

**ORDINANCE NO. 2228
CITY OF SUMNER, WASHINGTON**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, AMENDING TITLE 1 OF THE SUMNER MUNICIPAL CODE
CREATING A NEW CHAPTER 1.18 RELATING TO THE DISCLOSURE OF
PUBLIC RECORDS.**

WHEREAS, the Washington State legislature passed several amendments to the Public Disclosure Act (RCW Chapter 42.17) and recodified it as RCW Chapter 42.56 entitled the Public Records Act; and

WHEREAS, the City of Sumner is a municipal corporation of the State of Washington which provides general municipal and utility services to its residents and others; and

WHEREAS, two new provisions of RCW Chapter 42.56 require (1) the appointment of a Public Records Officer for the City, and (2) the publishing of the City's procedures for responding to public records requests; and

WHEREAS, the City Clerk is the Records Officer for the City and appointing the City Clerk to be the Public Records Officer will be consistent with local policy and state law; and

WHEREAS, the City has adopted procedures for responding to public records requests by incorporation into the City's Administrative Procedure Manual; and

WHEREAS, the City desires to hereby repeal the procedures set forth in the City's Administrative Procedure Manual for responding to public records requests and repeal all other procedures established and relating to dealing with public records requests; and

WHEREAS, codifying this policy and expanding upon its provisions will allow for a more efficient and effective response to public records requests and more readily provide the public with access to the public records procedure and would satisfy the requirements of the Public Records Act; and

WHEREAS, RCW Chapter 42.56 requires all cities and public agencies to maintain and make available a current index of various public records; and

WHEREAS, RCW 42.56.070(4) provides that if maintaining such an index would be unduly burdensome, a city need not maintain such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly; and

WHEREAS, The City of Sumner is comprised of numerous departments, and their divisions and subdivisions, which maintain separate databases and/or record keeping systems and would makes it extremely difficult, if not physically impossible, and would interfere with City operations to compile an index; and

WHEREAS, The City produces or receives an uncountable number of records each day and maintains an uncountable number of records in numerous city files; and

WHEREAS, The development and maintenance of a city index would be extremely costly and would provide little benefit to the public compared to the expense in maintaining the index; and

WHEREAS, The City's operations do not allow for the addition, revision, or reassignment of duties of existing personnel so that an index may be developed and maintained; and

WHEREAS, Anticipated city revenues do not allow for additional staff for the purpose of creating and maintaining such an index; and

WHEREAS, the City has a long standing and recognized policy of assisting people who request public information and of providing public records upon request and does not plan to deviate from that policy; and

WHEREAS, the City Council desires a new Chapter 1.18 to establish a procedure for providing public records made under the Public Records Disclosure Act Chapter 42.56 RCW.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That there be added a new Chapter 1.18 to the Sumner Municipal Code entitled "Public Records" as follows:

Chapter 1.18 - PUBLIC RECORDS

Sections:

- 1.18.010 Findings.
- 1.18.020 Public records index – Order – Maintenance not required.
- 1.18.030 Public records disclosure – Purpose.
- 1.18.040 Public Records Officer
- 1.18.050 Production of public records - Generally
- 1.18.060 Requests for Public Records
- 1.18.070 Initial Response to Request
- 1.18.080 Final Response to Request
- 1.18.090 Inspection of Records
- 1.18.100 Copying Fees
- 1.18.110 Review of Public Records Request Denials

1.18.010 Findings.

- A. RCW 42.56.070(1) requires all cities and public agencies to maintain and make available a current index of various public records.
- B. RCW 42.56.070(4) provides that if maintaining such an index would be unduly burdensome, a city need not maintain such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome
- C. The City of Sumner is comprised of numerous departments, and their divisions and subdivisions, which maintain separate databases and/or record keeping systems and would makes it extremely difficult, if not physically impossible, and would interfere with City operations to compile an index,

- D. Because the City has records which are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records.
- E. The City produces or receives an uncountable number of records each day and maintains an uncountable number of records in numerous city files.
- F. The development and maintenance of a city index would be extremely costly and would provide little benefit to the public compared to the expense in maintaining the index.
- G. The City's operations do not allow for the addition, revision, or reassignment of duties of existing personnel so that an index may be developed and maintained.
- H. Anticipated city revenues do not allow for additional staff for the purpose of creating and maintaining such an index.
- I. Pursuant to RCW Chapter 42.56, the City of Sumner will disclose all public records, including any indexes that are maintained by the City to the extent such records or indexes are not exempt from disclosure pursuant to RCW Chapter 42.56 or other applicable laws.

