

RESOLUTION NO. _____

**RESOLUTION RESCINDING RESOLUTION #7555
AND
ADOPTING NEW PUBLIC RECORDS POLICY**

WHEREAS, Skagit County adopted Resolution #7555 providing policies and procedures for the public to access public County Records; and

WHEREAS, the Prosecuting Attorney's Office and Records Management Department have updated these policies to met current laws and standards; and

WHEREAS, the new policy will provide additional guidelines to both County employees and members of the public;

NOW THEREFORE, BE IT RESOLVED that Resolution #7555 is rescinded and that the attached updated public records policy is adopted in its place.

WITNESS OUR HAND AND THE OFFICIAL SEAL OF OUR OFFICE this 14th day of May, 2007.

SKAGIT COUNTY BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Sharon Dillon
Sharon Dillon, Chair

Don Munks
Don Munks, Commissioner

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Commissioner

APPROVED AS TO CONTENT:

Cori L Russell
Cori Russell, Records Management Coordinator

ATTEST:

Joanne Giesbrecht
Joanne Giesbrecht, Clerk
Skagit County Board of Commissioners

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'M. Miller', written over a horizontal line.

Melinda Miller, Civil Deputy
Prosecuting Attorney's Office

SKAGIT COUNTY PUBLIC RECORDS POLICY

1. PURPOSE AND CONSTRUCTION

1.1 Declaration of Policy

The purpose of this policy is to promote the goals of full public access to public records, to protect public records from damage or disorganization, to prevent excessive interference and disruption with other essential functions and operations of the County and its departments, to provide the fullest assistance to requestors, and to provide the most timely action possible on requests for identifiable public records.

1.2 Interpretation and Constriction of Provisions

In applying these County Policies and Regulations, the public disclosure officer(s) and designee(s), County employees, and other persons and members of the public shall interpret these regulations and policies such that they are consistent and compliant with state laws governing public records and access and dissemination of public records. The provisions of this policy are also to be construed in conjunction with other applicable state and federal law, including without limitation: chapter 10.97 RCW (Washington State Criminal Records Privacy Act); chapter 13.50 RCW (Keeping and Release of Records by Juvenile Justice or Care Agencies); chapter 40.14 RCW (Preservation and Destruction of Public Records); chapter 42.56 RCW (Public Records); and chapter 46.52 RCW (Accidents – Reports – Abandoned Vehicles), all as presently constituted or as may be subsequently amended.

1.3 Availability of Public Records Policy

This document shall be posted on Skagit County's public website.

1.4 Updating of Public Records Policy

This policy may be modified at the discretion of Skagit County's Public Records Officer and the Prosecuting Attorney's office.

2. DEFINITIONS

2.1 Definitions Adopted by Reference

The definitions set forth in RCW 10.97.030, 13.50.010, 42.56, as presently constituted or as may be subsequently amended, are adopted by reference as if fully set forth herein, together with all amendments and additions provided in this ordinance.

2.2 Use of words and phrases

As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings:

- (A) "County" is the municipal corporation of Skagit County, Washington. Collectively, the County includes the County elected officials, and each department, board and committee of the County. The term County also includes the paid employees and volunteers of Skagit County.
- (B) "Computer report" means the result of the writing of data by selected criteria from an electronic database.
- (C) "Department" means a major functional division of Skagit County Government.
- (D) "Electronic database" means a collection of data on computer-accessible media arranged for retrieval.
- (E) "Non-routine computer report" means a computer report that a department is capable of producing but that is not regularly produced by the department.
- (F) "Routine computer report" means a computer report that is regularly made by a department in the ordinary course of business to satisfy federal, state, county or local reporting requirements, or for other administrative or legislative purposes.
- (G) "Writing" means any information (e.g., words, numbers, symbols, images and sounds) recorded in any media such as handwritten, typewritten, electronic, photographic, and video and audio recording as defined in RCW 42.17.020(42).
- (H) "You," "your" or "requestor" used in this policy refers to a person who requests public records.

3. COUNTY ORGANIZATION

Skagit County is formed and organized pursuant to Article XI of the Constitution of the state of Washington and state statutes. The County is a local agency as defined under RCW 42.56. The county is organized with sixteen elected officials including the Board of County Commissioners. There are three Commissioners, the Assessor, the Auditor, the Treasurer, the Clerk of the Superior Court, the Prosecuting Attorney, the Coroner, the Sheriff, two District Court judges, and four Superior Court judges. The Board of County Commissioners has established and appointed departments, committees and boards including but not limited to Public Works department, Health department, Planning and Development Services department, Administrative Services, Human Resources, Risk Management department, and Central Services. For a

complete listing of departments, boards and commissions, see the County organizational chart attached to this policy.

