

OKANOGAN COUNTY

COMMISSIONERS' ORDINANCE 2023-2

AN ORDINANCE revising Okanogan County Code (OCC) Chapter 2.88 Public Records.

WHEREAS the Board of County Commissioners is in the process of reviewing and updating the Okanogan County Code.

WHEREAS, the Public Records Act, Chapter 42.56 RCW, requires public agencies to adopt and enforce reasonable rules and regulations to provide public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency.

WHEREAS OCC 2.88, enacted by 2006 ordinance 2006-003, adopted rules and regulations regarding public access to public records.

WHEREAS statutes, case law and best practices regarding public records requests under the Public Records Act, Chapter 42.56 RCW are ever evolving.

WHEREAS the Board of County Commissioners reviewed a recommended revised draft incorporating a number of additions and amendments including authorizing fees per RCW 42.56.120, adding provisions and amendments to better address requests for electronic records, adding language providing clearer guidance to address physical inspection of records, adding a provision to use tracking numbers for better efficiency and adding definitions and various clarifying language in line with updates in the law and more consistent with the latest draft of the model rules in Chapter 44.14 WAC.

WHEREAS the Board of County Commissioners conducted a public hearing on February 14, 2023 to consider whether OCC Chapter 2.88 Public Records should be revised as recommended.

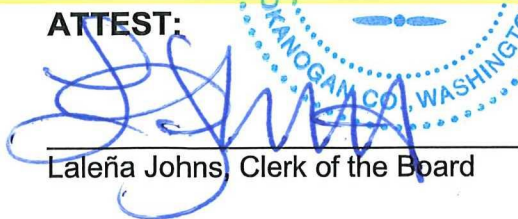
NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OKANOGAN COUNTY that Okanogan County Code Chapter 2.88 Public Records is hereby revised in accordance with "Attachment A" to this ordinance and the Clerk of the Board is directed to proceed with codification of the revision.

DATED this 14th day of February, 2023, at Okanogan, Washington.

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN COUNTY, WASHINGTON**



ATTEST:


Laleña Johns, Clerk of the Board


Chris Branch, Chairman


Andy Hover, Vice Chairman


Jon Neal, Member

Attachment A

Chapter 2.88 PUBLIC RECORDS

Sections:

- 2.88.010 Authority and purpose.**
- 2.88.015 Definitions**
- 2.88.020 Public records officer – contact information.**
- 2.88.030 Availability of public records.**
- 2.88.040 Processing of public records requests – general.**
- 2.88.045 Processing of public records requests — electronic records.**
- 2.88.050 Exemptions.**
- 2.88.060 Costs of providing copies of public records.**
- 2.88.070 Review of county response to records requests.**

2.88.010 Authority and purpose.

A. The Public Records Act requires each agency to make available for inspection and copying nonexempt “public records” in accordance with published rules. Each agency is required 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 these rules is to establish the procedures the County 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 County and establish processes for both requestors and the County 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 County will be guided by the provisions of the Act describing its purposes and interpretation. (Ord. 2006-3, 2006).

2.88.015 Definitions

A. “Act” means the Public Records Act, Chapter 42.56 RCW.

B. “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 the agency regardless of physical form or characteristics.

Excluded from the definition of “public record” are the records of volunteers that are not otherwise required to be retained by the agency and which are held by volunteers who do not serve in an administrative capacity; have not been appointed by the agency to an agency board, commission or internship; and do not have a supervisory role or delegated authority.

C. "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.

2.88.020 Public records officer – contact information.

A. Any person wishing to request access to public records of the County, or seeking assistance in making such a request should contact the public records officer of the County:

Public Records Officer
Okanogan Board of County Commissioners
123 Fifth Avenue North, Room 150
Okanogan, WA 98840
(509) 422-7100
(509) 422-7106

Information is also available at the County’s website at www.okanogancounty.org.

B. The public records officer will oversee compliance with the Act but another public records officer or department staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee and the County will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the County.

C. If the person requesting public records knows which office or department has custody or control of the requested records, the request may be made directly to the public records officer designated as follows:

1. Each elected official is the public records officer for the offices and departments administered by the elected official.