1.18.020 Public records index – Order – Maintenance not required.

Pursuant to RCW 42.56.070(4), the City Council orders the following:

- A. The City of Sumner is not required to maintain a current index of public records due to findings of the City Council that the requirement to do so is unduly burdensome and would interfere with City operations and such a list is nearly impossible to create and/or maintain; and
- B. Pursuant to RCW Chapter 42.56, the City of Sumner shall disclose all public records and any indexes of public records maintained by the City to the extent not exempt from disclosure pursuant to RCW Chapter 42.56 or other applicable laws.

1.18.030 Public records disclosure - Purpose.

The purpose of this chapter is to establish the procedure for obtaining public records from the City of Sumner as required by RCW Chapter 42.56 as currently enacted or hereafter amended.

1.18.040 Public records officer.

- A. The City Clerk, who is the Records Management Officer for the City, is hereby designated as the City's Public Records Officer. The City Administrator is authorized to establish and implement policies and procedures for responding to requests for public records to be consistent with those set forth in this chapter.
- B. Any person requesting public records of the City should contact the Public Records Officer at:

City Clerk
 City of Sumner
 1104 Maple Street, Suite 200
 Sumner, WA 98390
 253-299-5500 (Ph)
 253-299-5509 (Fax)

Information is also available at the City's web site at www.ci.sumner.wa.us.

1.18.050 Production of public records - Generally.

- A. Unless exempt from disclosure pursuant to RCW Chapter 42.56, as currently enacted or hereafter amended, or other applicable federal or state law, public records shall be available for inspection and copying. The City may make public records 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 inspection or disclosure. Failure of the City to fully comply with any provision of this chapter shall not result in any liability imposed upon the City other than that outlined in RCW Chapter 42.56, as currently enacted or hereafter amended.
- B. The City need only disclose records to the extent required by state or federal law and nothing in this policy shall be interpreted as requiring the disclosure of any record that is not subject to disclosure by state or federal law. Generally, any record, or portion thereof, which is exempt from disclosure, will not be disclosed, and information contained in the records may be removed to the extent necessary or permissible by law. The City is not required to create records or documents in response to a request for public records that do not exist at the time the request is made.
- C. State law does not require the City to retain and/or maintain every public record it has ever created or used. The City of Sumner has adopted a retention schedule that has been approved by the state records committee.

1.18.060 Requests for public records.

- A. In order to track and promptly respond to all requests for public records, such requests shall be made in writing and delivered in person, fax or by mail. Requests delivered by telephone; orally, or by e-mail will not be accepted as valid public record requests.
- B. The City will provide a public records request form that may be used by those requesting public records. The public records request form is available and can be downloaded from the City's web site at www.ci.sumner.wa.us. In lieu of submitting the request for public records on the City's form, the request may also be submitted in other written format but must contain the following information:
 - 1. The date of the request;
 - 2. The name of the requestor;
 - 3. The full address of the requestor;
 - 4. The telephone number of the requestor;
 - 5. A complete description of the requested record;
 - 6. The title and date of the requested record, if known;
 - 7. The location of the requested record, if known; and
 - 8. Whether the requestor intends to inspect the records or to obtain a copy of the records, at the cost set forth in SMC 1.18.100.
- C. Requests for public records shall be submitted to the City Clerk, or to a designated city employee pursuant to subsection (D) below. The City Clerk may authorize other City employees to make the initial response pursuant to Section 1.18.070 to a request for public records. All requests shall comply with subsections (A) and (B) of this section.
- D. The following designated city employees may receive public record requests directly for the specific records identified in this subsection for each designated employee.

1. The records clerk of the police department, if the request is to inspect and/or copy a police or incident report.
2. The records clerk of the Sumner Municipal Court if the request is to inspect and/or copy documents within the control of the Court.

If the record requested is not identified in subsections (D.1) and (D.2) of this section, or the requestor is unsure of where to file the request, the request shall be filed with the City Clerk/Public Records Officer.