4. PUBLIC RECORDS OFFICER AND DEPARTMENT ASSISTANTS

4.1 Skagit County Public Records Officer

Skagit County's Public Records Officer is Cori Russell, Skagit County Records Management Coordinator. The Records Officer's office is located in Room 304, Courthouse Building. Office Hours are 6:30-3:00 Monday through Friday. The telephone number is (360) 336-9404 and the fax number is (360) 336-9419

4.2 Public Records Assistants

Each elected official and each department head shall designate at least one Public Records Assistant to assist the County Public Records Officer. The Chair of the Board of County Commissioners shall appoint the Public Records Assistant for the County Commissioners' office. Each Records Assistant shall be knowledgeable of the public records in the possession and control of that department or office such that they are able to assist both the County Public Records Officer and person requesting records in determining where documents are located and what documents are being sought by the requestor. The Public Records Assistant shall be posted on that Department's/Office's Web Page and shall contain contact information including the name of the Assistant, his or her email address, the department or office name and address, telephone number and fax number, along with the office hours of that particular County department or office. In the event a department or office has not specifically identified a Public Records Assistant, then the Department Head of that department shall be deemed the Public Records Assistant and shall be responsible for all of the responsibilities of a Public Records Assistant. The Prosecuting Attorney's Office is available to assist and respond on behalf of the County and any of the County's departments.

5. PROCEDURE FOR INSPECTION/COPYING

5.1 Making a Request for County Public Records

A person wishing to inspect or copy public records shall first make such a request in writing to the appropriate County department or office, or that office's or department's Public Records Assistant keeping said record, during regular business hours of that department. All record requests may also be sent to the County Public Records Officer.

5.2 Making Requests Where the Location of the Document is Unknown or Where Request Covers Multiple Offices or Departments

If the location of the record is unknown or deals with multiple departments, the request shall be made to the County Public Records Officer detailed in paragraph 4.1 or the Public Records Assistant for the Board of County

Commissioners. If the location of the documents is unknown, then the requestor should state in the request that the document location is unknown and that the requestor is seeking assistance in determining which departments or offices may have documents responsive to the request. Requestors are strongly encouraged to provide as much information as possible as to help the County ascertain where the documents being requested may be located.

If the request covers documents that are located in multiple departments, the requestors should identify all departments or offices from which records are being requested.

5.3 County Request Form Encouraged

It is encouraged that records requests be made on the County's public records request form. This uniform request form is available from the County Public Records Officer or any of the Public Records Assistants and is also available electronically on the County's website. You may also submit a written email or letter that contains the information listed below in paragraph 5.4.

5.4 Informal Requests

Many requests for public records can be handled quickly and informally without the need for a formal written request. You may ask in person to look at a document or get a copy. Records may also be requested informally in writing, by letter or by electronic mail (email). The Public Records Officer or Public Records Assistant may request that any verbal request be put in writing before a response is required.

5.5 Information Needed to Request County Public Records

All requests for public records shall be documented by the requester on a form furnished by the appropriate office or department, or by letter, email or fax and shall contain the information listed below:

- The name, address and telephone number of the requester.
- Information necessary to readily identify the specific public record requested, including the time period for the records and the departments of the County or office of the County official who may have the public records.
- A clear indication, such as a document heading or title such as "Public Records Request," so that it is clear that you are requesting public records pursuant to the Public Records Act. This will ensure that the request is handled properly. Do not combine a request for public records with communication for other purposes.
- A statement as to whether you are requesting a copy or are requesting to inspect the public record being requested.
- If the request is for a list of names, a statement that the list will not be used for commercial purposes.
- The requestor at requestor's discretion may provide but may not be required to provide the purpose for which a record is requested; however, the department may require the requestor to disclose the purpose of a request. When the request is for a list of individuals, the department may ask the

requestor if he or she intends to use the records for a commercial purpose or may seek information sufficient to allow the Public Records Officer or Assistant to determine if another statute prohibits disclosure.

