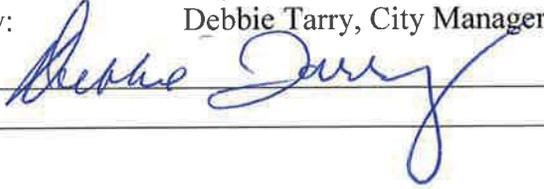


Shoreline Policy and Procedure
Disclosure of Public Records

Category and Number: 2.170801	Receiving Number: 8875
Code and statutory authority: RCW 42.56, WAC 44-14, SMC 2.35	Authorized: Effective Date: <i>August 1, 2017</i>
Supersedes: 5557, 5967, 8513	By: <i>Debbie Tarry, City Manager</i> 

1.0 AUTHORITY AND PURPOSE

- 1.1 Authority.** The Washington State Public Records Act (Act), Chapter 42.56 RCW, and Chapter 2.35 SMC, requires the City of Shoreline (City) to make available for inspection and copying public records in accordance with the City’s published rules.
- 1.2 Purpose of Public Records Act.** The purpose of the Act is to provide the public access to records that contain information concerning the conduct or performance of government, mindful of individual’s privacy rights and the desirability of the efficient administration of government.
- 1.3 Purpose of Policy.** The purpose of this Policy is to adopt and enforce reasonable rules, consistent with the intent of the Act and the Model Rules in WAC 44-14, that provide the public full access to public records with “fullest assistance” to requestors and the “most timely possible action on requests,” while protecting public records from damage and disorganization, preventing excessive interference with other essential functions of the City, and withholding certain public records from disclosure subject to various legal exemptions. This Policy provides information and establishes a process for persons wishing to request public records, and for City employees responding to requests.
- 1.4 Disclaimer of Liability.** Except where these guidelines reflect a statutory mandate, the guidelines in this Policy are discretionary and advisory only and shall not impose any affirmative duty on the City. The City reserves the right to apply and interpret this Policy as it sees fit, and to revise or change the Policy at any time. Failure to comply with any provision of this Policy shall not result in any liability imposed upon the City other than that required in the Act.

2.0 DEFINITIONS

- 2.1 “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 any state or local agency regardless of physical form or

characteristics.”¹

- 2.2** “**Writing**” means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.”²
- 2.3** “**Identifiable Record**” means a record in existence at the time the records request is received and one that a City employee can reasonably locate.
- 2.4** “**Exempt Record**” means records or portions of records that are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56, or other statutes.
- 2.5** “**Employee**” means City Councilmember, Advisory Boardmember, City Manager, Department Directors, and all other employees.
- 2.6** “**Public Records Officer**” (**PRO**) is the employee responsible as serving as a "point of contact" for members of the public seeking public records, and to oversee the City’s compliance with the Public Records Act.
- 2.7** “**Records Contact**” is an employee designated by a Department to lend leadership, support, and assistance to the Public Records Officer.

3.0 AGENCY DESCRIPTION AND CONTACT INFORMATION

- 3.1 Agency Description.** The City of Shoreline is a municipal corporation organized as a code city pursuant to Chapter 35A.13 RCW with a Council-Manager form of government. The City’s services include, but are not limited to, community services, customer response and code enforcement, planning and community development, parks, recreation, and cultural services, public safety, and public works.

City Hall is located at:
17500 Midvale Avenue North
Shoreline, WA 98133

- 3.2 Designated Public Records Officer (PRO).** The City Manager has designated the City Clerk as the Public Records Officer. Any person wishing to make a request for public records, or to seek information on how to make a request, should follow this Policy and contact the Public Records Officer to submit a request or to obtain assistance:

¹ RCW 42.56.010(3)

² RCW 42.56.010(4)

City Clerk
City of Shoreline
17500 Midvale Avenue North
Shoreline, WA 98133
Email: pr@shorelinewa.gov
Phone: (206) 801-2700
Fax: (206) 546-1524

Information on how to make a public records request is also posted on the City's website: www.shorelinewa.gov/pr.

