



City of Winlock

323 N.E. First Street/PO Box 777
Winlock, WA. 98596-0777
(360) 785-3811/fax (360-785-4378
cityclerk@cityofwinlock.com

April 8, 2024

To: Mayor and City Council
From: Penny Jo & Robert
Subject: Code Enforcement Software (GoGov)

Current Status:

There are currently no clear lines as to who is responsible for code enforcement in Winlock. Is it, or should it be the Police Department or the Community Development Department? And, if it's Community Development, do they have the authority to issue citations?

So, with this, there are numerous offences and nuisances that are not being addressed. We need to get this determined to move forward.

At this time, we cannot tell you how many cases we've had or are to come. However, the annual cost for GoGov is \$3,840.

Code Enforcement By Community Development

If you divide the \$3,840 by the loaded wage per hour of \$46.36, that gives you 82.8 hours/year, divided by 12 = 6.9 hours/month.

Code Enforcement By Police Department

If you divide the \$3,840 by the loaded wage per hour of \$57.83, that gives you 66.4 hours/year, divided by 12 = 5.5 hours/month.

We can pretty much guarantee that the GoGov cost is justified vs. what we pay an employee to do the job, and in a timelier manner. There are no "hidden costs"!

What's To Come:

We have the opportunity to utilize software from GoGov.com that is specific and designed for municipalities to use. Robert and I sat through a presentation with GoGov a couple of weeks ago, and are very impressed with the software, and thus far with the representative we've been working with.

Next Step

- 1) GoGov would like to do a Zoom presentation for you at an upcoming council meeting.

Answers to Questions We Asked Other Washington State Cities Using the Software.

- 1) *I've been using them since 2010, when they first came out with the software.*
- 2) *We have 600-700 cases per year, what used to take hours per case, now takes us minutes.*
- 3) *Unbelievable system!*
- 4) *We have two (2) full-time employees handling code enforcement, we could not keep up with the work if we didn't have GoGov.*
- 5) *GoGov is a great group of folks, and their support is quick to help us, you get a live support person when you call.*
- 6) *There are no hidden costs.*
- 7) *I am the Community Development Director, and I have the authority to site offenders.*
- 8) *I've used them for fourteen (14) years and can't talk highly enough of them.*

Staff Recommendations:

Option #1: It is our recommendation that the Council invite GoGov to do a demonstration at the next council meeting on April 29th.

Option #2: You accept the information that we've provided and approve the proposed GoGov software and cost of \$3,840/year and approve the Mayor to sign. There is cash flow to do this.

Thank you for your consideration and support.

Respectfully,



Winlock City Clerk

From: Robert Webster
Sent: Tuesday, March 19, 2024 2:34 PM
To: Winlock City Clerk
Subject: code enforcement software
Attachments: Winlock City, WA - Quote - 2024-03-18 (CE).pdf

Penny Jo, here is all of the information for the code enforcement software. I am thinking we can do research into other cities that are using it and how does it work for them. Tell me your thoughts?

 [GOGov / Winlock City, WA - CE Demo](#)

As discussed, I've attached a quote for what we covered today, and I was able to get confirmation on a price match for what we gave you in 2022. The quote is on the same term sheet we would ask you to sign if you were to decide to work with us at some point. Appended to the quote is a product info sheet that highlights what the product does/includes. In terms of the pricing model, we try to make things as simple as possible. We offer true software as a service....one annual fee that encompasses **EVERYTHING** you'll need for a successful project. Please see some highlights below:

- No Upfront Costs
- Unlimited Users
- Unlimited Departments
- Unlimited Data Storage
- Unlimited Remote Training for the Life of Working Together
- Software Updates Included
- 24/7 Emergency Phone Support
- Self Service Online Knowledge Base
- Future Proof – As your processes and needs change, our pricing includes being able to call us for continued training, configuration changes and anything else you may need to keep the software aligned with your current process.

Please see below customer references that use our Code Enforcement product in the state of Washington:

✓ **City of Roslyn, WA – Brenda Sargent, City Clerk/ Treasurer – P: (509) 304-8336 – E:**

brenda.sargent@ci.roslyn.wa.us

✓ **Electric City, WA – Tasha Enochs, Records Clerk – P: (206) 713-3081 – E: ecclerk2@electriccity.us**

✓ **City of Longview, WA – Ken Hudson, Code Compliance Officer – P: (360) 442-5093 – E:**

ken.hudson@mylongview.com

Robert

Robert T. Webster
Community Development Director,
Building Inspector,
City of Winlock
PO Box 777/323 NE First St.
Winlock, WA. 98596
Fax:360-785-4378
Phone: 360-785-3811, EXT. 4
Cell: 360-520-5778

City of Winlock, WA

Code Enforcement Case Management

March 18, 2024

Prepared By:

Emily Goczan

(631) 861-5814

emily.goczan@GoGovApps.com

Prepared For:

Robert Webster

Community Development Director

winplan@cityofwinlock.com

Subscriptions & Services

Description	Amount
GOEnforce Code Enforcement Case Management (CE) - Unlimited Subscription	\$3,840 /year
Services: \$0 Annually: \$3,840	

Order Details

Primary Contact			
Contact Name:		Phone:	
Title:		Email:	

Billing Information			
Contact Name:		Phone:	
PO #: (Optional)		Email:	

Contract Term Information	
Initial Subscription Period:	12 months starting:

Terms & Conditions

The following terms are the latest version of the GOGov Master Terms & Conditions that is maintained and updated. No part of these terms may be modified other than the "Special Terms & Exceptions" section.

1. **IMPORTANT NOTICE TO USER:** GOGov, Inc. (dba "GOGov") owns all intellectual property in the software products listed in the Products and Services section (collectively "Software" or "Subscription Services") in the Order Form. Customer shall not modify, adapt, translate, rent, lease or otherwise attempt to discover the Software source code. The following terms and conditions (this "Agreement") will be effective as of the date of last signature of the Order Form ("Effective Date") and will be governed by the laws in force in the State of New York.
2. **Software License.** The Software subscription services and the accompanying files, software updates, lists and documentation are licensed, not sold, to you. You may use a copy of the Software on your compatible computer for the purpose of connecting to the hosted service provided by GOGov as long as you are a current subscriber and maintain your annual continued services for the applicable licenses. Except as expressly set forth herein, GOGov disclaims any and all express and implied warranties, including but not limited to warranties of merchantability and fitness for a particular purpose.
3. **Continued Services**
 - 3.1 *Hosting.* GOGov agrees to maintain Customer data in a secure datacenter and is committed to providing 99.5% uptime and availability. GOGov will perform nightly backups of your hosted data to an alternate physical location.
 - 3.2 *Ownership of Data.* All hosted data specific to Customer is owned by the Customer. Within thirty (30) calendar days following termination of this Agreement, the Customer can request and GOGov will provide a complete copy of Customer's data without additional charge through a downloadable zip file provided the customer is current on payments.
4. **Payment Terms & Fees**
 - 4.1 *Subscription Term and Termination.* The initial Subscription Term of this Agreement begins on Effective Date (last signature) and will continue to the end of the Initial Subscription Period listed in the Order Form. At the end of the initial Subscription Term, Customer's subscription and this Agreement will renew for an additional twelve (12) month term and for subsequent twelve (12) month periods thereafter. Quotes for budgeting purposes will be sent 6 months prior to subscription renewal. Invoices are sent approximately 60 days prior to subscription renewal. To cancel this agreement, Customer should submit written notice to GOGov at Billing@GOGovApps.com not less than sixty (60) calendar days prior to the end of the then-current Term. GOGov reserves the right to increase the annual fees by 7% on the anniversary date of each annual term.
 - 4.2 *Payment Terms.* Initial payment is due at the beginning of the subscription term. Each subsequent annual billing will be due on the anniversary date of the initial term. Payment Terms are NET 30 Days from the invoice date.
 - 4.3 *Taxes & Obligations.* In exchange for its use of the Subscribed Services, Customer will pay to GOGov the amounts indicated in the Order. Said amounts are based on services purchased and not actual usage; payment obligations are non-cancelable and fees paid are non-refundable, except as otherwise specifically-provided herein. Unless otherwise stated, such fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction ("Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If GOGov has the legal obligation to pay or collect Taxes for which Customer is responsible, the appropriate amount will be invoiced to and paid by Customer, unless GOGov is provided with a valid tax exemption certificate authorized by the appropriate taxing authority. GOGov is solely responsible for taxes assessable against it based on its income, property and employees.
 - 4.4 *Convenience Fees.* For GOGov products that manage credit card processing, GOGov will add a Convenience Fee of \$3.00 plus 3% per transaction to offset the costs of online processing.
5. **Limitation of Liability.** GOGov will, at all times during the Agreement, maintain appropriate insurance coverage. In no event will GOGov's cumulative liability for any general, incidental, special, compensatory, or punitive damages whatsoever suffered by Customer or any other person or entity exceed 50% of the annual contract value at the point in time when the circumstances came about to such claim(s) of liability, even if GOGov or its agents have been advised of the possibility of such damages.