2. The superior court administrator is the public records officer for the superior court judges.
3. The district court administrator is the public records officer for the district court judges.
4. The planning director is the public records officer for the office of planning and development and the planning commission.
5. The public works director is the public records officer for the public works department.
6. The building official is the public records officer for the building department.
7. The clerk of the board of county commissioners is the public records officer for all board and commissions appointed by and reporting to the board of county commissioners.
8. The juvenile and family services administrator is the public records officer for the department of juvenile and family services.
9. The area extension agent is the public records officer for the Okanogan County WSU Extension Office.
10. The noxious weed control manager is the public records officer for the Okanogan County weed control board.

D. Each public records officer shall be responsible for implementation of and compliance with this chapter and the Public Records Act. (Ord. 2006-3, 2006).

2.88.030 Availability of public records.

A. *Hours for inspection of records.* Public records are available for inspection and copying at the offices of the elected official or department having custody or control of the records from 8:30 a.m. to 12:00 noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays; provided, that there is no obligation to allow inspection immediately upon a demand. The public records officer or designee may request that the person seeking to inspect public records schedule an appointment for inspection.

B. *Records index.* Due to the number of elected offices and departments in the county, various software programs, various locations and methods of storing public records and lack of financial resources, Okanogan County finds that maintaining an index of all county records is unduly burdensome and would interfere with County operations.

C. *Organization of records.* The County will maintain its records in a reasonably organized manner. The County will take reasonable actions to protect records from damage and disorganization. A requestor shall not take the County records from County offices without the permission of the public records officer or designee. A variety of records are available on the County's website at www.okanogancounty.org. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

D. *Making a request for public records.*

1. Any person wishing to inspect or copy public records of the County should make the request in writing on the County's request form or by letter, fax, or e-mail addressed to the public records officer and including the following information:

- a. Name of requestor;
- b. Address of requestor;
- c. Other contact information including telephone number and any e-mail address;
- d. Identification of the public records adequate for the public records officer or designee to locate the records; and
- e. The date and time of day of the request.

2. Commercial purposes declaration. If the request is for a list of individuals, the requestor will be required to sign under penalty of perjury that such information will not be used for commercial purposes.

3. A requestor must request an identifiable record or class of records. An identifiable record is one that is in existence at the time of the request and that County staff can reasonably locate. A requestor may not make "future" or "standing" requests for records not in existence. A request for information in general is not considered a request for an identifiable record.

4. If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to section 2.88.060, charges for copies are provided in a fee schedule available at the office of the public records officer and published on the County website at www.okanogancounty.org.

5. A records request form is available for use by requestors at the office of the public records officer and online at www.okanogancounty.org.

6. The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

7. If requestors refuse to identify themselves or provide sufficient contact information, the County will respond to the extent feasible and consistent with the law.

(Ord. 2006-3, 2006).

2.88.040 Processing of public records requests – general.

A. Providing fullest assistance.

1. The County is charged by statute with adopting rules which provide for how it will “provide full access to public records,” “protect records from damage or disorganization,” “prevent excessive interference with other essential functions of the County,” provide “fullest assistance” to requestors, and provide the “most timely possible action” on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner. The public records officer or designee may communicate with the requestor by letter or e-mail as may be appropriate.

2. Upon receipt of a request, the public records officer or designee will assign it a tracking number and log it in.

3. The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records.

B. Acknowledging receipt of request. Following the initial evaluation of the request under A. 3. of this subsection, and within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

1. Make the records available for inspection or copying, including:

a. If copies are available on the County’s internet website, provide an internet address and link on the website to specific records requested; the link will be checked to make sure it is working and the requestor will be given a timeframe to access the information.

- b. If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- 2. Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available. The public records officer or designee may revise the estimate of when records will be available; or
- 3. Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the County will require to respond to the request if it is not clarified. The public records officer or designee may revise the estimate of when records will be available;
 - a. Such clarification may be requested and provided by telephone, and memorialized in writing;
 - b. If the requestor fails to respond to a request for clarification and the entire request is unclear, the County need not respond to it. The County will respond to those portions of a request that are clear; or
- 4. Deny the request.

C. *Consequences of failure to respond.* If Okanogan County does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for the failure to respond.

D. *Protecting rights of others.* In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, 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.

