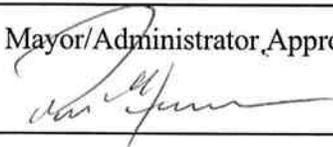




Administrative Policy and Procedure City of Bonney Lake, Washington

SUBJECT: Disclosure of Public Records		
	Policy No. 100.305	Pages: 6
Effective Date: February 1, 2010	Supersedes: Clerks Policies and Procedures Index 100	
Developed by: H.T. Edvalson	Department Head Approval: 	Mayor/Administrator Approval: 

1. PURPOSE

This policy is intended to promote compliance with the Public Records Act and fullest assistance to the public, with as little interference as possible to departmental operations. It identifies the Public Records Officer. It describes how the City will respond to public records requests to provide the fullest assistance.

2. ORGANIZATIONS AFFECTED

All departments of the City of Bonney Lake are affected with certain exceptions for Police and Municipal Courts.

3. REFERENCES

Public Records Act – Revised Code of Washington Chapter 42.56; and Public Records Act-Model Rules – Washington Administrative Code Chapter 44-14; Bonney Lake Resolutions 792 and 1572; and the Washington State Archives State Local Government Common Records Retention Schedule (Core).

4. DEFINITIONS

- 4.1 "Formal Requests" – are disclosure requests that require significant staff time to research, compile and provide copies of public records. Formal disclosure requests also include those records for which exemptions to disclosure may apply records, or those records for which the City may wish to notify a third party of the proposed disclosure.
- 4.2 "Original Receipt" – the date the request disclosure was acknowledged as received by the Public Records Officer or his/her designee.
- 4.3 "Public record" – 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 local agency regardless of physical form or characteristics.
- 4.4 "Routine Requests" – These requests are typically for records readily at hand, are not subject to exclusion, and which can normally be copied or emailed easily to the

requestor. Examples of routine requests are copies of adopted ordinances, adopted resolutions, adopted minutes; published and adopted documents, such as the City's budget, comprehensive plan, copies of pages from the Municipal Code, etc. Inspections of building permit applications and plat applications are additional examples of routine requests than may be handled over the counter without a disclosure request form.

- 4.5 "Writing" means handwriting, typewriting, printing, Photostatting, 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.

5. RESPONSIBILITIES

- 5.1 The City Clerk is designated as the Public Records Officer for the City of Bonney Lake and shall serve as point of contact for members of the public in requesting disclosure of public records, and oversee the City's compliance with the disclosure requirements of the Public Records Act. Adequate notice to the public shall be maintained providing contact information for the public records officer.
- 5.2 The City Clerk's office is responsible for maintaining copies of the public disclosure requests, and all affected departments shall file a copy of the public information request and its response with the City Clerk's office.
- 5.3 Departments shall designate an individual, with the concurrence of the Public Records Officer, as the person responsible for coordinating, retrieving and copying records for disclosure requests from that department.
- 5.4 Because there are provisions in state law specific to the courts, the Bonney Lake Municipal Court has its own responsibilities and procedures for disclosure of public records. The Police Department is also subject to state law with respect to disclosure of certain records, and shall establish its own policies to ensure appropriate compliance with state law. To the extent requests for disclosure of public records maintained by the Police Department are subject to the Public Records Act, the Police Department shall comply with this policy.

6. STATEMENTS OF POLICY AND PROCEDURE

- 6.1 RCW 42.17.010 – *“Mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.*

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the

information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed.”