6. **Updating of Terms.** Upon each renewal of this Agreement, the latest Master Terms & Conditions that GOGov has published within the software ninety (90) days prior to the renewal date shall replace these terms. Any Special Terms & Exceptions listed in the original document shall carryover to the renewal terms. We reserve the right to change our Master Terms & Conditions at any time. If the changes are material, GOGov will advise the Customer by email or posting a notice on the site before changes go into effect. If the Customer does not agree to the new terms, Customer may contact Support@GOGovApps.com to have objections considered.
7. **Other Provisions**
 - 7.1 *Other Public Agency Orders.* Other public agencies may utilize the terms and conditions established by this Agreement if agreeable to all parties. Customer does not accept any responsibility or involvement in the purchase orders or contracts issues by other public agencies.
 - 7.2 *Alternate Terms Disclaimed.* The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.
8. **Special Terms & Exceptions.** None.

This Order Form is entered into between Customer and GOGov. Customer accepts and agrees to adhere to the Terms and Conditions with this order form, will be referenced as the "Agreement." This Agreement between Customer and GOGov, which Customer hereby acknowledges and accepts, constitutes the entire agreement between GOGov and Customer governing the Services referenced above. Customer represents that its signatory below has the authority to bind Customer to the terms of this Agreement.

GOGov, Inc.**City of Winlock, WA****Sign:**_____
Name: Daryl Blowes_____
Title: CEO_____
Date:**Sign:**_____
Name:_____
Title:_____
Date:

Additional Customer Signatures (Optional)

Sign:_____
Name:_____
Title:_____
Date:**Sign:**_____
Name:_____
Title:_____
Date:



GOEnforce®

Powerful Code Enforcement Software to manage every aspect of Municipal Code Enforcement.



GOEnforce® is an innovative and easy-to-use solution for managing all your Code Enforcement cases. Whether you are in the office or in the field, GOEnforce® allows you to work wherever you need. Simply choose the violations and which actions you want to take or letters you want to send and let GOEnforce® handle the rest.

Complete Case Management at Your Fingertips

We understand how hectic your day can be. If you are a "Team of One" or an entire department of Code Enforcement officers, the design of our product is intuitive and just makes sense for what you do. All of the activities, notes, pictures, letters, violations, fees and more are always at your fingertips.

- Violations & Corrective Actions
- Case Notes and Actions Taken by your Department
- Pictures, Videos and any other kind of Attachments
- Letters and Administrative Citations
- Fees and Payments

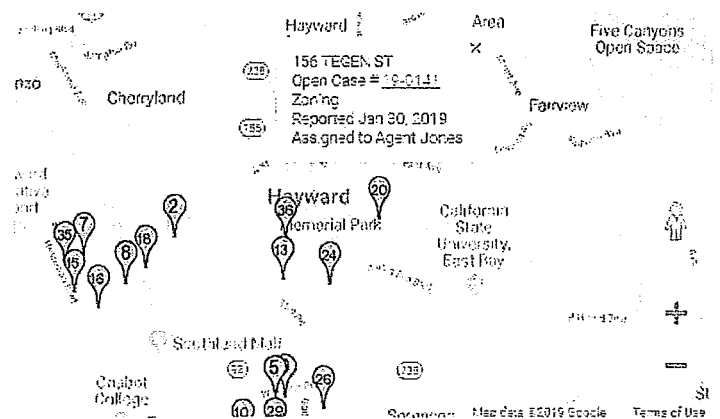
No Upfront Fees or Startup Costs

We try to earn your business every single day and so we will start by footing the bill to get you started. Everything you need to setup your codes, violations, letter templates, reports and most importantly train your staff - Its All Included!

Software that Works for You

Our software was designed around the way you work, which is what makes it so intuitive and useful.

- One Click Letter Generation from Templates that we setup for you
- Batch Printing of Letters to Assist Officers in the Field
- Automatic Parcel Lookups with Owner Information and Address validation.
- Notification and Workflow features will deliver Reminders & Inspection sheets directly to staff at calculated due dates.
- Property and Resident alerts can easily be viewed from previous case files.
- Generate reports, documents and even print full case history required for prosecution.
- Map views allow you to plan your day or visualize cases by location.
- Audit Log tracks every change made to a case file



Special Features

We have developed features in the software that helps process annual and recurring types of inspection cases for officers.

- **Rental Inspection** - Using intelligent algorithms, we can help detect properties that are suspected to be rentals and automatically create cases for inspection. For the properties we know are rentals annual inspections and letters can be automatically generated.
- **Weed Abatement** - Another annual chore that we can automate allowing inspectors to drive through areas and clear for tall grass.
- **Vehicle Abatement** - track multiple vehicle information and generate abatement notices to assist with cost recovery and reimbursement.
- **Business License Enforcement** - Track expired business licenses and allow GOEnforce® to automatically generate the letters, assess fees and create cases for officers to follow-up.

Integrations

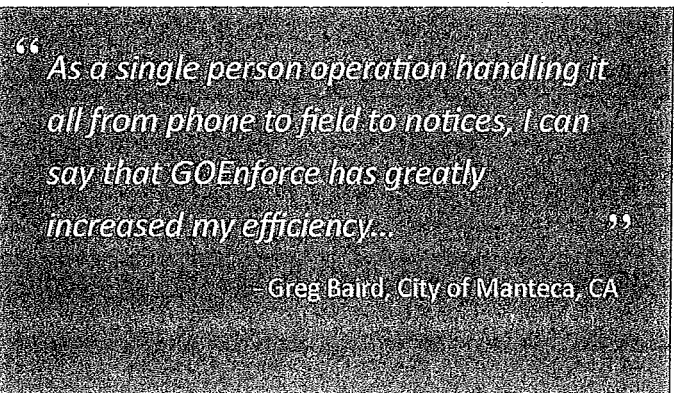
We learned that sharing is one of the most important parts of helping our customers. This is why we have built integrations into systems where it counts. Here are a few:

- **ESRI ArcGIS** integration makes address validation and parcel lookup with owner information simple. We also can use other data like districts, wards and more to enhance the workflow and reporting delivered to your agents and citizens.
- **Revenue Experts** - our integration with Revenue Experts can automatically transmit your administrative citation fees to experts that can help you collect.
- **Permitting Systems** - Quickly view permits from other systems when working on code cases.
- **LDAP / Active Directory** - another password is the last thing any of us want. With our LDAP integration we can sync up users and permissions and authenticate against your Active Directory so you don't have to do extra work or remember another password.

Support and Training You Will Love ♥

Our goal is to make you love our company at every encounter. We have a mature process and experienced staff that will be able to provide expert advise and assistance every step of the way.

- **Expert Advise** providing analysis of your service codes, letters, notices, documents and processes using industry best practices to make your job as easy as possible.
- **Project Management** - your dedicated project manager will track and monitor your progress throughout the project.
- **Configuring** your municipal code summaries, defining parcel data imports, customizing fields and forms, creating letter templates, customizing reports and more.
- **Training Library** - As we train you, we will produce a library of videos and documents specific to your agency. These videos can be used for onboarding future staff or just going back to get a refresher on more advanced stuff. But don't worry - we are always willing to give additional training as you need it.
- **Staff Training** is our favorite part because we know you are going to love what you see and how easy it is to use. When we hear "oooh's" and "aaah's" then we know we are doing our job.



About GOGovApps

GOGovApps specializes in providing CRM and Code Enforcement software to local governments of all sizes. Our long history and experience working with hundreds of government agencies across the country really shows in the products and services we provide. We built our software from the ground up working with the departments and staff that now use our products every single day.

Chapter 1.20

CODE ENFORCEMENT OFFICER AND CIVIL INFRACTION

CITATION AUTHORITY

Sections:

- 1.20.010 Purpose and applicability.**
- 1.20.020 Code enforcement officer duties.**
- 1.20.030 Jurisdiction of the Winlock municipal court.**
- 1.20.040 Issuance of process.**
- 1.20.050 Definitions.**
- 1.20.060 Notice of infraction – Issuance, service, filing.**
- 1.20.070 Person receiving notice – Identification and detention.**
- 1.20.080 Notice – Determination final unless contested – Form.**
- 1.20.090 Municipal court proceedings.**
- 1.20.100 Nuisance abatement by the city, cost recovery and lien authorized.**
- 1.20.110 Fines.**

Cross-reference: Chapter 7.80 RCW.