- 3.3 Police Records.** The City of Shoreline is responsible for providing law enforcement within its jurisdiction and contracts with the King County Sheriff's Office to provide these services. Any person wishing to make a request for Shoreline Police records, or seek information on how to make a request, should contact the King County Sheriff's Office:

King County Sheriff's Office Records Unit
Phone: (206) 263-2626

Information on how to make a public records request is also posted on the King County Sheriff's website: www.kingcounty.gov/depts/sheriff/services/public-disclosure.aspx

4.0 AVAILABILITY OF PUBLIC RECORDS

- 4.1 Public records available online.** Many public records are available on the City's website at www.shorelinewa.gov. Requestors are encouraged to view documents here prior to submitting a public records request.
- 4.2 Hours for inspection.** Public records are available for inspection or copying by appointment during normal business hours of Monday through Friday 8:00 a.m. to 5:00 p.m., excluding legal holidays. Inspection of records should occur in the City Clerk's Office.
- 4.3 Organization and retention of public records.** The City maintains its records in the City Clerk's Office and within each City Department in a reasonably organized manner in accordance with the Washington State Records Retention Schedules.
- 4.4 Records Index.** Pursuant to RCW 42.56.070 the following indices are available on the City of Shoreline website, on the City Clerk's page:
1. Final opinions
 2. City policies
 3. Planning policies and goals and interim and final planning decisions
 4. Staff reports and City Council Minutes from 2000 – present

The Indices for the following are not published as to do so would be unduly burdensome:

1. Factual staff studies, factual consultant reports and studies, scientific reports and studies and other factual information derived from tests, studies, reports or surveys.
2. Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of the state government, or of any private party.

Pursuant to RCW 42.56.070(4)(a) the records in subpart B are not maintained because the City has eight departments and each department produces its own factual and scientific reports and studies and their own consultants' reports and studies. Each department also manages its own regulatory/supervisory/enforcement correspondence. Creating an index of reports and studies and of reports and studies and of regulatory/supervisory/enforcement correspondence and maintaining the indices would take an inordinate amount of agency time, interfering with agency day-to-day operations.

5.0 MAKING A PUBLIC RECORDS REQUEST

- 5.1 **Reasonable notice.** A requestor must give the City reasonable notice that a request is being made pursuant to the Act.
- 5.2 **Request for identifiable records.** A requestor must request an “identifiable record” or class of “identifiable records” in order for the City to respond. A request for all or substantially all of the City’s records is not a valid request for identifiable records. When a requestor uses the phrase “all records relating to”, the PRO/designee will interpret the request to be for records which directly and fairly address the topic, and not for all the records that contain the keywords.
- 5.3 **Where to submit request.** Any person making a public records request should make the request in writing through the City Clerk’s Office.
- 5.4 **Request Form.** A Public Records Request Form is available in the City Clerk’s Office and from the City’s website: www.shorelinewa.gov/prr. Requestors are asked to use the Form when making a request.
- 5.5 **Submitting a request.** Public records requests will be accepted in the City Clerk’s Office through the following channels:
 1. In person;
 2. Submitted using online Form at www.shorelinewa.gov/prr
 3. Email sent to prr@shorelinewa.gov;
 4. USPS Mail, or other mail delivery services;

5. Over the phone; or
6. Via fax sent to (206) 546-1524.

Requestors should utilize the Form provided by the City (see 5.4), or at the minimum include the following information:

1. Name of requestor.
2. Identification of the public records being sought after - so the City has the ability to perform an adequate search.
3. Indication of a preference for record inspection, or to purchase copies; and preferred method of delivery.
4. Method by which the PRO/designee should contact the requestor, and contact information.

Requests sent using the online Form or sent over email to pr@shorelinewa.gov during normal business hours will be considered received on the date it was sent. If it was sent outside of normal business hours, or on a holiday or weekend, the request will be considered received the next business day.