1.18.070 Initial response to request

- A. The City shall make an initial response to the request for public records within five (5) business days of receipt of the request. In the event a request for public records is received after 5:00 p.m., the request shall be deemed to have been received on the next business day. Depending upon the nature of request, the City may respond initially by:
1. Producing the record after the payment of applicable fees, if any;
 2. Acknowledging in writing the City's receipt of the request accompanied by an estimate of the time necessary for further response;
 3. Denying the request in writing accompanied by an explanation of the basis for the denial;
 4. Acknowledging in writing that the records responsive to the request are available for inspection; or copying, and that pursuant to SMC 1.18.100 a deposit is required for copies; or
 5. Requesting in writing clarification of the request.
- B. In the event that the requestor completes the City's standard public records request form, the City may return a copy of the request to the requestor with an estimation of time necessary to provide a final response to the request. This indication on the form of the estimation of time constitutes and satisfies the City's initial response required within five (5) days of receipt of the public disclosure request. Records provided in response to a public records request shall be those documents of record available for disclosure as of the date of the request.

1.18.080 Final response to request.

- A. A public disclosure request is not continuing in nature. In the event additional records are created after the date of the requestor's original public records request, the requestor will need to submit a new request. Any records or portions of records disclosed by the City will be provided to the requestor in the same format as they are retained; provided that any disclosable records contained on a computer or other electronic or mechanical device shall, at the discretion of the City, be provided in printed form, on disk, or in another format.
- B. If the requestor specifies a format in which the records should be disclosed, the City will disclose the records in the requested format if: (a) it is determined that disclosable records exist; (b) the City is capable of providing the records in the format requested; (c) the format requested is reasonable and does not require additional staff time; and (d) the requestor pays all required fees.
- C. The City's response to the request shall be deemed complete and final upon: (a) requestor's inspection of the records; or (b) in the event photocopies were requested, upon notification to the requestor that the photocopies requested are available for pickup and payment.

1.18.090 Inspection of records.

In the event a requestor chooses to inspect records, the City shall notify the requestor once the records which respond to the request are available for inspection. The records will be available for inspection during customary office hours. Records that have been pulled for inspection shall be made available to the requestor for a period of no more than thirty (30) calendar days. In the event a requestor fails to contact the City Clerk, within thirty (30) calendar days of being notified that the records are available for inspection: (a) the records shall be returned to the originating department; and (b) the requester will need to submit a new request for the records and the process will begin anew. If an installment response to a records request is not viewed within thirty (30) calendar days, the City is not obligated to fulfill the balance of the request.

1.18.100 Copying fees.

- A. The City Administrator is authorized to establish a rate schedule setting forth the copying fees. Payment of copying fees, whether photocopying or other form of duplication, shall be made pursuant to the rate schedule as established by the City Administrator prior to the disclosure of the requested public records. In the event that it is estimated that the copying fees applicable to a particular records request exceeds \$25.00, the City, at its discretion, may require the requestor to deposit a sum equal to ten percent (10%) of the estimated cost prior to copying of the records. In the event the City makes a response to a request available on a partial or installment basis, the City may charge for each part of the response as it is provided to the requestor. If an installment response to a records request is not claimed or paid for within thirty (30) calendar days, the City is not obligated to fulfill the balance of the request.
- B. All payments shall be made by cash, money order, or check payable to the City of Sumner. Payment shall be made in person to the records clerk of the Police Department or Municipal Court at the respective customer service desks located at City Hall. Payments may also be made by mail to the City Clerk.
- C. The City has the authority to waive copying fees as described in this section. If the responsive documents are pages that are eight and one-half (8-1/2) by fourteen (14) inches or smaller, the department may provide the first twenty-five (25) pages free of charge.

1.18.110 Review of public records request denials.

- A. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the Public Records Officer for review of that decision. The petition shall include a copy or reasonably identify the written statement by the Public Records Officer or designee denying the request.
- B. The Public Records Officer, in conjunction with the City Administrator, will consider the petition and will either affirm or reverse the denial of the public records request.
- C. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550.

Section 2. Publication. A summary of this ordinance shall be published as required by law.

Section 3. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall be in full force and effect five days after publication as required by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular council meeting thereof this 17th day of September, 2007.

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney

First Reading: 09-17-07
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