author, recipient, date, number of pages, exemption authority, and a brief explanation for withholding.
2. If a request concerns any of the following topics, the Public Records Officer should closely examine the applicable statutes that may prohibit or restrict access and shall consult with the Prosecuting Attorney prior to responding to the public record request. This list is not exhaustive and other exemptions may exist:
  - a. Job application materials;
  - b. Residential addresses, personal phone numbers, and/or personal email addresses of employees and volunteers;
  - c. Personnel files of current and retired employees and volunteers;
  - d. Taxpayer information that is private;
  - e. Investigative records compiled by Law Enforcement, Probation Officers, and Code Enforcement Officers;

- f. Identity of witnesses to a crime or persons who file complaints with investigation and law enforcement agencies including the Sheriff's Office, Prosecuting Attorney, and Code Enforcement Officers;
- g. Test questions, scoring keys, or information for employment examinations;
- h. Real estate appraisals made for an agency relative to the acquisition or sale of property;
- i. Valuable designs, formulae, drawings, and research data;
- j. Preliminary drafts, notes, or recommendations in which opinions are expressed as part of the deliberative process;
- k. Attorney work product pertaining to pending, threatened, or completed litigation;
- l. Attorney-client privileged communications;
- m. Complaints and investigative records compiled in connection with claims of discrimination in employment;
- n. Credit card numbers;
- o. Medical records and information;
- p. Information pertaining to victims of a crime;
- q. Information regarding organized crime;
- r. Traffic accident reports prepared by citizens;
- s. Industrial insurance claim files and records; and
- t. Identity of child victims of sexual assault.

## **J. FEES**

1. No fee will be charged for the inspection of a public record. No fee will be charged for locating public records and making them available for inspection or copying.
2. No fee will be charged for searching for public records, redacting portions of the record that are exempt from disclosure, or preparing an index of exempt documents.
3. It is within the discretion of the Public Records Officer to waive copying fees when:
  - a. All of the records responsive to an entire request are paper copies only and are twenty-five (25) or fewer pages; or
  - b. All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred (100) printed pages. If that email, for any reason, is not deliverable, the records will be provided through another means of delivery and the requestor will be charged in accordance with this rule.
4. A reasonable fee shall be charged to reimburse Mason County for the cost of delivering copies of public records to a requestor, including the cost of packaging, postage, and/or delivery service.
5. The Public Records Officer may, at their discretion, send records to a private copy service for copying, in which case the fee shall be the actual charge imposed for copying plus any and all applicable taxes and shipping costs.
6. All required fees must be paid in advance of the release of the copies or an installment of copies, or in advance of when a deposit is required. Mason County will notify the requestor of when the payment is due. The County prefers not to receive cash; however, for cash payments it is within the Public Records Officer's discretion to determine the denomination of bills and coins that will be accepted. All checks must be made payable to "Mason County Treasurer".

7. Pursuant to RCW 42.56.120(2)(b), Mason County is not calculating all actual costs for copying records. To do so would be unduly burdensome for the following reasons:
  - a. Mason County does not have the resources to conduct a study to determine actual copying costs;
  - b. To conduct such a study would interfere with other essential agency functions; and
  - c. Through the 2017 Legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120(2)(b) and (c), (3) and (4).
  
8. The fee for searching records, researching, and/or providing a copy of a public record is pursuant to the default fees in RCW 42.56.120(2)(b) and (c). Mason County will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the County may charge other copy fees authorized by statutes outside of RCW 42.56. Mason County may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The County shall take reasonable steps to provide the records in the most efficient and costly manner available to the County in its normal operations. The charges for copying methods used by Mason County are summarized in the fee schedule available on the County website. Otherwise, the following fee schedule shall apply:

8.5" x 14" or smaller black and white copies	\$0.15/page
Oversized color copies	\$1.00/page
Greenbar computer printouts	\$1.00/page
All items sent to a private copy service	Actual charge
Audio recordings/electronic records saved to a compact disc	\$5.00/compact disc
Postage and boxes	Actual charge
Fax (8.5" x 11" only)	\$1.00/page
Envelopes	\$0.50/each
Electronic records sent via email	\$0.05/every four files
Paper records converted to PDF	\$0.10/page
Transmission of records in electronic format	\$0.10/gigabyte
Redaction costs for body-worn video footage	*current salary rate/minute

\*This fee is for actual time to redact body-worn camera video footage for requestors who are individuals not directly involved in the incident or their attorney.