5.6 Assistance from the Public Records Officer or Public Records Assistants

The Public Records Officer or Public Records Assistants will make a reasonable effort to assist you in describing and determining what records you are seeking in your request and provide estimates of when your requested documents will be ready for pick-up or inspection. The Public Records Officer or Assistants will help with both formal and informal requests and will be available to answer questions about the process for requests for records, seek clarification on requests, and help facilitate requests and the request process.

5.7 No County Index

By this reference and adoption of this policy, the Skagit County Board of County Commissioners finds that it would be unduly burdensome and costly to the taxpayers of Skagit County for the County to develop an index of all County records. Many public records are currently available for viewing at no cost on the County's public website. Examples include real property searches, tax information, jail roster and booking reports, and recorded documents from 1979 forward.

5.8 Availability of Public Records Pamphlet

The Office of the Attorney General has a pamphlet available, written in plain language, explaining the provisions of the Public Records Act. Requests for a copy of the pamphlet should be directed to the Public Records Officer, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. Additionally, the Washington State Attorney General has a desk book on public records available on its website at www.atg.wa.gov.

6. RESPONSE TO PUBLIC RECORDS REQUESTS

6.1 Assistance

The County Public Records Officer or Public Records Assistants will help any person making an informal or formal request

6.2 No Obligation to Provide Records on Demand

There is no obligation to provide the requested record(s) on demand, including informal requests.

6.3 Five-Day Response

The Public Records Officer or Public Records Assistants shall respond promptly to the requests for disclosure. Within five business days of receiving the request, the Public Records Officer or Assistant will respond in writing by either:

6.3.1 Providing the record.

6.3.2 Acknowledging that the office has received the request and providing a reasonable estimate of time the office will require to respond to the request.

6.3.3 Denying the public records request. The Public Records Officer's response refusing in whole, or in part, the inspection of the public records shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of why the exemption applies to the record(s) withheld.

6.4 Additional Time May be Necessary to Respond

Additional time may be requested by the office/department based upon the need to:

6.4.1 Clarify the intent of the request.

6.4.2 Locate and assemble the information requested.

6.4.3 Notify third parties or agencies affected by the request and allow time for the affected parties or agencies to seek court protection.

6.4.4 Determine whether any of the information requested is exempt and if a denial should be made as to all or part of the request.

6.5 Clarification of Unclear Requests

In acknowledging receipt of a public records request that is unclear, the Public Records Officer or Assistant may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the office need not respond to it.

6.6 Review of Non-Response

If the Public Records Officer or an Assistant does not respond in writing within five business days of receipt of the request for disclosure, the requestor is strongly encouraged to notify and seek review from the Chief Civil Deputy Prosecuting Attorney.

6.7 Review of Good Faith Estimate to Fulfill Request

If a requestor feels that an estimate of time given to fulfill the request is not reasonable, the requestor shall be entitled to petition the Chief Civil Deputy Prosecuting Attorney for a review of the estimate of time.

6.8 Matters Involving Litigation

When a request for public records concerns a subject that is known to the Public Records Officer or Assistant to involve a claim or lawsuit that is pending or

anticipated, the Public Records Officer or Assistant shall promptly notify the Prosecuting Attorney.

6.9 Production of Records on an Installment Basis

For requests that involve a large quantity of documents, requests that involve records from multiple departments/offices or requests that require a significant amount of redacting and privilege log creation, requested documents may be provided on a rolling or installment basis in order to prevent undue disruption to carrying on the normal and essential duties of that department or office or the County while promoting timely access to requested documents.

6.10 Protection of Public Records

Except as necessary to make copies by a public employee or private copy shop, the Public Records Officer or Assistants shall, to the extent practical, ensure that records requested are not removed from the premises nor portions thereof removed by members of the public. Documents shall not be released to the public for the purpose of allowing the person making the request to make copies. The Records Officer and Assistants shall also take necessary precautions to protect against disorganization of County records.

6.11 Later Discovered Documents

If additional information is discovered that should have been provided as part of an earlier public records request, those documents should be forwarded to the requestor with a brief explanation as to why the newly discovered documents were not located as part of the request response.

7. **PUBLIC RECORDS EXEMPTIONS**

7.1 Adoption of MRSC List of Other Laws that Prohibit or Exempt Disclosure

In addition to the specific exemptions described in RCW 42.56, the County hereby adopts the list of laws maintained by the Municipal Research and Services Center (MRSC) as the list containing other laws that prohibit or exempt disclosure.