- 6.2 The Public Records Act does not require the City to answer requests for information or general questions, create new public records, or provide information in a format that is different from the original public record(s).
- 6.3 This policy does not offer precise answers about what is and what is not a public record subject to disclosure. In all cases, if additional assistance is needed by City staff in analyzing disclosure questions, the City Attorney’s office shall be consulted.
- 6.4 A Request for Disclosure of Public Records may be filed with the office staff of any administrative office of the City of Bonney Lake. Those filing via email should be encouraged to use the following email address: publicdisclosure@ci.bonney-lake.wa.us
- 6.5 Availability of Records – Public records are made available for inspection during normal business hours for the City of Bonney Lake, which are currently 8:30 a.m. to 5:00 p.m., Monday – Friday, excluding legal holidays. Records must be inspected at the offices of the City. Original records may not be removed from the City’s offices without prior permission of the Public Records Officer, and then only by authorized City staff.
- 6.6 Exemptions. The Public Records Act sets forth a number of documents that are exempt from public inspection and copying. Requestors should be aware that there are additional exemptions and prohibitions, outside the Public Records Act, that restrict the availability of some documents for inspection and copying. For information purposes, some of these exemptions are identified in Appendix A.
- 6.7 Routine Requests for disclosure of public records may be released immediately without completion of a Public Records Disclosure Request Form. Each City department may designate within its own department certain records that can be provided on a routine basis. Staff members are to provide “fullest assistance” in responding to public disclosure requests. However, subject to amendment by the Public Records Officer, it is left to the discretion of staff members responding to the disclosure service to determine the “Routine” or “Formal” nature of the request.
- 6.8 A Formal Request for disclosure of public records will normally be made on the City’s prepared form. Prepared forms for requesting disclosure of public records are available in all administrative offices of the City of Bonney Lake and on the Bonney Lake Website at www.ci.bonney-lake.wa.us Regardless of the format used, requestors are encouraged to provide the following information to help the City efficiently provide the requested records:
 - a) Name of requestor;
 - b) Contact phone number and/or email address;
 - c) Mailing address;
 - d) Title and date of record (if unknown, requestor shall provide a description of the record and/or its function);
 - e) Any additional information that will expedite the identification and retrieval of the record;
 - f) Whether the requestor simply wishes to inspect the record, or whether the requestor already knows he/she wishes to purchase copies.
- 6.9 If submitted in any format/manner other than the City’s prepared form, it shall be attached by the receiving employee to the City’s prepared form for tracking purposes. A verbal

request shall be reduced to writing on the City's prepared form either by the requestor or by the receiving employee in the event such is refused by the requestor.

- A. The original Formal Request and any accompanying documentation shall be forwarded immediately to the Public Records Officer, including the date the request was submitted by the requestor.
- B. Noting the date the request was submitted, the Public Records Officer shall affix the date by which the City shall make its initial response to the request, and immediately forward a copy of the request to the appropriate department(s).
- C. Within five business days of receipt of the request, the Public Records Officer shall do one or more of the following:
 - i. Make the records available for inspection or copying (or if so requested and payment for the records is made in advance, send the records to the requestor);
 - ii. Provide a reasonable estimate of when records will be available (an estimate may be revised when appropriate);
 - iii. Provide a written response stating that the record does not exist, or that access to the record is being denied, and the basis for that denial.
 - iv. If the request is unclear or does not sufficiently identify the requested records, the Public Records Officer shall request clarification from the requestor.
 - v. If a request for clarification of the original request fails to result in a reasonably identifiable record, the original request shall be denied.
 - vi. It is left to the discretion of the Public Records Officer to determine if a records response will be broken into installments and if a deposit, not to exceed 10% of the estimated cost, will be required. In the event the deposit exceeds the allowed costs to provide copies, the sum in excess will be returned by the City.
- D. If the requester has not received a response from the City within five (5) business days from the date of filing a public records request with the City, the requester is encouraged to contact the public records officer immediately to ensure that the public records request was received by the City.
- E. A copy of the requested public record shall be forwarded to the Public Records Officer by the appropriate department director or his/her designee as soon as reasonably practical.
- F. If, in consultation with the Public Records Officer, a department head or his/her designee determines processing the request will require additional time to respond, the department head/designee shall notify the Public Records Officer as soon as reasonably practicable, but not later than 4 business days from original receipt, so the Public Records Officer can notify the requester within the 5 business days requirement. The department head/designee shall note whether the need for additional time is to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt, and the approximate date the information will be available.
- G. The City is not obligated to create a new record to satisfy a request for public records. However, in some cases it will be easier to create a record that will satisfy the requestor than it would be to research and collect all of the associated records. The decision to create a new record for the City's convenience or the convenience of the requestor is left to the discretion of the Public Records Officer.