9. The Public Records Officer may require a deposit in the amount of ten percent (10%) of the estimated fees for an installment or an entire request or if the customized service charge exceeds \$25.00. If the Public Records Officer responds to a request on a partial or installment basis, the requestor shall be charged for each part of the installment in response to the request. No sales tax will be charged.
  
10. Failure to pay:
  - a. If a requestor fails to pay the required deposit, the public records request shall be deemed complete without further action; or
  - b. If a requestor fails to pay for records provided, the requestor will be required to pay the outstanding obligation in full prior to any other records requests being fulfilled.



## **K. PROTECTION OF PUBLIC RECORDS**

1. The Public Records Officer shall, to the extent practicable, ensure that records requested are not removed from the premises nor misplaced or misfiled by members of the public during inspections. Original records shall not be released to the public for the purpose of allowing the individual making the request to make copies.
2. No public records shall be filed or retained at any location other than County property. Any public record that is prepared at an offsite location shall be promptly delivered to the County for filing.
3. No member of the public may remove an original document from any office. The requestor shall indicate which documents they wish to have copied.

## **L. SEARCHING PUBLIC RECORDS – BACKUP & SECURITY COPIES**

1. In order to prevent excessive interference with essential functions of the County, the County shall not search backup or security systems for copies of public records when originals of such records have been identified, located, and are available for inspection and/or copying.
2. Access to public records does not include access to County computer systems or terminals unless those terminals, if any, were designed specifically for public use.

## **M. REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS**

1. Any person who objects to the initial denial, partial denial, reasonable charges, or reasonable time estimate to produce copies of a request for public records may petition in writing, including email, to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer denying the request.
2. The Public Records Officer shall promptly provide the petition and all relevant information to the Prosecuting Attorney/Prosecuting Attorney's designee. That person will immediately consider the petition and either affirm or reverse the denial within two (2) business days following the County's receipt of the petition or within such other time as the County and the requestor mutually agree to.
3. Any individual has the right to obtain a court review of the denial, partial denial, reasonable charges, and/or reasonable time estimate to produce copies of a request pursuant to RCW 42.56.550 at the conclusion of two (2) business days after the initial denial regardless of any internal administrative appeal.

## **N. ELECTRONIC RECORDS**

Mason County produces and maintains electronic records to maximize efficiency in fulfilling its basic public service functions. Many electronic records are public records subject to disclosure under the Public Records Act.

1. At the option of the Public Records Officer, electronic records may be printed and provided in paper format. If an electronic record is not capable of being printed in an understandable format, or if the requestor prefers the electronic record in electronic format, then the electronic record will be provided in the native format in which the record is maintained by the County.

2. The Public Records Officer does not have an obligation to convert an electronic record to a format that is different than the original format maintained by the County.
3. If a requestor seeks an electronic record in an electronic format that contains exempt information, the Public Records Officer may redact the exempt information by creating a new electronic record without said exempt information. If the requestor seeks an electronic record in its native electronic format that contains exempt information, the requestor may be responsible for the actual costs associated with customized access.
4. Paper records that are not available in electronic format may be converted to an electronic format by request. The requestor will be responsible for applicable scanning fees.

#### **O. INDEX OF RECORDS NOT MAINTAINED**

For the reasons stated in Resolution no. 44-08, incorporated herein as “Exhibit B”, Mason County finds that it would be unduly burdensome to maintain an index of records.

#### **P. RETENTION & DESTRUCTION OF PUBLIC RECORDS**

The Washington State Archivist has developed retention schedules for many categories of local government. Records of the County shall be retained and destroyed consistent with these retention schedules. Copies of the retention schedules are available from Archives and Records Management at the Office of the Secretary of State. If a public records request is made at a time when a record exists, but is scheduled for destruction in the near future, the Public Records Officer shall direct that the record be retained until the request is complete.