7.2 Addition of Other Exemptions

From time to time the Prosecuting Attorney's Office may supplement the MRSC list by adding additional laws that prohibit or exempt disclosure. Any supplements to the MRSC list will be added as an appendix to this policy.

7.3 Failure to List Exemption on List

Citing to an exemption or other law preventing disclosure that is not on the MRSC list or the County's supplemental list does not invalidate the citing to that particular law or exemption as a reason why a record or part of a record is not discloseable.

7.4 Other Agencies' Records

Request for inspection or copies of public records in data bases that are maintained by the state of Washington, federal government or other government agencies, including other counties' departments, will be subject to such additional rules and regulations of that agency. Some of these types of records require different forms and fees associated with those records set by the state or other agency, not by this policy.

8. **COPY FEES**

8.1 No Fee for Inspection of Public Records

There is no fee for inspecting/ viewing public records.

8.2 Copy Charge for Letter or Legal Size Copies

Unless there is another statute setting the fee for copies of a record, copies shall be \$ 0.15 (fifteen cents) per page. This includes both color and black and white copies.

8.3 Oversized, Unique, Color or Large Requests For Documents

Some documents, due to their size, graphic or color, may have to be sent to an outside copy service. Additionally, some departments/officers do not have color copy capabilities. Color copies will only be available when it is necessary to capture color-sensitive information within the record and is so requested by the requestor. For these types of documents or for requests that involve a large amount of copies, the Records Officer or Assistant may in their discretion send these documents to a professional copy service for copying. The charge will be the cost of the outside copy service.

8.4 Cost of Other Media

The cost of other media shall be the cost paid for the media by the department or office. Since different offices and departments purchase different volumes of CDs and tapes, costs between departments and offices may differ slightly. No cost will be imposed for the actual time spent transferring or copying information/records onto the media.

8.5 Deposit

If the requestor wants a large amount of copies of public records then the Public Records Officer or Assistant may require an up-front deposit of 10% of the estimated copy charge before gathering and locating the materials to be copied.

8.4 Payment for Copies

Full payment for the copies and any mailing costs may be required before the actual mailing/ pick- up of the records. If records are sent before receiving payment and the requestor does not provide payment for the records, the County does not need to respond to other requests from the same requestor until the outstanding payment is satisfied.

8.5 Gathering and Locating Records

There is no fee for County time expended for gathering, locating and fulfilling the requests other than the actual copy charges described above.

9. **ELECTRONIC AND MULTIMEDIA DATABASE INFORMATION AND CREATION OF RECORDS**

9.1 Electronic Records Printed or Provided Electronically

At the option of the Public Records Officer or Assistant, electronic records may be printed out prior to copying and delivery. If the electronic record is large and not capable of being printed out, then the document may be provided electronically in the format in which the records are maintained.

9.2 No Duty to Convert Electronic Records to Another Format

There is no obligation of the County to convert an electronic record to a format that is different than the current format in which the document or record exists.

9.3 Back-up Tapes

The County may back up electronic information for emergency recovery purposes. To prevent the inference with essential functions of the County, back-up tapes will not be examined in response to a public records request.

9.4 Videos and Other Multimedia

County business may be recorded on video. All requests of video or other multimedia information or records shall state a date in which the event occurred. Given that these tapes are not indexed as to subject and are not word searchable, the requestor must specifically request that he or she is looking for multimedia records. The County, in order to prevent the inference with essential functions of the County, has no obligation to respond to a request by searching all multimedia files. It should be noted that much of this multimedia is available on the County's website.

9.5 Creation of Records Not in Existence

The County is not obligated to format or create documents that are not in existence. Reports may be run on information databases if the report is one that is commonly run as part of County business or if it would not be burdensome on the County. However, the County is not required to reformat or write code in order to create a program to retrieve and complete specific information.

9.6 Documents Available on Website

Many public records are available on the County's website. The Records Officer or Assistant may direct a requestor to the County's website to fulfill a records request. For those who do not have access to the Internet, there are

public terminals at the County's Administrative Building located at 1800 Continental Place, Mount Vernon.

10. RECORDS RETENTION POLICY

10.1 State Archive Schedule

The County, to the extent practicable, strives to follow the State Archivist records retention manual as adopted by the Local Records Committee; however, records may be kept longer than the time detailed under the schedule