- H. Requests to provide records in electronic format will be accommodated as much as possible for records that already exist in electronic format. If a record does not exist electronically and the requestor asks for a scanned PDF copy of the records to be emailed or a FAX copy to be provided, the City will provide the first five pages free of charge. The City will not normally convert a response to a disclosure request into electronic format or send via FAX when the response exceeds five pages. The City will not FAX a record where a long-distance charge is incurred.
- I. When the request is for a large number of records, the Public Records Officer may provide access for inspection and in-house copying in installments. For large requests, the Public Records Officer may ask the requestor to prioritize the request so that he/she receives the most important records first. If the requestor fails within thirty days to inspect the first or additional installments and pay any applicable fees for requested copies, the Public Records Officer may stop the search for the remaining records and close the request.
- J. A request for public disclosure is not continuing in nature. In the event additional records are created after original receipt of the request, the requestor will need to submit a new request for public disclosure.
- K. While the City of Bonney Lake routinely destroys public records which have passed their retention requirements as identified by the State Archivist, RCW 42.56.100 prohibits the destruction of a public record that is the subject of a current disclosure request.
- L. The City is prohibited by statute from disclosing lists of individuals for commercial purposes.
- M. If the Public Records Officer believes that a third party to the requested public record is affected by the disclosure, he/she may provide notice to the third party advising that the record shall be disclosed unless an injunctive action is filed and sustained. The Public Records Officer shall generally allow ten days for a response from the third party before disclosing the record.
- N. A denial of access to a public record shall include a written statement enumerating the items and the reason(s) for exclusion or redaction, along with the appropriate legal citations. An exemption log shall also be created which shall identify the record, number of pages affected and the reason for the exemption/redaction. The Public Records Officer should review all denials of access with the Mayor, City Administrator and/or City Attorney pursuant to RCW42.56.520.
- O. When a public records request has been completed, the copies of documents provided shall include a copy of the original request form (at no cost) with all applicable charges noted. Absent any additional written communication, this form shall signify that the Public Records Officer considers the response to be complete and that the City has completed a diligent search for the requested records.
- P. The requester must claim or review the assembled records within thirty (30) days of notification by the City of the availability of responsive records. If after thirty (30) days of being notified, the requester fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may consider the records request abandoned, stop searching for the remaining records and close the request.
- Q. The requestor may ask the Public Records Officer for an administrative review of

any denial or partial denial of records. The Public Records Officer will ask the City Attorney to review and affirm or reverse the denial within three business days following the receipt of the request for administrative review, or within a mutually agreed timeframe between the Public Records Officer and the requestor.

- R. In the event additional responsive records are discovered after the disclosure request has been closed, the Public Records Officer will provide the later-discovered records to the requestor.

7. ATTACHMENTS

- A. Appendix C – (There are no Appendices A & B.) This appendix is a list of laws the City believes exempts or prohibits disclosure of specific information or records of the City that are found outside the Public Records Act of RCW42.56. [This list is taken from the MRSC publication – *Public Records Act* – Report No. 61 – Revised November 2009 and retains the Appendix lettering used by MRSC to allow for ease of use in this policy.]

Appendix C

Exemption and Prohibition Statutes Not Listed in Chapter 42.56 RCW

RCW 42.56.070(2):

For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

MRSC will keep updating this list on our web site. If you become aware of additions or corrections that should be made to the list, please notify one of the staff attorneys at MRSC. Some of the exemptions and prohibitions on the list concern public record information that may not be relevant for your jurisdiction. For instance, cities would not normally have records regarding marriage license applications or adoption records.

