

EXHIBIT A

Chapter 2.72

PUBLIC RECORDS REQUESTS

Sections:

- 2.76.010 Authority and purpose.
- 2.76.020 City clerk-treasurer as public records officer –Requesting records.
- 2.76.030 Processing of public records requests.
- 2.76.040 Providing records to requestor.
- 2.76.050 Exemptions.
- 2.76.060 Copying fees.
- 2.76.070 Index of public records – Findings and order.
- 2.76.080 Modifications to fees and charges.
- 2.76.090 Denials of Requests for Public Records – Internal Administrative Review – Judicial Review.

2.76.010 Authority and purpose.

- A. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt “public records” in accordance with published rules. The Act, RCW 42.56.010(3), defines “public record” to include a “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 agency regardless of physical form or characteristics and specifically excludes records that are not otherwise required to be retained by the agency. RCW 42.56.070(2) requires each agency to set forth " for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.
- B. The purpose of this chapter is to establish the procedures the city of McCleary will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the city of McCleary and establish processes for both requestors and the city of McCleary staff that are designed to best assist members of the public in obtaining such access.
- C. The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the city of McCleary will be guided by the provisions of the Act describing its purposes and interpretation.
- D. The provisions of this chapter shall not apply to court case records and administrative records maintained by the McCleary municipal court in connection to judicial proceedings and records related to the management, supervision, or administration of the court. Access to these records is governed by Washington State Court Rules General Rule 31.1 and case law.

- E. The provisions of this chapter shall not be construed to create any additional legal obligations upon the city or an independent cause of action against the city.

2.76.020 City clerk-treasurer as public records officer – Requesting records.

- A. The city clerk-treasurer is hereby designated as the public records officer (PRO) of the city.
- B. All persons desiring to inspect or receive a copy of public record of the city may make their request by submitting the form furnished by the clerk-treasurer, in person, by mail, email, or fax; or over the telephone.

2.76.030 Processing of public records requests.

- A. *Prompt Responses.* Responses to requests for public records shall be made promptly and pursuant to guidelines established in Chapter 42.56 RCW.
- B. *Acknowledging Receipt of Requests.* Within 5 business days of receiving a written public record request, not including the date on which the city clerk-treasurer receives the request, the city must acknowledge the request in one of the ways provided in this subsection:
1. Provide the record;
 2. Provide an internet address or link on the city’s website to the specific records requested, except that if the requester notifies the city that he or she cannot access the records through the internet, then the city will provide access to copies. If copies are requested, provide the copies to the requestor after payment for the copies has been made by the requestor, or, if copies are being released in installments, after payment of a deposit is made pursuant to MMC 2.76.060;
 3. Acknowledge that the city has received the request and provide a reasonable estimate of the time the city will require to respond to the request. This estimate will take into consideration the large number or volume of records requested, the complexity of the request, the time it will take to coordinate departments to locate and assemble the requested records, third-party notice, review of records for exemption, and review of exemptions and records by legal staff;
 4. If the request is unclear or does not sufficiently identify the requested records, the city will request clarification from the requestor. Such clarification may be requested and provided by telephone. The city clerk-treasurer or designee may revise the estimate of when records will be available based on the clarification from the requestor. If the requestor fails to respond to the request to clarify and the entire request is unclear, the city of McCleary need not respond to the request. Otherwise, the city will respond to the portions of the request that are clear;

5. Deny the public record request. Denial must be accompanied by a written statement of specific reasons therefor.

C. *Identifiable Record*. A public records request must be for identifiable records. A request for all, or substantially all, records prepared, owned, used or retained by the city is not a valid request for identifiable records; provided, that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the city's records.

D. *Automated Requests*. The city may deny an automated or "bot" request that is one of multiple requests from the requestor within a 24-hour period. "Bot request" means a request for public records that the city reasonably believes was automatically generated by a computer program or script.

E. *Protecting Rights of Others*. In the event that the requested records contain information that may affect the rights of others and may be exempt from disclosure, the city clerk-treasurer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure pursuant to RCW 42.56.580. Such notice should be given so as 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 and shall allow the affected person no more than 10 business days to prevent or limit the disclosure of the record.

F. *Records Exempt from Disclosure*. Some records are exempt from disclosure, in whole or in part. If the city believes that a record is exempt from disclosure and should be withheld, the city clerk-treasurer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the city clerk-treasurer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

G. *Privilege Log*. If the city determines that a record is exempt and should be withheld, in whole or in part, the city will prepare and maintain a privilege log of those records. The privilege log will identify the type of record withheld; the date of record; the number of pages withheld; the author and/or recipient; the exemption invoked; and a brief explanation of how the exemption applies to the withheld record. A copy of the privilege log will be provided to the records requestor.

H. *No Duty to Create Records*. The city is not obligated to create a new record in order to satisfy a request for records.

I. *Multiple Requests by the Same Party*. Where a requester makes multiple, separate requests or makes one or more additional requests while a prior request is open, the PRO may queue the requests in the order in which they were received. The PRO is not required to work on additional requests until the initial request is completed and closed. Requesters are solely responsible for requesting to re-prioritize the order of their requests.

J. *Request for Information.* The city may deny a request for information as the request is not a request for a public “record” as required under Chapter 42.56 RCW.