Requests sent through the USPS or other mail delivery services will be considered received the day the request is delivered to City Hall, and not the day the envelope was postmarked.

Requests taken over the phone will only be accepted by the PRO/designee. The PRO/designee will then confirm the request in writing which will be deemed the request, unless the requestor responds with an amendment to it within two business days.

Requests for public records that are made directly to Departments shall be delivered to the PRO immediately upon receipt for coordinated processing.

If the City receives multiple automatically computer generated requests from one requestor within a twenty-four hour period, and responding to the requests would cause excessive interference with other essential functions, the City will deny the requests.

5.6 PRO Failure to respond. If the PRO/designee does not respond in writing within five (5) business days of receipt of the request, the requestor should consider contacting the PRO/designee to determine the reason for the failure to respond.

5.7 Disclosure of request purpose. The City will require the requestor to disclose the purpose of their request in two instances:

1. If the request is for a list of individuals, the City is required to investigate if that list might be used for commercial purposes and will ask the requestor to provide a declaration providing information as to the purpose of their request.

2. The City may seek information sufficient to allow it to determine if another statute prohibits disclosure.

5.8 Request only for records existing at time of request. The City will only provide records that existed at the time the request was submitted. If a public record is created or comes into the City's possession after the request has been submitted, it will not be considered responsive to the request and therefore will not be provided. A requestor must make a new public records request to obtain subsequently created public records.

6.0 PROCESSING A PUBLIC RECORDS REQUEST

6.1 Providing Fullest Assistance. This Policy identifies how the City will provide "fullest assistance" to the requestor and the "most timely possible action on requests", and "prevent excessive interference with other essential functions of the agency."

All assistance necessary to help requestors locate particular responsive records shall be provided by the PRO/designee, provided that 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.

6.2 No distinguishing requestors. The City may not distinguish requestors or ask for the purpose of the request unless necessary to determine if an exemption applies or whether a list of individuals is being requested for commercial purposes.

6.3 Order for processing requests. The PRO/designee will process requests in the order allowing the most requests to be processed in the most efficient manner. Multiple requests will be processed at the same time.

6.4 Acknowledging receipt of requests. Within five (5) business days of receipt of the request, not including the day the request was received, the City will do one or more of the following:

1. Make the records available for inspection or copying;
2. Provide a link to the City's web page where the requested records are posted;
3. Provide a reasonable estimate of the time it will take to make the record(s) available in whole or in part through installments (see 6.5);
4. If the request is partially or entirely unclear or does not sufficiently identify the requested records, request clarification from the requestor and provide a reasonable estimate of the time it will take to respond to the request if it is not clarified. Such clarification may be requested and provided by telephone and the PRO/designee may revise estimates of when records will be available; or
5. Deny the request.

6.5 Reasonable estimate of time to fully respond. If the City is not able to fulfil the request within the five (5) business day period, the PRO/designee will provide a reasonable estimate of the time it will take to fully respond to the request and the basis

for the need. The reasonable estimate of time will be based on such things as: locating and assembling the records, consulting with the City Attorney about whether the records are exempt from disclosure, redacting exempt information, preparing a withholding index, and notifying third party persons or agencies affected by the request. This estimate of time may also include a preliminary schedule of installments if necessary.

6.6 Categorizing requests. The City receives public record requests ranging from routine to complex. In an effort to provide the most timely possible action on requests, the City will place requests into the following two queues:

1. **Routine Requests:** requests for records that are easy to identify and locate, and do not require interdepartmental coordination/response, or review for responsiveness or redaction.
2. **Complex Requests:** broad requests for a large number of records in multiple formats on a particular subject, that can be vague, commonly trigger an email archive search, require interdepartmental coordination/response, and may contain exemptions, and require redactions and a withholding log.

After a request is initially placed in a category, it can be re-categorized in response to discovering new information that was not taken into account at the start.