1.20.010 Purpose and applicability.

This chapter provides a process for enforcing the requirements of the municipal code and any order, permit or decision issued by the city pursuant to the municipal code. The civil process set forth herein is designed to provide prompt notice to property owners and other interested parties that appear to be in violation of the municipal code and to guarantee those accused of a code violation the right to a hearing in municipal court. The process is designed to provide a measure of certainty to the citizens of Winlock that code violations will be addressed in a timely manner and to ensure that the due process rights of those accused of violations are protected. This chapter shall apply to all violations of any provision of the Winlock Municipal Code, except for criminal matters within the authority of the Winlock police department under Chapter 9.05 WMC, Criminal Code. (Ord. 931 § 1 Exh. A(8.02.010), 2007)

1.20.020 Code enforcement officer duties.

A. The code enforcement officer investigates citizen and agency inquiries regarding potential violations of Winlock Municipal Code. The purpose of code enforcement investigations is to ensure compliance with minimum standards of various municipal codes such as sign codes, zoning regulations (except discretionary land use permits), nuisance regulations, and critical areas regulations. Functions of the code enforcement officer include:

1. Final inspections of signs for size, placement, and other conformance standards;
2. Current and historical records research from citizens, county and state agencies;
3. Conduct investigations and inspections of possible violations of Winlock Municipal Codes, such as but not limited to:
 - a. Critical areas violations;
 - b. Setbacks;
 - c. Occupied RVs (Title 8);
 - d. Home occupations (Title 18B);
 - e. Animals (number, setbacks of pens, structures, etc.) (WMC Title 6);
 - f. Junk, salvage, and wrecking yards (WMC Titles 8 and 10);
 - g. Illegal businesses, e.g., contractors' yards, manufacturing uses in nonindustrial zones, etc.;
 - h. Illegal signs;
 - i. Expansion of nonconforming uses;
 - j. Other Winlock Municipal Code violations; and
 - k. Coordination with county, state, and/or federal agencies to seek assistance in code enforcement matters (i.e., Lewis County environmental health department, Department of Ecology, and/or Corps of Engineers).

B. Corrective actions necessary to remedy building code violations are under the authority of the city of Winlock building official. Actions may include notice and orders to correct, stop work, or any other written order to correct building code violation infractions. However, the building official is empowered to refer a building code violation to the code enforcement officer, citing appropriate code violation(s), and may recommend that a civil infraction citation be issued by the code enforcement officer.

C. Appointment. The code enforcement officer is appointed by the mayor and a limited commission is conveyed by the chief of police, to allow issuance of civil infraction citations. (Ord. 931 § 1 Exh. A(8.02.020), 2007)

1.20.030 Jurisdiction of the Winlock municipal court.

The court has the authority to hear and determine civil infractions that are established by municipal ordinance and that are committed within the jurisdiction of Winlock pursuant to Chapter 7.80 RCW. (Ord. 931 § 1 Exh. A(8.02.030), 2007)

1.20.040 Issuance of process.

Notwithstanding any other provision of law governing service of process in civil cases, the Winlock municipal court having jurisdiction over an alleged civil infraction may issue process anywhere within the state. (Ord. 931 § 1 Exh. A(8.02.040), 2007)

1.20.050 Definitions.

“City” means the city of Winlock.

“Civil infraction” means the violation of any provision of the Winlock Municipal Code, except Chapter 9.05 WMC, Criminal Code, or the failure to comply with any lawful requirement, order or decision by an authorized city official, hearings examiner or other decision maker.

“Code” means the Winlock Municipal Code as it currently exists or from time to time may be amended.

“Code enforcement officer” means the person authorized to enforce municipal codes and ordinances in which civil infractions are established.

“Court” means Winlock municipal court (a court of limited jurisdiction).

“Officer” means a sworn peace officer; the city’s building official, the code enforcement officer, or any other person designated by the mayor to enforce the Winlock Municipal Code.

“Permit” means any land use, building or other permit or approval granted by the city or any city official.

“Respondent” means any individual, corporation, partnership, unincorporated association or other entity alleged to have committed a civil infraction and any owner of a property or structure

on which a civil infraction is alleged to have occurred. (Ord. 931 § 1 Ex. A(8.02.050), 2007)

1.20.060 Notice of infraction – Issuance, service, filing.

A. A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

B. Upon a determination of the code enforcement officer, or any other person designated by the mayor to enforce the Winlock Municipal Code, that one or more civil infractions have occurred, the officer shall issue a citation to the person who, in the officer’s opinion, is responsible for the activity or failure to act that is deemed to be the civil infraction or the owner or person responsible for the property on which the infraction is alleged to have occurred.

C. The court may issue a notice of civil infraction if a code enforcement officer files with the court a written statement that the civil infraction was committed in the officer’s presence or that the officer has reasonable cause to believe that a civil infraction was committed.

D. Service of a notice of civil infraction issued under subsection B or C of this section shall be as provided by court rule. Until such a rule is adopted, service shall be as provided in Infraction Rules for Courts of Limited Jurisdiction (IRLJ) as applicable.

E. A notice of infraction shall be filed with a court having jurisdiction within 48 hours of issuance, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice. (Ord. 931 § 1 Ex. A(8.02.060), 2007)

1.20.070 Person receiving notice – Identification and detention.

A. A person who is to receive a notice of civil infraction under RCW 7.80.050 is required to identify him/herself to the code enforcement officer by giving his/her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver’s license or identicard.

B. A person who is unable or unwilling to reasonably identify him/herself to the code enforcement officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil infraction. (Ord. 931 § 1 Ex. A(8.02.070), 2007)

1.20.080 Notice – Determination final unless contested – Form.

A. A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

B. A citation for a civil infraction shall include at least the following information:

1. The name and address of the respondent;
2. The time, date and place the civil infraction was alleged to have occurred;
3. A statement describing the civil infraction(s) alleged to have occurred with a reference to the pertinent code section(s) or other commonly understood reference to the law, ordinance or permit alleged to have been violated;
4. The time, date and place for the initial hearing in municipal court, at which the respondent shall appear and respond to the charge alleged in the citation;
5. A certification that the officer issuing the citation has reasonable grounds to believe that the respondent committed the civil infraction contrary to law. This certification shall be deemed equivalent to a sworn complaint;
6. That the person must respond to the notice as provided in this chapter within 15 days;
7. That failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear;
8. That the person promises to respond to the notice of civil infraction in one of the ways provided in this chapter, which the person shall sign;
9. That failure to respond to a notice of civil infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail. (Ord. 931 § 1 Exh. A(8.02.080), 2007)

1.20.090 Municipal court proceedings.

A. The municipal court shall have jurisdiction over all civil infractions presented under this chapter. The municipal court shall adopt, and may amend from time to time, procedural rules governing proceedings before the court.

B. The following procedures shall be incorporated into the proceedings before municipal court:

1. If the respondent enters a response of having committed the infraction, no contest, or fails to appear or otherwise enter a response, the municipal court shall find that the respondent committed the infraction as alleged and shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter.

2. If the respondent timely enters a response of not having committed the infraction, the court shall schedule the matter for hearing.

3. At the hearing, the city shall present its case and evidence in support of the citation. The city must also establish that the respondent was notified or otherwise informed that respondent's conduct or the condition of respondent's property was a code violation prior to issuance of a citation under this chapter. The respondent shall be afforded an opportunity to review and rebut the city's evidence, cross examine the city's witnesses, and present testimony, evidence and witnesses in support of respondent's case. Any party may be represented by an attorney, but the city is not responsible for providing respondent with an attorney.

4. The court shall enter an order in favor of the city if the city proves by a preponderance of the evidence that the respondent knowingly committed the infraction, in which case the court shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter. (Ord. 931 § 1 Exh. A(8.02.090), 2007)

1.20.100 Nuisance abatement by the city, cost recovery and lien authorized.

A. Nuisance and Abatement Order. Upon a finding that the respondent knowingly committed the civil infraction as alleged, the municipal court shall declare the civil infraction to be a nuisance, in which case the municipal court may order the respondent to abate, correct or otherwise remedy the nuisance. In the event the respondent fails to so abate, correct or remedy the nuisance within 10 days of the court's abatement order, the city, without further proceedings, may take whatever action is necessary to abate, correct or remedy the nuisance. The city may also seek from the municipal court an order of contempt against respondent for failing to comply with the court's abatement order. All of the city's expenses incurred in undertaking an abatement action and seeking a contempt order may be levied against the respondent or owner of the subject property. If the amount of the city's levy is not fully paid within 30 days of presentment to the respondent or property owner, the city may record the levy in the city's lien docket or the county real property records as a lien against respondent's real property.

B. Summary Abatement by the City in Emergency Situations. With or without the respondent first having appeared, the city prosecutor may seek, and the municipal court may order, the summary abatement of the activity alleged in the civil infraction citation upon a finding that:

1. An imminent and substantial threat to the public health, safety or welfare exists by virtue of the alleged action or inaction; and
2. Immediate abatement of the activity or nuisance is necessary to prevent the threatened harm to the public health, safety or welfare.