Washington State Statutes

Citation	Records
RCW 2.64.111	Documents regarding discipline/retirement of judges
RCW 2.64.113	Confidentiality - violations
RCW 4.24.550	Information on sex offenders
RCW 5.60.060	Privileged communications
RCW 5.60.070	Court-ordered mediation records
RCW 7.68.140	Victims' compensation claims
RCW 7.69A.030(4)	Child victims and witnesses – protection of identity
RCW 7.69A.050	Rights of child victims and witnesses – addresses
RCW 7.75.050	Records of Dispute Resolution Centers
RCW 9.51.050	Disclosing transaction of grand jury
RCW 9.51.060	Disclosure of grand jury deposition
RCW 9.02.100	Reproductive privacy
RCW 9A.82.170	Financial institution records – wrongful disclosure

Citation	Records
RCW 10.27.090	Grand jury testimony/evidence
RCW 10.27.160	Grand jury reports – release to public only by judicial order
RCW 10.29.030	Organized crime special inquiry judge
RCW 10.29.090	Records of special inquiry judge proceedings
RCW 10.52.100	Records identifying child victim of sexual assault
RCW 10.77.210	Records of persons committed for criminal insanity
RCW 10.97.040	Criminal history information released must include disposition
RCW 10.97.050	Conviction and criminal history information
RCW 10.97.060	Deletion of certain criminal history record information, conditions
RCW 10.97.070	Disclosure of identity of suspect to victim
RCW 10.97.080	Inspection of criminal record by subject
RCW 13.32A.090	Crisis residential centers notice to parent about child
RCW 13.34.115	Court dependency proceedings
RCW 13.40.217	Juveniles adjudicated of sex offenses – release of information
RCW 13.50.010	Maintenance of and access to juvenile records
RCW 13.50.050	Juvenile offenders
RCW 13.50.100	Juvenile/children records not relating to offenses
RCW 13.60.020	Missing children information
RCW 13.70.090	Citizen juvenile review board – confidentiality
RCW 18.04.405	Confidentiality of information gained by CPA
RCW 18.19.060	Notification to clients by counselors
RCW 18.19.180	Confidential communications with counselors
RCW 19.215.020	Destruction of personal health and financial information
RCW 19.34.240(3)	Private digital signature keys
RCW 19.215.030	Compliance with federal rules
RCW 26.04.175	Name and address of domestic violence victim in marriage records

Citation	Records
RCW 26.12.170	Reports of child abuse/neglect with courts
RCW 26.23.050	Child support orders
RCW 26.23.120	Child support records
RCW 26.26.041	Uniform Parentage Act – protection of participants
RCW 26.26.450	Confidentiality of genetic testing
RCW 26.33.330	Sealed court adoption records
RCW 26.33.340	Agency adoption records
RCW 26.33.343	Access to adoption records by confidential intermediary
RCW 26.33.345	Release of name of court for adoption or relinquishment
RCW 26.33.380	Adoption – identity of birth parents confidential
RCW 26.44.010	Privacy of reports on child abuse and neglect
RCW 26.44.020(19)	Unfounded allegations of child abuse or neglect
RCW 26.44.030	Reports of child abuse/neglect
RCW 26.44.125	Right to review and amend abuse finding – confidentiality
RCW 27.53.070	Records identifying the location of archaeological sites
RCW 29A.08.720	Voter registration records – place of registration confidential
RCW 29A.08.710	Voter registration records – certain information exempt
Chapter 40.14 RCW	Preservation and destruction of public records
RCW 42.23.070(4)	Municipal officer disclosure of confidential information prohibited
RCW 42.41.030(7)	Identity of local government whistleblower
RCW 42.41.045	Non-disclosure of protected information (whistleblower)
RCW 46.52.080	Traffic accident reports – confidentiality
RCW 46.52.083	Traffic accident reports – available to interested parties
RCW 46.52.120	Traffic crimes and infractions – confidential use by police and courts
RCW 46.52.130(2)	Abstract of driving record
RCW 48.62.101	Local government insurance transactions – access to information