6.7 Standard response time.

1. Routine requests are processed as they come in with a turnaround time of five (5) days or more if needed.
2. Complex requests are placed in a queue and processed generally in the order they are received. The PRO/designee processes several of these requests at one time and generally delivers records in installments. These requests take several weeks to several months to fully respond to.

6.8 Managing the complex request queue. The City uses the following factors to determine a reasonable estimate of the time it will require to fully respond to a complex request:

1. the scope of the request;
2. the number of repositories and records that need to be searched to find responsive records to a request;
3. the number, complexity, workload, and time estimates of processing other complex records requests in the queue;
4. the amount of time before the Clerk's Office has availability to start working on a request;
5. the amount of time the Clerk's Office has available weekly to work on a request;
6. the number of records that potentially contain exemptions; and
7. the current workload of other essential duties;

- 6.9 Multiple complex requests from one requestor.** In an effort to provide every member of the public the “most timely possible action” to his/her public records request, the City reserves the right to place multiple complex requests from one requestor into its own queue. Should there be multiple requests by the same requestor, the request that was first received will be processed first and the other requests will be started after the previous request is complete.
- 6.10 Protecting rights of others (injunction).** In the event the requested records contain information that may affect rights of others, the PRO/designee may, prior to providing the records, give a ten (10) calendar day notice to such others whose rights may be affected by the disclosure. Such notice should be given to make it possible for those other persons to 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.
- 6.11 No Duty to create records or provide information.** The City is not obligated to create a new record to satisfy a records request or to provide information (i.e. answering a list of questions) that would answer a records request.
- 6.12 Completion of requests.** When all requested records have been made available and all requested copies are provided, the PRO/designee will indicate to the requestor the City has completed a thorough search for the requested records and made any located nonexempt records available, and the City considers the request closed.
- 6.13 Closing withdrawn or abandoned requests.** When the requestor either withdraws the request or abandons it by failing to fulfill his/her obligations within thirty (30) calendar days of being notified to either: 1) provide clarification on an entirely unclear request, 2) inspect the records, or 3) pay the deposit or final payment for copies, the PRO/designee will stop searching for the remaining records, close the request, and notify the requestor in writing that his/her request has been closed.
- 6.14 Later discovered documents.** If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

7.0 DELIVERY OF PUBLIC RECORDS

- 7.1 Inspection of records.** Requestors may inspect paper and electronic public records in the Clerk’s Office free of charge. No members of the public may remove a record from the viewing area or disassemble or alter any records. City employees may be present during the inspection of records.
- 7.2 Copies of records.** The City will make copies of public records if requested. Copies include 1) photocopying paper onto paper, 2) scanning paper into an electronic format, and 3) making copies of electronic records.

If the requestor is inspecting records in the City Clerk's Office, he/she shall flag pages of paper that they wish to have copied with a non-permanent method, such as a removable adhesive note, or indicate which electronic records they wish to have copied. The PRO/designee will either make copies at that time or arrange a later time.

If the requestor asks for copies of records prior to inspecting them, the PRO/designee will make the copies and send an invoice.

- 7.3 Delivery of electronic records.** The City delivers electronic records by copying them onto its file sharing site, or onto other storage media upon request. Electronic records will not be emailed to the requestor.
- 7.4 Use of City copy facility.** RCW 42.56.080 states agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. The City asserts there is an unreasonable disruption in allowing the public to use City copying facilities based on the following factors: 1) the facilities are not within public areas and limited to employee use, 2) employees would not be able to use the facilities while they were in use by the public, 3) the facilities do not have USB ports nor are capable of sending scanned documents to an outside email address. Therefore, all copies of records must still be processed by City employees.
- 7.5 Providing records in installments.** When the request is for a large number of records, the PRO/designee will provide access for inspection and copying in installments, if it is reasonably determined that it would be practical to provide the records in that way.
- 7.6 30 Days to claim records.** The requestor must claim copies or inspect the assembled records within thirty (30) calendar days of the City's notification that they are available. The City will put this notification in writing (at the time records are made available) and will indicate that the requestor should contact the City to make arrangements to claim or inspect the records. If the requestor or his/her representative fails to claim/inspect the records within thirty (30) calendar days or make other arrangements, the City will close the request and refile the assembled records. The requestor can make a new request for the same records, but the new request will be placed at the end of the queue.