Upon issuance of a summary abatement order under this subsection, the city may, without further notice or proceedings, take whatever steps are necessary to abate, correct or remedy the nuisance that is the basis for the citation.

C. Recovery of the City's Costs. The city shall be entitled to the recovery of its expenses incurred in undertaking a code enforcement action, abatement and/or obtaining a contempt order against the respondent. Following an enforcement action, abatement or issuance of an order of contempt, the city shall submit to the court and serve on respondent a verified statement of its costs incurred in the enforcement or abatement action and/or contempt proceeding, including labor, disposal and administrative costs, attorney and expert witness fees. The court shall issue an order and money judgment awarding the city its reasonable costs incurred. If the amount of the judgment is not fully paid within 30 days of issuance, the city may, without further notice or proceedings, record the levy in the city's lien docket or the county real property records as a lien against respondent's real property in any county where the respondent owns property. (Ord. 931 § 1 Exh. A(8.02.100), 2007)

1.20.110 Fines.

A. Upon conviction of a civil infraction of any of the municipal code, the court may impose a maximum civil penalty of \$300.00 per infraction.

B. Each day that a violation exists shall constitute a separate civil infraction.

C. The remedies and penalties provided in this chapter are in addition to, and not in lieu of, any other remedy or penalty provided by law, including, but not limited to, revocation or nonrenewal of a permit or license, action under the Uniform Code for the Abatement of Dangerous Buildings, Chapter 35.80 RCW (relating to unfit dwellings, buildings and structures), Chapter 7.48 RCW (relating to nuisances), injunction, abatement or civil damages as provided by this code or any other provision of the state law in any court of competent jurisdiction. (Ord. 931 § 1 Exh. A(8.02.110), 2007)

The Winlock Municipal Code is current through Ordinance 1149, passed December 27, 2023.

Disclaimer: The city clerk's office has the official version of the Winlock Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cityofwinlock.com>

City Telephone: (360) 785-3811

Code Publishing Company.

City of Winlock

NSF CHECK POLICY

- A fee shall be charged per the current City of Winlock fee schedule for all checks, debit cards, or e-check payments returned for nonsufficient funds. Payment will become null and void.
- In accordance with the Winlock Municipal Code (WMC) 13.40.150, all NSF checks will be subject to the current City of Winlock fee schedule. The fee will be billed onto the customer's utility account(s) or assessed to miscellaneous invoices. If more than one (1) utility account is affected, each additional utility account will be subject to the current City of Winlock fee schedule.
- NSF Checks must be paid in full, with cash, money order, cashier's check or credit card (no debit cards).
- If an NSF Check is not paid in full within twenty-four (24) hours of notice or arrangements made with the City Treasurer, including the NSF fee, utility service will be locked until paid.
- If more than one (1) NSF check is received within a one-year period, an alternate form of payment will be required by using cash, money order, cashier's check, or credit card for a period of one (1) year. (Ord. 1138 § 1, 2023)

Date Approved: _____

Brandon Svenson, Mayor

City of Winlock

PUBLIC RECORDS POLICY

Adopted: March 11, 2024
April 8, 2024

Section 1. Authority and Purpose.

The Public Records Act, RCW 42.56 ("The Act" or "PRA"), requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. Pursuant to Resolution No. 2024-06 adopted by the City Council on ~~March 11, 2024~~ April 8, 2024, the following Rules for responding to public records/disclosure requests are established.

The purpose of these rules is to provide procedures for the full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our City government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City will be guided by the provisions of the Act describing its purposes and interpretation. Unless otherwise stated herein, the definitions outlined in the Act shall apply. In the case of any conflict between these Rules and the Act, the Act shall apply. These rules are a supplement to Chapter 2.75 of the Winlock Municipal Code.

Section 2. Terms And Definitions

- a. **Incorporation of Definitions.** This policy incorporates the definitions in RCW 42.56.010 and any relevant definitions in RCW 42.174.005.
- b. **Additional Definitions.**
 1. "Act" refers to the Public Records Act, Chapter 42.56 RCW.
 2. "Bot Request" means a request for Public Records that the City reasonably believes was automatically generated by a computer program or script.
 3. "City" refers to the City of Winlock.
 4. "Exemption" refers to any statute that allows or requires the City to withhold information or records in response to a PRA request.
 5. "Policy" refers to this policy for the Public Records Act.
 6. "Public Record" means 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 City regardless of physical form or characteristics. Records created or received by employees using privately owned devices only qualify as Public Records if the employee was acting within the scope of employment when the record was created or received, or when the record is subsequently used for a City purpose.
 7. "Public Records Officer" or "PRO" is the person identified in Section 4 of this Policy.
 8. "PRA Request" means a request for Public Records made to the City pursuant to the Act.
 9. "Requestor" means the person or entity that has made a Records Request to the City.
 10. "Withholding" means non-disclosure of exempt records, either all or in part.
 11. "WMC" means the Winlock Municipal Code.

Section 2.Section 3. Description of City Services and Administrative City Hall Office

The City of Winlock is a Washington municipal corporation that provides the full range of traditional municipal services through its various departments. These functions include, but are not limited to, maintaining public records. The City shall maintain descriptions of the City's organization and the process through which the public may obtain information from the City.

The City of Winlock's Administrative City Hall office is located at Winlock City Hall, 323 NE First St., Winlock, WA 98596.

Section 3.Section 4. Public Records Officer

Any person wishing to request access to public records or seeking assistance in making a request should contact the City's Public Records Officer. The City Clerk is designated as the City's Public Records Officer.

The Public Records Officer will oversee compliance with the Public Records Act and these Rules. In addition, each city department shall designate a staff member or members to assist the Public Records Officer in implementing these Rules. The department-designated public records ~~staff member~~ staff member(s) will assist the Public Records Officer in communicating with ~~requester~~ requestors, identifying records responsive to requests pertaining to ~~the that~~ department, redacting information that is exempt from production, and providing responsive records to requestors, as appropriate and under the oversight of the Public Records Officer.

The Public Records Officer and/or designee(s) will provide the fullest assistance to requestors, ensure that public records are protected from damage or disorganization, and prevent work related to public records requests from causing excessive interference with the essential functions of the City.

When using these Rules, references to the Public Records Officer should be interpreted to also include his or her designee(s) and/or the department-designated public records staff members.

Section 4.Section 5. Availability of public records.

- a. **Hours for Inspection.** Public records are generally available for inspection and copying during the City's normal business hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. Closed Noon-1:00 p.m.), excluding legal holidays and City recognized holidays. To assure protection of public records, City staff may require that inspection and/or copying of records responsive to a specific request occur at such dates and times as mutually agreed between City staff and a requestor.
- b. **Place of Inspection.** Records will generally be made available for inspection at the ~~City's Administrative office~~ City Hall. City staff and the requestor may make mutually agreeable arrangements for inspection at other locations if the particular records being sought are maintained at ~~field other~~ offices of the City.

A requestor shall not take City records from City offices.

- c. **Electronic Access to Records.** A variety of records are available on the City's web site at: <https://www.cityofwinlock.com>.

To the extent practical, the City will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the City may provide access to public records by providing links to the web site containing an

electronic copy of the record, provide records on a USB Flash Drive, or transmit the responsive record via e-mail, or provide records in any other electronic format. The Public Records Officer will work with the requester/requestor to determine the most appropriate method for providing electronic copies of responsive records.

- d. **Records Index.** By adopting Section 2.75.040 of the Winlock Municipal Code, the City Council determined that maintenance of a current index of identifying information for the public records described in RCW 42.56.070(3) would unduly burden and interfere with city operations.
- e. **Organization of Records.** City departments will seek to maintain records in a reasonably organized manner and the City will take reasonable actions to protect records from damage and disorganization.
- f. **Retention of Records.** The City is not required to retain all records it creates or uses. The State Attorney General's Local Records Committee approves a general retention schedule for local agency records (including cities) that are common to most agencies. Individual agencies may seek approval from the Local Records Committee for retention schedules specific to their agency or that, due to their particular business needs, must be kept longer than provided in the general schedule. The retention schedules for local agencies are available at <https://www.sos.wa.gov/archives/recordsmanagement/local-government-records-retention-schedules---alphabetical-list.aspx> <https://www.sos.wa.gov/archives/RecordsManagement/Managing-City-Records.aspx>.

Retention schedules vary based on the content of the record.

Section 5. Section 6. Making a Request for Public Records.