Citation	Records
RCW 50.13.060	Access to employment security records by local government agencies
RCW 50.13.100	Disclosure of non-identifiable information or with consent
RCW 51.28.070	Worker's compensation records
RCW 51.36.060	Physician information on injured workers
RCW 60.70.040	No duty to disclose record of common law lien
RCW 68.50.105	Autopsy reports
RCW 68.50.320	Dental identification records – available to law enforcement agencies
Chapter 70.02 RCW	Medical records – access and disclosure – entire chapter (HC providers)
RCW 70.05.170	Child mortality reviews by local health departments
RCW 70.24.022	Public health agency information regarding sexually transmitted disease investigations - confidential
RCW 70.24.024	Transcripts and records of hearings regarding sexually transmitted diseases
RCW 70.24.105	HIV/STD records
RCW 70.28.020	Local health department TB records – confidential
RCW 70.48.100	Jail records and booking photos
RCW 70.58.055	Birth certificates – certain information confidential
RCW 70.58.104	Vital records, research confidentiality safeguards
RCW 70.94.205	Washington Clean Air Act – confidentiality of data.
RCW 70.96A.150	Alcohol and drug abuse treatment programs
RCW 70.123.075	Client records of domestic violence programs
RCW 70.125.065	Records of rape crisis centers in discovery
RCW 71.05.390	Information about mental health consumers
RCW 71.05.395	Ch. 70.02 RCW applies to mental health records
RCW 71.05.400	Information to next of kin or representative
RCW 71.05.425	Notice of release or transfer of committed person after offense dismissal

Citation	Records
RCW 71.05.427	Information that can be released
RCW 71.05.430	Statistical data
RCW 71.05.440	Penalties for unauthorized release of information
RCW 71.05.445	Release of mental health information to Dept. of Corrections
RCW 71.05.620	Authorization requirements and access to court records
RCW 71.05.630	Release of mental health treatment records
RCW 71.05.640	Access to treatment records
RCW 71.05.650	Accounting of disclosures
RCW 71.24.035(5)(g)	Mental health information system – state, county and regional support networks – confidentiality of client records
RCW 71.34.200	Mental health treatment of minors – records confidential
RCW 71.34.210	Court records for minors related to mental health treatment
RCW 71.34.225	Release of mental health services information
RCW 71A.14.070	Records regarding developmental disability – confidentiality
RCW 72.09.345	Notice to public about sex offenders
RCW 72.09.585(3)	Disclosure of inmate records to local agencies – confidentiality
RCW 74.04.060	Applicants and recipients of public assistance
RCW 74.04.520	Food stamp program confidentiality
RCW 74.09.900	Medical assistance
RCW 74.13.121	Financial information of adoptive parents
RCW 74.13.280	Children in out-of-home placements - confidentiality
RCW 74.20.280	Child support enforcement – local agency cooperation, information
RCW 74.34.095	Abuse of vulnerable adults - confidentiality of investigations and reports
RCW 82.32.330	Disclosure of tax information
RCW 84.36.389	Confidential income data in property tax records held by assessor
RCW 84.40.020	Confidential income data supplied to assessor regarding real property

Selected Federal Confidentiality Statutes and Rules

18 USC § 2721 - 2725	Driver and License Plate Information
20 USC § 1232g	Family Education Rights and Privacy Act
42 USC 290dd-2	Confidentiality of Substance Abuse Records
42 USC 405(c)(2)(vii)(I)	Limits on Use and Disclosure of Social Security Numbers.
42 USC 654(26)	State Plans for Child Support
42 USC 671(a)(8)	State Plans for Foster Care and Adoption Assistance
42 USC 1396a(7)	State Plans for Medical Assistance
7 CFR 272.1(c)	Food Stamp Applicants and Recipients
34 CFR 361.38	State Vocational Rehabilitation Services Programs
42 CFR Part 2 (2.1 - 2.67)	Confidentiality of Alcohol and Drug Abuse Patient Records
42 CFR 431.300 - 307	Safeguarding Information on Applicants and Recipients of Medical Assistance
42 CFR 483.420	Client Protections for Intermediate Care Facilities for the Mentally Retarded
42 CFR 5106a(b)(2)(A)	Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
45 CFR 160-164	HIPAA Privacy Rule