E. *Records exempt from disclosure.* Some records are exempt from disclosure, in whole or in part. If the County believes that a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption, cite the relevant statute and provide a brief written 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 public records officer will redact the exempt portions, provide

the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

F. *Inspection of records.*

1. Consistent with other demands, the County shall provide space to inspect public records by appointment. No member of the public may remove a document from the viewing area or disassemble or alter any document nor may they carry with them any materials or devices that could be used to record or copy the public records they are inspecting. The requestor may request the County to make copies of the public records and shall indicate which documents he or she wishes the County to copy.

2. The requestor must claim or review the assembled records within 30 days of the County's notification to him or her that the records are available for inspection or copying. The County will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the County to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the County may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

G. *Providing copies of records.* After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying. Where the County charges for copies, the requestor must pay for the copies.

H. *Providing records in installments.* When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

I. *Completion of inspection.* When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the County has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

J. *Closing withdrawn or abandoned request.* When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill his or her obligations to inspect the records, pay the deposit, pay for the required fees for an installment, or make

final payment for the requested copies, the public records officer will close the request and, unless the County has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the County has closed the request.

K. ***Later discovered documents.*** If, after the County has informed the requestor that it has provided all available records, the County 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. (Ord. 2006-3, 2006).

2.88.045 Processing of public records requests — electronic records.

A. ***Requesting electronic records.*** The process for requesting electronic public records is the same as for requesting paper public records.

B. ***Providing electronic records.*** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the County and is generally commercially available, or in a format that is reasonably translatable from the format in which the County keeps the record. The volume of responsive records may dictate the method of delivery. For example, there may be limits within the County's email system or the requestor's email account with respect to the volume, size or types of emails and attachments that can be sent or received. Installments will be compiled to provide the maximum number of records to the requestor in each installment and will not be divided to comply with file size limits set by email accounts. Costs for providing electronic records are governed by RCW 42.56.120 and 42.56.130 and County Code Section 2.88.060. The fee schedule is available at the office of the public records officer and online at www.okanogancounty.org.

C. ***Customized electronic access services.*** While not required, and with the consent of the requestor, the County may decide to provide customized electronic access services and assess charges under RCW 42.56.120 (2)(f). A customized service charge applies only if the County estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the County for other purposes. The County may charge a fee consistent with RCW 42.56.120 (2)(f) for such customized access. The fee schedule is available at the office of the public records officer and online at www.okanogancounty.org.

2.88.050 Exemptions.

A. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. The County will publish and maintain a list of possible "other statute" exemptions online at www.okanogancounty.org.

2.88.060 Costs of providing copies of public records.

A. **Inspection.** There is no fee for inspecting public records including inspecting records on the County website.

B. **Statutory default costs.** The County is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: The County does not have the resources to conduct a study to determine actual copying costs for all its records; to conduct such a study would interfere with other essential County functions; and through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act including RCW 42.56.120 and other laws. Therefore, in order to timely implement a fee schedule consistent with the Public Record Act, it is more cost efficient, expeditious and in the public interest for the County to adopt the state legislature's approved fees and costs for most of the County records, as authorized in RCW 42.56.120 and as published in the County's fee schedule.

C. **Fee schedule.** The fee schedule is available at the office of the public records officer and online at www.okanogancounty.org.

D. Processing payments. Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to ten percent of the estimate costs of copying all the record selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The County will not charge sales tax when it makes copies of public records.

E. **Costs of mailing.** The County may also charge actual costs of mailing, including the cost of the shipping container.

F. **Payment.** Payment may be made by cash, check or money order to Okanogan County. (Ord. 2006-3, 2006).

2.88.070 Review of County response to records requests.

A. **Request for internal review of County's response to a public records request.** Any person who objects to the County's response to a public records request may request in

writing (including email) to have the prosecutor review the County's response or decision. The request shall include a copy of or reasonably identify the response or decision to be reviewed.

B. *Consideration of request for review.* The public records officer shall promptly provide the request and any other relevant information to the prosecutor to review. The prosecutor or designee will consider the request and either affirm or reverse the County's previous response or decision within two business days following the prosecutor's receipt of the request, or within such other time as the prosecutor and the requestor mutually agree to.

C. *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 business days after the initial denial regardless of any internal administrative appeal. (Ord. 2020-1 (Att. A), 2020; Ord. 2018-8 (Att. A), 2018; Ord. 2006-3, 2006).