- a. **Reasonable Notice that the Request is for Public Records.** In order to make a request for public records, that ~~trigger~~ triggers the City's obligation to respond and facilitate a timely response, a requestor must provide the City with fair notice that a request being made is for public records. To do so, a requestor must request records as set forth in ~~Section 6~~ Section 5(b) below and, if the request is made other than via the City website public records form, label the front page of the document as containing a public records request, cite or name the Public Records Act, use the terms "public records" or "public disclosure," or otherwise call the request to the attention of the Public Records Officer. Requestors are encouraged to cite or name the Act but are not required to do so. A request using the City's request form or online request form or portal, or using the terms "public records," "public disclosure," "FOIA," or "Freedom of Information Act" (the terms commonly used for federal records requests), especially in the subject line of an email or letter, is recommended. The request should be directed to the Public Records Officer or the City-designated address or submitted through the City-designated portal for public records requests, which should provide the City with fair notice in most cases. A requestor may not bury a request for public records within a larger document or communication unrelated to a public records request and should not submit a "stealth" request, which is buried in another document in an attempt to trick the City into not responding. A requestor may not bury a request for public records within a larger document or communication unrelated to a public records request.
- b. **Form.** Any person wishing to inspect or copy identifiable public records of the City

should make the request in writing in one of the following ways:

1. **Requests for Records other than Police Records:** Requests to inspect or copy any records maintained by the City, other than Police records, should be made to the Public Records Officer using the online "Request for Public Records - GENERAL" form available at <https://cityofwinlock.com/index.php/forms-and-permits/>. In addition, requests may be made in writing, labeled "Public Records Act request," and delivered to the address below:

Public Records Officer
Winlock City Hall 33624 SE River Street
PO Box 777
Winlock, WA 98596
Telephone: 360-785-3811 ext. 201

2. **Requests for Police Records:** Requests to inspect or copy records maintained by the City's Police Department should be made using the online "Request for Public Records - POLICE" form available at <https://cityofwinlock.com/index.php/forms-and-permits/>. In addition, requests may be made in writing, labeled "Public Records Act request," and delivered to the address below:

Winlock City Hall —
Police Department
PO Box 777
Winlock, WA 98596
Telephone: 360-785-3891

3. **Internet access to records.** Many records are also available on the City of Winlock website at: <https://www.cityofwinlock.com>. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

3.

5.4. ~~Jv.~~ Regardless of the form of the request, the following information shall be included in the request:

- ~~Name~~ Name and address of requestor;
 - Other contact information, including telephone number and email address;
 - The fact that the requestor is making a Public Records Act request;
 - Identification of the requested records adequate for the Public Records Officer to locate the records; and
 - The date of the request.
- c. — **Identifiable Record.** A requestor must request an "identifiable record" or "class of records" before the City must respond to it. An "identifiable record" is one that is existing at the time of the request and which City staff can reasonably locate. The Act does not require the City to be a "mind reader" or to guess what records are being requested. The Act does not allow a requestor to make "future" or "standing" (ongoing) requests for

records not in existence; nonexistent records are not “identifiable.”

A request for all or substantially all records prepared, owned, used, or retained by the City agency is not a valid request for identifiable records; a request for all records must identify a particular topic or contain a particular keyword or name to not constitute a request for all of the City’s records. A “keyword” or name must have some meaning that reduces a request from all or substantially all of the City’s records.

A request for all of the City’s emails can encompass substantially all of the City’s records, and such a request contains no keywords. The act does not allow a requestor nor requires the City to search through City files for records which cannot be reasonably identified or described to the City. It benefits both the requestor and the City when the request includes terms that are for identifiable records actually sought by the requestor, and which produce meaningful search results by the City.

However, a requestor is not required to identify the exact record he or she seeks. For example, if a requestor requested the City’s “2001 budget,” but the City only had a 2000-2002 budget, the requestor made a request for an identifiable record.

An “identifiable record” is not a request for “information” in general. For example, asking “what policies” the City has for handling discrimination complaints is merely a request for “information.” A request to inspect or copy the City’s policies and procedures for handling discrimination complaints would be a request for an “identifiable record.”

Public records requests also are not interrogatories or questions. The City is not required to answer questions about records, City business or City actions, or conduct legal research for a requestor. A request for “any law that allows the county to impose taxes on me” is not a request for an identifiable record. Conversely, a request for “all records discussing the passage of this year’s tax increase on real property” is a request for an “identifiable record.”

When a request uses an inexact phrase such as all records “relating to” a topic (such as “all records relating to the property tax increase”), the Public Records Officer may interpret the request to be for records which directly and reasonably address the topic. The Public Records Officer should inform the requestor of the City’s interpretation when responding to a request. When the City receives a “relating to” or similar request, it should seek clarification of the request from the requestor or explain how the City is interpreting the requestor’s request.

- d. —**Prioritization of Records.** The Public Records Officer may ask a requestor to prioritize installments of the records he or she is requesting so that particular records may be provided first. A requestor need not prioritize installments for their request; however, if a requestor chooses not to prioritize installments or declines the Public Records Officer’s request that the requestor do so, the Public Records Officer will provide records in the order determined by the Public Records Officer or designee(s).
- e. **Copies.** If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should indicate and make arrangements to make a deposit or pay for the copies, as further discussed in Section 11~~Section 10~~ below. Costs for copies are set out on the fee schedule published periodically by the City Clerk and made available at the City Hall and on the City’s web site.

- f. **—Oral Requests.** The Public Records Officer may accept oral requests for public records that contain the above information by telephone or in person, provided that the request seeks a particular document identifiable by name, *for example*: “current City zoning map,” or “Ordinance No. 1111.” If such an oral request is made, the Public Records Officer will confirm receipt of the information and the substance of the request in writing. If other requests are attempted to be made orally, in order to avoid confusion, the Public Records Officer will direct the requestor to submit the online public records request form (Section 6(b)(1*i*) or (2*ii*) above) or to otherwise submit the request in writing.
- g. **—Requests Made Directly to City Departments.** Requests for public records that are made directly to departments must be delivered to the Public Records Officer immediately upon receipt for coordinated processing. Any employee who receives any such request shall forward or hand deliver to the Public Records Officer upon receipt of the request.
- h. **Purpose of Request.** Generally, the City shall not distinguish among people requesting records. To that end, a requestor need not state the purpose of the request, except that the City may request the requestor to provide information as to the purpose of the request in the following instances:
1. —If the request is for a list of individuals, the City shall investigate whether the requestor intends to use the list for commercial purposes. The City may require that the requestor sign a declaration stating that he or she will not use the list for commercial purposes. Unless otherwise required by law, the City shall not give, sell, or provide access to lists of individuals requested for commercial purposes.
 2. The City may request information from a requestor about the purpose of the request sufficient to allow a determination as to whether another statute prohibits disclosure of specific information or records to certain persons.
 3. —The City may request information from a ~~requester~~requestor about the purpose of a request in an effort to better understand the request and provide all responsive records.
- i. **—Overbroad Requests.** The City may not deny a request for identifiable public records solely because the request is overbroad. However, the City may seek clarification, ask the requestor to prioritize the request so that particular records are provided first, and/or communicate with the requestor in an effort to voluntarily limit the size and complexity of the request. The City may also provide the responsive records in installments.
- i.j. **Bot Requests.** The City may deny a Bot Request that is one of multiple requests from the Requestor to the City within a twenty-four (24) hour period if it is established that responding to the request would cause excessive interference with other essential functions “Bot request” means a request for Public Records that an agency reasonably believes was automatically generated by a computer program or script.

Section 6. Section 7. Processing public records requests

- a. **Providing “Fullest Assistance”.** These Rules and related policies and procedures identify how the City will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions

of the agency, provide the fullest assistance to requestors and provide the timeliest possible action on public records requests. All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer and/or department-designated staff, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the Public Records Officer or other duties of any assisting employee(s) in other City departments.

- b. —**Order for Processing Requests.** The Public Records Officer will process requests in the order and manner he or she determines to be the most efficient. If a request involves production of records in installments, and the requestor has prioritized the preferred order of production of those installments, the Public Records Officer will provide the installments according to the requested prioritization.
- c. —**Acknowledging Receipt and Fulfilling Requests.** Within five (5) business days of receipt of the request, the Public Records Officer will respond in one of the following ways:
 - 1. Make the record available for inspection or copying;
 - 2. Provide a link to the City's web page where the requested records are posted;
 - 3. Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
 - 4. —If the request is unclear or does not sufficiently identify the requested records, the Public Records Officer will acknowledge receipt of the request, request clarification from the requestor and provide a reasonable estimate of time it will take to respond to the request if it is not clarified. Such clarification may be requested and provided by telephone; or
 - 5. Deny the request.
- d. —**Reasonable Estimate of Time to Fully Respond.** If not able to fulfill the request within the "five-business-day period", the Public Records Officer will provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate, and assemble the potentially responsive records, notify third parties affected by the request, consult with the City Attorney about whether any portion of the records is exempt from disclosure, redact confidential or otherwise exempt information, and/or prepare an exemption log.
 The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain any changed circumstances related to the extension.
- e. **Categories of Requests.** When a public records request is received, the Public Records Officer will categorize the request according to the nature, volume, and availability of the requested records and complexity of the request using the following categories:
 - 1. **Category 1:** Records requests that are routine and/or can be readily filled with little or no coordination between departments. Average processing time: 5 - 30 days.
 - 2. —**Category 2:** Records requests that may be routine but require coordination

between two (2) or more departments and may need additional time to identify or process exemptions. Requests that require third party notification may be a category 3. Average processing time: ~~4-5 weeks~~45-60 days and may require several months to complete in total and are frequently provided in installments.