8.0 COST OF PROVIDING COPIES OF PUBLIC RECORDS

- 8.1 Costs for copies.** A requestor may obtain copies of public records under RCW 42.56.120; the City will charge for copying costs according to the Public Records Fee Schedule adopted in SMC 3.01.220.

The City will perform de minimis copying free of charge as follows:

- photocopy up to five pages in black and white
- photocopy up three pages in color
- scan up to five pages

If copying exceeds the above number of pages, the requestor must pay for all pages copied.

The City will not charge sales tax when it makes copies of public records. The PRO keeps a statement of the factors and the manner used to determine copying fees.

- 8.2 Customized service charge.** If a request requires the City's Information Technology staff to prepare data compilations, or provide customized electronic access services in order to respond, the City will impose a customized service charge.
- 8.3 Costs of mailing.** The City will charge actual costs of postage, including the cost of the shipping container.
- 8.4 Summary of applicable charges.** A requestor may ask the City for a summary of applicable charges before copies are made and can revise the request to reduce the applicable charges.
- 8.5 Deposits.** The PRO/designee will require a deposit of ten percent (10%) of the estimated costs of copying all the records selected by the requestor when the estimated costs are \$50 or more. The PRO/designee will also require the payment of the remainder of the copying costs before providing all the records or installment of records.
- 8.6 Payment of Fees.** All copying fees are due at the time a request is complete or an installment is ready, and must be paid before the City releases any records to the requestor. Payment should be sent to the City Clerk's Office by cash, or check made payable to the City of Shoreline. If fees are not paid within thirty (30) days after the City provides notice of availability of records, the City is not obligated to fulfill the balance of the request and will close the request.
- 8.7 Alternative Fee Arrangement.** The City will accommodate an alternative fee arrangement with requestors to allow release of records as installments are available and prior to receipt of payment up until a maximum of \$20 in copying fees are accrued. The City will then invoice the requestor, and the requestor has fourteen (14) business days to pay the invoice. Eligibility to enter into this agreement is as follows:
1. Requestor has made at least four (4) recurring requests in the last six (6) months and has a history of picking up/reviewing all installments over the past year and a history of paying a minimum of six (6) invoices within thirty (30) days of issuance over the past two years.
 2. Requestor has submitted one (1) request that is estimated to be delivered in eight (8) or more installments and has a history of picking up/reviewing all installments of previous requests over the past year and paying a minimum of six (6) invoices within thirty (30) days of issuance over the past two years.

- 8.8 Use of outside vendor.** The City is not required to copy/scan records at its own facilities, and can send a project to a commercial copying/scanning center and bill the requestor for the amount charged by the vendor. The City can arrange to have the requestor pay the vendor directly.

9.0 EXEMPTIONS

- 9.1 Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt and should be withheld, the PRO/designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. This explanation should be sufficient to enable the requestor to make a threshold determination of whether the claimed exemption is proper. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the PRO/designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.
- 9.2 Exemptions within the Act.** The Act provides that a number of documents and information are exempt from public inspection and copying. These exemptions are found in RCW 42.56.210 through RCW 42.56.480.
- 9.3 Exemptions outside the Act.** In addition to exemptions found in RCW 42.56, other statutes outside of the Act may prohibit disclosure of specific information or records. Requestors should be aware of exemptions, outside the Public Records Act, that restrict the availability of some documents held by the City for inspection and copying. A list of these Exemptions can be found in Chapter 5 of the MRSC Public Records Act Handbook available here: <http://mrsc.org/Home/Explore-Topics/Legal/Open-Government/Public-Records-Act.aspx>