K. *No Duty to Supplement Responses; No “Standing” Requests.* The City is only required to provide records that exist at the time a request is made. The City cannot fulfill “standing” requests or requests for records that may be created at a future date.

2.76.040 Providing records to requestor.

A. *Receiving Records.* The requestor may indicate to the city clerk-treasurer whether he or she wishes to inspect records, have the records copied, pick them up in person, or have the records sent via mail or email.

B. *Inspection of Records.* If a requestor seeks an opportunity to inspect public records, the city clerk-treasurer shall make the records available for inspection at City Hall during regular business hours. The city clerk-treasurer, or designee, shall be present or otherwise monitor when records are being inspected. The requestor shall indicate which documents he or she wishes the agency to copy and the city clerk-treasurer will notify the requestor when the requested documents will be available to claim.

C. *Providing Records in Installments.* Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for public inspection or disclosure.

D. *Revised Estimate of Time.* At any time while processing a request, the city clerk-treasurer may provide the requestor with a revised reasonable estimate of time within which the city will respond to the request. A revised estimate of time will be based on the factors detailed in MMC 2.76.030(B)(3). In addition, a revised estimate may be based upon any unexpected or unforeseen delays encountered during the request processing, additional requests submitted by the same requestor while the initial request is pending, and change circumstances or other considerations ascertained during processing.

E. *Providing Electronic Records.* When a requestor requests records in an electronic format, if technologically feasible, the city clerk-treasurer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the city of McCleary and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the agency keeps the record. The requestor may also opt to have the records provided to them on digital storage media or device.

F. *Withdrawn or Abandoned Requests.* The city may consider a request abandoned and close a request when the requestor either withdraws their request or fails to fulfill their obligations in

the processing of the request. The city may consider a request abandoned in the following circumstances:

1. If an entire request is unclear, and the requestor fails to clarify the request within 30 days of the city's request for clarification;
2. If the requestor fails to inspect records within 30 days of being notified that records are available for inspection;
3. If the requestor misses an appointment to inspect records and fails to contact the city within 30 days of the missed appointment;
4. If the requestor fails to view records within 30 days of being notified that records are available for electronic inspection;
5. If the requestor fails to pick up records at City Hall within 30 days of being notified that the records are available for in-person pick-up; or
6. If the requestor fails to pay a deposit or the final payment for the requested copies of records within 30 days of receiving an invoice from the city for payment thereof.

G. Closing a Request. After the city clerk-treasurer has completed a request for disclosure by providing the requestor with responsive documents and a redaction log, if applicable, the city clerk-treasurer will close the request and inform the requestor of this status. The closure of a request shall signify that the request has been completed and is considered determinative.

2.76.050 Exemptions.

The city adopts by reference the exemptions from public disclosure contained in Chapter 42.56 RCW, including any future amendments thereto or recodification thereof. In addition to exemptions found in Chapter 42.56 RCW, other statutes outside of the Act may prohibit disclosure of specific information or records.

2.76.060 Copying fees.

A requestor may obtain paper copies or electronic scans of public records under RCW 42.56.120; the city will charge for these according to the public records fee schedule established by resolution of the city council.

2.76.070 Index of public records – Findings and order.

A. Findings.

1. The Public Records Act requires all cities and public agencies to maintain and make available a current index of all public records.

2. RCW 42.56.070(4) provides that an agency need not maintain such an index if to do so would be unduly burdensome, but it must issue and publish a formal order specifying the reasons why the extent to which compliance would be unduly burdensome or would interfere with agency operations.
3. The city is comprised of numerous departments, their divisions, and subdivisions, many if not all of which maintain separate databases and/or systems for the indexing of records and information.
4. Because the city has records which are diverse, complex and stored in multiple locations and in multiple computer systems, formats and/or databases, it is unduly burdensome, if not physically impossible, to maintain a current index of all records.

B. *Order.* Based upon the findings set forth in subsection (A) of this section, and pursuant to RCW 42.56.070(4), the city council orders the following:

1. The city is not required to maintain an all-inclusive index of public records due to the undue burden and near-impossibility of maintaining such an index.
2. The city will make available for inspection and/or copying all public records, including any indexes that are maintained by the city, except to the extent that such records are exempt from public disclosure.

2.76.080 Modifications to fees and charges.

All fees and charges identified in this chapter may be modified by the clerk-treasurer or designee, as approved by resolution of the city council from time to time as deemed necessary to reflect increases in the costs of providing the services identified in this chapter. All fees and charges established pursuant to this chapter shall reflect the actual costs of the services provided.

2.76.090 Denials of Requests for Public Records – Internal Administrative Review – Judicial Review.

When a requester disagrees with the City's decision to withhold or redact a record or portion thereof, the requester may petition in writing (including by email) to the PRO for a review of the decision. The petition must include a copy of the denial or reasonably identify the written denial or claim of exemption made by the PRO.

The PRO will promptly provide the requester's petition and any other relevant information to the City Attorney to conduct an internal administrative review of the denial/exemption decision. Within two days of the City's receipt of the petition, or within such other time period mutually agreed upon by City Attorney's Office and requester, the City Attorney will affirm or reverse the

denial/exemption. If the denial/exemption is affirmed, the requester may seek judicial review pursuant to RCW 42.56.550. If the denial is reversed, the PRO will promptly produce the record for requester.