- 3. ~~Category 3:~~ **Category 3:** Records requests that are complex and/or broad or vague. These requests contain a large number of records that may not be easily identified and may require additional research by City staff who are not primarily responsible for public disclosure, ~~or require legal review and processing for exemptions,~~ or require technical assistance requiring customized service charges. Average processing time: ~~5-6 weeks~~60-90 days and may require several months to complete in total and are frequently provided in installments.

After the initial categorization, records requests may be re-categorized due to unanticipated circumstances or additional information.

f. Tracking Requests.

- 1. ~~The City shall maintain a log to track all records requests. The log shall identify the category and status of the requests as "pending," "active," or "completed."~~
- 2. ~~Records requests will initially be entered on the log and, within each category, processed in the chronological order in which they are received by the City. However, responding to a records request is not always a sequential process. The City will manage the order in which requests are processed based on the individual circumstances of each request.~~

g. ~~Multiple Requests by the Same Requestor.~~ **Multiple Requests by the Same Requestor.** In order to provide the fullest assistance to all records requestors and to prevent excessive interference with other essential functions of the City, if the same requestor (or their representative) has submitted multiple unrelated requests categorized by the City as Category 2 or 3 requests, the Public Records Officer may process the requests one at a time and in the order received, in order to allow the Public Records Officer to also process other requestors' later-received requests. Requestors may prioritize the order in which the City processes such multiple requests. If a requestor submits multiple Category 2 or 3 requests that relate to the same subject, project, keyword, *etc.*, the Public Records Officer may consolidate such requests to be processed simultaneously. The City shall endeavor to provide all requestors, and their representatives, with equal assistance and attention, to the extent reasonably and feasibly possible. When the same requestor simultaneously submits separate requests or makes one or more additional requests when previous are open, staff may queue the requests in the order in which they are received. Staff are not required to work on additional requests until the initial requests are completed and closed. Requestors are responsible for informing the Public Records Officer if they want to reprioritize the fulfillment of their requests.

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h. **Failure to Respond Within Five "5-day Period".** If the City does not respond in writing within the five (5) business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine whether the request has been received by the City. The five (5) day period begins the next day

following the date of the request.

- i. **Requesting Clarification.** In acknowledging receipt of a public record request that is unclear, the City may ask the requestor to clarify what information the requestor is seeking. Additionally, clarification may be sought in circumstances which include (but are not limited to) the following:

1. To determine the specific date or date range of records sought, if known.
2. To ask a requestor to prioritize the records he or she is requesting so that the City is able to provide the most important records first. The City is not required to ask for prioritization, and a requestor is not required to provide it; however, if the City requests prioritization and the requestor declines to provide it, the Public Records Officer will determine the order / priority of records to be produced.
3. —To clarify requests for identified in vague terms such as “any and all documents related to,” “all records relating to” or similar language. If the requestor is unable or unwilling to help narrow the scope of the documents being sought in order to expedite the City’s response and/or reduce the volume of potentially responsive documents, the City may error on the side of producing more rather than fewer documents in response to such a broad, general request. City staff shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requestor and the Act does not allow a requestor to search through the City’s files for records which cannot be identified or described to the City.

Such clarification may be requested and provided by telephone. If the clarification is made by telephone, the Public Records Officer will confirm the scope of the clarification in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

If the requestor fails to clarify an entirely unclear request, the City need not respond to it further. However, the City must respond to those parts of a request that are clear. If the requestor fails to respond to a City request to clarify the request within thirty (30) days, and the entire request is unclear, the City may consider the request abandoned. Otherwise, the City will respond to those portions of the request that, in the determination of the Public Records Officer, are clear. If the City considers the request abandoned, it will send a closing letter to the requester/requestor.

- j. —**Consequences of Disclosing a Record in Error.** The City, and its officials, agents, employees, or custodians shall not be liable, nor shall a cause of action exist, for loss or damage based on release of a public record if the City, official, agent, employee, or custodian acted in good faith in attempting to comply with the Public Records Act.
- k. —**Searching for records.** The City must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located and involve department-designated public records staff member(s)~~records coordinators in other departments~~, as needed, to assemble the records.

After potentially responsive records are located, the Public Records Officer may take reasonable steps to narrow down the number of records assembled to those that appear directly responsive to the request; provided, however, that in the case of a broad request, the Public Records Officer may provide all documents located by search terms

reasonably related to the breadth of the request, particularly if the requestor is unable or unwilling to help narrow the scope of the documents being sought.

If the City does not locate responsive documents, it will indicate to the requestor, and will explain in at least general terms the places searched and/or the search terms employed.

l. I.—Preserving Requested Records. If a requested record is scheduled shortly for destruction under the City's records retention schedule described in Section 9, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record in accordance with the retention schedule.

m. —Records Exempt From Disclosure. Some records or information contained therein are exempt from disclosure, in whole or in part (see Section 10Section 9).

If the City believes that a record is exempt from disclosure and should be withheld, in whole or in part, the Public Records Officer 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 the record is determined to be exempt, the Public Records Officer will redact the exempt portions and provide the non-exempt portions (See Section 10Section 9 below).

n. —Court Protection of Records (Third-Party Notice). If the requested records contain information that may affect rights of a person who is named in the record or to whom the record specifically pertains and that may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to such persons. Generally, fourteen (14) days' notice will be given in order to make it possible to contact the requestor and ask him or her to revise the request or, if necessary, allow affected individuals to take action seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request. Nothing in this section requires the City to provide such third-party notice, unless otherwise required by law. The City shall comply with all state and federal laws requiring third-party disclosure, including RCW 42.56.250(2). The City should also review any contracts with third parties that may contain special notice provisions. Nothing in this policy is intended to create any right to such notice.

If a request seeks information located exclusively in an employee's personnel, payroll, supervisor, or training file, the City must provide notice to the employee, to any union representing the employee, and to the Requestor. The notice must state:

1. The date of the request;
2. The nature of the requested record relating to the employee;
3. That the City will release any information in the record not exempt from disclosure at least ten (10) days from the date the notice is made; and
4. That the employee may seek to enjoin release of the records under RCW 42.56.540.

n.o. Inspection of Records. To the extent possible, the Public Records Officer shall promptly provide space to inspect public records at ~~the City's Administrative office~~ City Hall or other City office where the record is located. The requestor must claim or review

the assembled records within thirty (30) days of the Public Records Officer's notification that the records are available for inspection or copying and inform the requestor they have thirty (30) days to claim and pay or inspect/review the records or their request will be deemed abandoned and closed. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the ~~agency~~ City to make arrangements to claim or review the records. Depending on the number and length of responsive records, the Public Records Officer may require that the records inspection occur at such date and time mutually agreed by the records requestor. *Possession of cameras, mobile phones, laptops, tablets, or other electronic devices within such a room where public records are made available for inspection is prohibited.*

If the requestor or a representative of the requestor fails to claim or review the records within the thirty (30) day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. Other public records requests can be processed before a subsequent request by the same person for the same or almost identical records, which will be processed as a new request.

Members of the public may not remove documents from the viewing area or disassemble or alter any document. City employees ~~will~~ shall be present during the inspection of records.

o.p. **Providing Copies of Records.** If the ~~requester~~ requestor has first inspected paper copies of potentially responsive records, the requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. After the inspection is complete, the Public Records Officer will arrange for copying. Making a copy of an electronic record is considered copying and not creation of a new record.

g. **Providing Records in Installments.** When the request is for a large number of records, particularly Category 2 or 3, the Public Records Officer will generally 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 the requestor fails to inspect the entire set of records or one or more of the installments within thirty (30) days of the records being made available for inspection, the Public Records Officer ~~may~~ should stop searching for the remaining records and close the request.

l. When providing the records in installments, the Public Records Officer should include in each installment notification to the requestor that if the records included in the installment satisfy their request, to inform the Public Records Officer of such and that the remainder of the request may be cancelled.

m.r. **Completion of Inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that the City has completed a diligent search for the requested records and made any located ~~nonnon~~ exempt records available for inspection.