10.0 MECHANISM FOR REVIEW OF DENIALS OF PUBLIC RECORDS

- 10.1 Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the PRO for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the PRO or designee denying the request.
- 10.2 Consideration of petition for review.** The PRO shall promptly provide the petition and any other relevant information to the City Attorney's Office, who will immediately consider the petition and either affirm or reverse the denial within two (2) business days following the receipt of the petition, or within such other time as the City and the requestor mutually agree to.
- 10.3 Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two (2) business days after

the initial denial regardless of any internal administrative appeal.

11.0 TRAINING

11.1 The City will comply with the training requirements in the Open Government Training Act, RCW 42.56.150 and RCW 42.56.152.

12.0 PROCEDURES

12.1 Responsibility.

1. **Public Records Officer:** The City's PRO is responsible for overseeing the City's compliance with the Act and City Policy, and may delegate the processing of public records requests to other City employees (designee) as needed. The PRO is responsible for accepting public disclosure requests, facilitating the City's response process, communicating with requestors, establishing protocols for searching for records, developing and providing training, and developing and maintaining resources for Records Contacts.
2. **City Attorney:** The City Attorney's Office shall provide legal advice to the PRO/designee when requested, make the final determination on certain exemptions, and provide a timely written response to a written request for explanation of a partial or full redaction of a public record(s).
3. **Departments.** Departments are responsible for designating a Records Contact, establishing protocols for processing requests in the absence of the designated Records Contact, and ensuring the Records Contact and employees are trained on the Act and City Policy.
4. **Records Contact:** A Record Contact acts as the "point person" on public records requests for his/her Department, assist employees in identifying sources of responsive records maintained in the Department and collecting them, keeps track of timelines, provides information to the PRO/designee on estimates of time, and coordinates the Department's response.
5. **City Employees.** Every employee is responsible for searching for non-email records that are responsive to a public records request and forwarding them to his/her Records Contact, providing guidance on what keyword search terms should be used to perform an adequate email search, saving all public records in accordance with the State's record retention schedule (whether the record is created on a city computer or otherwise), and maintaining all public records in their original format.

12.2 Public Records Request Response Process - Processing a Request.

1. Public records requests shall be submitted to the City Clerk's Office using one of the methods described under 5.5.
2. The PRO/designee date stamps, categorizes, and logs all requests.
3. The PRO/designee emails all requests out to the group of Records Contacts.
4. The PRO/designee will work with Records Contacts to obtain records or to ascertain the reasonable amount of time necessary to respond to the request.
5. Records Contacts will work with employees to identify sources of responsive records maintained in the Department, assist in collecting records, and coordinate the Department's response.
6. Records Contacts will forward all responsive records (exempt and nonexempt) to the PRO/designee.
7. The PRO/designee consults with Records Contacts/employees to determine keyword terms for searches of the email archives when necessary.
8. The PRO/designee will send any third party notices if necessary.
9. Within five (5) business days the PRO/designee will acknowledge the request as described in 6.4.
10. The PRO/designee will search the email archives for responsive records.
11. The PRO/designee reviews all records for exemptions and forwards potentially exempt records to the City Attorney's Office for a final determination.
12. The PRO/designee makes redactions and produces a withholding log.
13. The PRO/designee works with the requestor to deliver the records and collect fees if applicable.
14. The PRO/designee closes the request after records have been inspected or copied; or if thirty (30) calendar days have past since notifying the requestor that records are available for inspection or to pay for copies; or a requestor has not responded to the City's request for clarification (on an entirely unclear request) within thirty (30) calendar days of asking for it.
15. The PRO/designee will forward petitions (for a review of a denial) to the City Attorney's Office.

16. The City Attorney's Office will immediately consider the petition and either affirm or reverse the denial within two business days following the receipt of the petition, or within such other time as the City and the requestor mutually agree to.