If the requestor obtains the records he or she is seeking while the City's response is still ongoing, the requestor should advise the Public Records Officer that the requested records satisfy the request and that the remainder of the request may be cancelled.

n.s. **Closing Withdrawn or Abandoned Requests.** If the requestor withdraws the request,

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fails to fulfill his or her obligations to inspect the records within thirty (30) days of the date of the City's notification of records availability, or fails to pay the deposit or final payment for the requested copies within ~~ten-thirty (1030)~~ days of the date of the payment request, the Public Records Officer will close the request and indicate to the requestor that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

e.t. Later Discovered Documents. If, after the Public Records Officer has informed the requestor that the City has provided all available records, and then the City becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.

p.ii. No Duty to Create Records. The City is not obligated to create a new record to satisfy a records request; however, the City may, with the requestor's approval, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request. The City is not required to conduct research for a requestor.

v. -No Duty to Supplement Responses. The City is not obligated to hold current records requests open to respond to requests for records that may be created in the future. If a public record is created after a request is received by the City, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

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w. -No access to City Network or Systems. Requestors shall not be permitted to access or "plug into" City networks or systems or copy records using personal devices or equipment, such as USBs or scanners, which must be connected to City equipment in order to copy records.

w.x. Requests for Metadata. Occasionally, a PRA request will specifically include a request metadata associated with Public Records. In such case, the PRO and staff shall work with City IT to identify, gather, and produce the requested metadata.

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x.y. Prevention of Excessive Interference with Essential Government Functions. To prevent excessive interference with other essential functions of the City, and to allow the Public Records Officer and other designated City staff members to perform their other assigned duties, the Public Records Officer and department designee(s) will spend a maximum of twenty (20) hours per month or approximately five (5) hours per week responding to public records requests.

Section 7. Section 8. Processing Requests for Electronic Records.

a. Providing electronic records. If public records are requested in electronic form, the Public Records Officer will provide non-exempt records in a generally commercially available electronic format that is used by the City, as determined by the Public Records Officer in conjunction with the City's Information Technology.

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b. Access to electronic records. The Public Records Officer may provide a link to electronic records easily found on the City's website. Records may also be accessed using an online transfer or sharing site, email, or an external device such as a USB drive or

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other device. Copying of electronic records are subject to fees listed in the City's Fee Schedule.

- c. **Paper records provided electronically.** Paper records that are specifically requested to be provided electronically are subject to processing fees listed in the City's Fee Schedule.

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~~Section 8.~~**Section 9. Retention of Records.** The City will retain its records in accordance with retention schedules approved by the State Local Records Committee. Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

~~Section 9.~~**Section 10. Exempt and Prohibited Disclosure of Public Records.**

All public records maintained by the City are available for public inspection and copying in accordance with these Rules unless the records are specifically exempt or prohibited from disclosure by applicable state and federal laws.

- a. The Public Records Act and other statutes provide that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. ~~The City will maintain on its website a current list of disclosure prohibitions / exemptions.~~ Pursuant to RCW 42.56.070(2), the City shall publish and maintain a current list containing every law, other than those listed in the Act, that the City believes exempts or prohibits disclosure of specific information or records of the agency. Appendix A contains a list of common statutory exemptions and prohibitions that are not included in the Act. However, note that this list is not exhaustive. Any questions about exemptions should be directed to the Public Records Officer and/or the City's legal counsel. The City reserves the right to assert any exemptions permitted by law when the City determines non-disclosure serves the public interest and is not limited to the exemptions listed in Appendix A other than those listed in the Act, which exempt or prohibit disclosure of specific information or public records. Furthermore, the City adopts by this reference the list of exemptions found in Appendix G of Municipal Research and Services Center (MRSC) PRA publication and the list of exemptions published by the Code Reviser's Office, which can be accessed on the Attorney General's Sunshine Committee webpage.
- b. The City's failure to list an exemption shall not affect the effectiveness of the exemption.

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~~Section 10.~~**Section 11. Costs of Providing Copies of Public Records**

- a. **Costs for records, generally.** Fees for copies and scanning of public records requests shall be charged according to the fee schedule below. Payment of fees is required prior to release of records unless other arrangements have been made with the Public Records Officer. If requested by a requestor, the City shall provide a summary of the applicable charges before any copies are made and the requestor may revise a public records request to reduce the number of copies to be made and reduce the applicable charges.

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No fee is charged for locating records, inspecting records in person, or for accessing records routinely made available on the City's website prior to receipt of a request, unless the requestor has specifically requested that the City provide copies of such records through other means.

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The City declares that it would be unduly burdensome to calculate the actual costs of providing copies of certain public records, due to variations in copy charges for leased copiers and variations in staff time for manual copying and mailing, or uploading or

electronically transmitting, responsive records. For more information regarding fees, see Ch. 2.75 WMC.

Therefore, except as otherwise indicated below, the table below incorporates the standard fees prescribed in RCW 42.56.120(2)(b) for providing public records (other than outsourced copies or copies of large-format plans and maps):

Method of Release of Records	Fee
Inspection of Records	
Inspection of agency records on agency public internet web site or scheduled at agency officer.	No fee
Access or downloading records posted on City's public internet web site.	No fee
Standard Copies of Physical Records	
Size	
8.5 X 11 black and white or color	\$0.15 per printed page
8.5 x 14 black and white or color	\$0.15 per printed page
11 X 17 black and white or color	\$0.15 per printed page
Electronic files/attachments per 4	\$0.05 per every 4 pages
Electronic files 1 gigabyte	\$0.10
Outsourced Copies any size	Vendor Invoice
Document/audio copied to CD/USB	\$5.00
Body worn camera request staff redaction time per minute*	\$0.38**
Body worn camera large request % of estimated costs	10%
Notes	
*The City will charge all requestors requesting body cam footage except those listed in RCW 452.56.240 (3)(i) for the time it takes the City to redact the footage	**For the purpose of providing requestors estimated costs of a request under RCW 42.56.120(2)(f), the City estimates that redaction takes ten (10) minutes of staff time per one (1) minute of raw footage for targeted video redaction (with or without audio redaction)

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~~Copy charges above may be combined to the extent more than one (1) type of charge applies to copies released in response to a particular records request.~~

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~~*Actual cost of storage devices may fluctuate based on purchase current price. The City will retain an updated list of actual costs for electronic storage devices, which will be available upon request.~~

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b. ~~**Customized Service Charge.**~~ In addition to any charges noted on the City's Fee Schedule, the City may include a customized service charge if the City 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 City for other purposes. Such a charge shall be the actual cost of providing the customized access service. The City must notify the requestor in advance of the customized service charge to be applied, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge, and the City must provide the requestor the opportunity to amend the public records request in order to avoid or reduce the cost of a customized service charge.

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c. ~~**Other Copying Charges.**~~ The Act generally governs copying charges for public records, but several specific statutes govern charges for particular kinds of records. The following non exhaustive list provides some examples: RCW 46.52.085 (charges for traffic accident reports); and RCW 10.97.100 (copies of criminal histories). The City will charge the amount authorized pursuant to these other statutes rather than as provided under the Act or these Rules.

d. ~~**Use of Other Copying Services.**~~ The City is not required to copy records at its own facilities and may determine to use a commercial copying center for duplicating voluminous records or records in non-routine formats such as photographs, blueprints, or tape recordings. The City will bill the requestor for the amount charged by the vendor.

e. ~~**Deposit or Payment by Installments.**~~ Prior to copying records, the Public Records Officer or designee(s) may require a deposit of up to ten (10%) percent of the estimated costs of copying the records, including customized service charges, selected by a requestor. The Public Records Officer 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.

f. ~~**Method of Payment.**~~ Payment may be made by cash, check, or money order to the City of Winlock or through the City's website "Payment" portal.

~~Section 11.~~ **Section 12. Denials of Requests for Public Records**

a. ~~**Petition for Internal Administrative Review of Denial of Access.**~~ Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee(s) denying the request and the basis for the

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- a. requestor's challenge to the denial.
- b. — **Consideration of Petition for Review.** The Public Records Officer shall promptly provide the petition and any other relevant information to the City Attorney or his or her designee(s) to conduct the review. The City Attorney or designee(s) will promptly consider the petition and either affirm or reverse the denial within two (2) business days following the City's receipt of the petition, or within such other time to which the City and the requestor mutually agree.
- 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 (2) business days after the initial denial regardless of any internal administrative appeal.

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 Brandon Svenson, Mayor

Attest To:

 Penny Jo Haney, City Clerk

DRAFT

APPENDIX A

See the Attorney General's Sunshine Committee webpage for the most up-to-date list of public disclosure exemptions. It is created annually by the Code Reviser's Office.

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Washington State Statutes

- RCW 2.64.111 Judicial conduct commission investigations of judges and initial proceedings
- RCW 4.24.550 Information on sex offenders
- RCW 4.24.601 and .611 Trade secrets and confidential research, development or commercial information re products or business methods
- RCW 5.60.060 Privileged communications
- RCW 5.60.070 & 7.07.070 Mediation records
- RCW 7.68.140 Victims' compensation claims
- RCW 7.69A.030(4) Name, address and photograph of child victim or child witness
- RCW 7.69A.050 Child victims and witnesses of certain crimes - protection of address
- RCW 7.75.050 Records of Dispute Resolution Centers
- RCW 9.02.100 Reproductive privacy
- RCW 9.41.097(2) Mental health information re persons buying pistols or applying for CPLs
- RCW 9.41.129 Concealed pistol license applications
- RCW 9.73.230 Name of confidential informants in written report on wire tapping
- RCW 9.51.050 Disclosing transaction of grand jury
- RCW 9.51.060 Disclosure of grand jury deposition
- RCW 9.73.090(1)(c) Prohibition on disclosure of law enforcement dash cam videos until final disposition of litigation
- RCW 9A.44.138 Offender registration information given to high school or institution of higher education re an employee or student
- RCW 9A.82.170 Financial institution records re criminal profiteering act
- RCW 10.27.090 Grand jury testimony/evidence
- RCW 10.27.160 Grand jury reports - release to public only by judicial order
- RCW 10.52.100 Records identifying child victims of sexual assault
- RCW 10.77.205 Information re victims, next of kin, or witnesses requesting notice of release of person found not guilty of a sex, violent, or felony harassment offense by reason of criminal insanity and the notice itself
- 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, with some exceptions

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<u>RCW 10.97.050</u>	<u>Conviction and criminal history information</u>	Formatted: Space After: 6 pt
<u>RCW 10.97.060</u>	<u>Deletion of certain criminal history record information, conditions</u>	Formatted: Space After: 6 pt
<u>RCW 10.97.070</u>	<u>Disclosure of identity of suspect to victim</u>	Formatted: Space After: 6 pt
<u>RCW 10.97.080</u>	<u>Inspection of criminal record by subject</u>	Formatted: Space After: 6 pt
<u>RCW 10.97.130</u>	<u>Information about victims of sexual assault under age eighteen</u>	Formatted: Space After: 6 pt
<u>RCW 10.101.020(3)</u>	<u>Information given by an accused regarding determination for indigent defense</u>	Formatted: Space After: 6 pt
<u>RCW 13.34.115</u>	<u>Court dependency proceedings</u>	Formatted: Space After: 6 pt
<u>RCW 13.40.217</u>	<u>Juveniles adjudicated of sex offenses - release of information</u>	Formatted: Space After: 6 pt
<u>RCW 13.50.010</u>	<u>Maintenance of and access to juvenile records</u>	Formatted: Space After: 6 pt
<u>RCW 13.50.050</u>	<u>Juvenile offender records</u>	Formatted: Space After: 6 pt
<u>RCW 13.50.100</u>	<u>Juvenile/children records not relating to offenses</u>	Formatted: Space After: 6 pt
<u>RCW 13.60.020</u>	<u>Missing children or endangered person information</u>	Formatted: Space After: 6 pt
<u>RCW 18.04.405</u>	<u>Confidentiality of information gained by CPA</u>	Formatted: Space After: 6 pt
<u>RCW 18.19.060</u>	<u>Notification to clients by counselors</u>	Formatted: Space After: 6 pt
<u>RCW 18.19.180</u>	<u>Confidential communications with counselors</u>	Formatted: Space After: 6 pt
<u>RCW 19.215.020</u>	<u>Destruction of personal health and financial information</u>	Formatted: Space After: 6 pt
<u>RCW 19.34.240(3)</u>	<u>Private digital signature keys</u>	Formatted: Space After: 6 pt
<u>RCW 19.215.030</u>	<u>Compliance with federal rules</u>	Formatted: Space After: 6 pt
<u>RCW 26.04.175</u>	<u>Name and address of domestic violence victim in marriage records</u>	Formatted: Space After: 6 pt
<u>RCW 26.12.170</u>	<u>Reports of child abuse/neglect with courts</u>	Formatted: Space After: 6 pt
<u>RCW 26.23.050</u>	<u>Child support orders</u>	Formatted: Space After: 6 pt
<u>RCW 26.23.120</u>	<u>Child support records</u>	Formatted: Space After: 6 pt
<u>RCW 26.26.041</u>	<u>Uniform Parentage Act - protection of participants</u>	Formatted: Space After: 6 pt
<u>RCW 26.26.450</u>	<u>Confidentiality of genetic testing</u>	Formatted: Space After: 6 pt
<u>RCW 26.33.330</u>	<u>Sealed court adoption records</u>	Formatted: Space After: 6 pt
<u>RCW 26.33.340</u>	<u>Agency adoption records</u>	Formatted: Space After: 6 pt
<u>RCW 26.33.343</u>	<u>Access to adoption records by confidential intermediary</u>	Formatted: Space After: 6 pt
<u>RCW 26.33.380</u>	<u>Adoption - identity of birth parents confidential</u>	Formatted: Space After: 6 pt
<u>RCW 26.44.010</u>	<u>Privacy of reports on child abuse and neglect</u>	Formatted: Space After: 6 pt
<u>RCW 26.44.031</u>	<u>Information related to reports of child abuse or neglect</u>	Formatted: Space After: 6 pt
<u>RCW 26.44.125</u>	<u>Reports, reviews and hearings related to a review of abuse finding</u>	Formatted: Space After: 6 pt
<u>RCW 27.53.070</u>	<u>Records identifying the location of archaeological sites</u>	Formatted: Space After: 6 pt
<u>RCW 29A.08.720</u>	<u> Voter registration records - place of registration and any decision not to register to vote confidential</u>	Formatted: Space After: 6 pt

<u>RCW 29A.08.710</u>	<u>Voter registration records - certain information exempt</u>	Formatted: Space After: 6 pt
<u>RCW 35.102.145</u>	<u>Municipal business and occupation tax - local ordinance can protect return or tax information</u>	Formatted: Space After: 6 pt
<u>RCW 36.28A.060(8)</u>	<u>Tactical and intelligence information provided to WASPC</u>	Formatted: Space After: 6 pt
<u>RCW 39.10.470(2)</u>	<u>Alternative public works - trade secrets or other proprietary information submitted by bidder in connection with an alternative public works transaction if data identified and reasons stated in writing</u>	Formatted: Space After: 6 pt
<u>RCW 39.10.470(3)</u>	<u>Alternative public works - proposals submitted by design-build finalists until notification of highest scoring finalist is made</u>	Formatted: Space After: 6 pt
<u>RCW 42.23.070(4)</u>	<u>Municipal officer disclosure of confidential information prohibited</u>	Formatted: Space After: 6 pt
<u>RCW 42.41.030(7)</u>	<u>Identity of local government whistleblower</u>	Formatted: Space After: 6 pt
<u>RCW 42.41.045</u>	<u>Non-disclosure of protected information (whistleblower)</u>	Formatted: Space After: 6 pt
<u>RCW 43.43.762</u>	<u>Contents of statewide criminal street gang database</u>	Formatted: Space After: 6 pt
<u>RCW 46.52.065</u>	<u>State toxicologist records relating to analyses of blood samples</u>	Formatted: Space After: 6 pt
<u>RCW 46.52.080</u>	<u>Traffic accident reports - confidentiality</u>	Formatted: Space After: 6 pt
<u>RCW 46.52.083</u>	<u>Traffic accident reports - available to interested parties</u>	Formatted: Space After: 6 pt
<u>RCW 46.52.120</u>	<u>Traffic crimes and infractions - confidential use by police and courts</u>	Formatted: Space After: 6 pt
<u>RCW 46.52.130(2)</u>	<u>Abstract of driving record - limited disclosure</u>	Formatted: Space After: 6 pt
<u>RCW 48.62.101</u>	<u>Local government insurance/risk management liability reserve funds established to settle claims</u>	Formatted: Space After: 6 pt
<u>RCW 50.13.060</u>	<u>Access to employment security records by local government agencies</u>	Formatted: Space After: 6 pt
<u>RCW 50.13.100</u>	<u>Disclosure of confidential employment security records allowed if identifying information deleted or with consent</u>	Formatted: Space After: 6 pt
<u>RCW 51.28.070</u>	<u>Worker's compensation records confidential - limited disclosure</u>	Formatted: Space After: 6 pt
<u>RCW 51.36.060</u>	<u>Physician information on injured workers</u>	Formatted: Space After: 6 pt
<u>RCW 60.70.040</u>	<u>No duty to disclose record of common law lien</u>	Formatted: Space After: 6 pt
<u>RCW 68.50.105</u>	<u>Autopsy reports - confidential - limited disclosure</u>	Formatted: Space After: 6 pt
<u>RCW 68.50.320</u>	<u>Dental identification records - available to law enforcement agencies</u>	Formatted: Space After: 6 pt
<u>Ch. 70.02 RCW</u>	<u>Medical records - access and disclosure - entire chapter (information from HC providers)</u>	Formatted: Space After: 6 pt
<u>RCW 70.05.170</u>	<u>Child mortality reviews by local health departments</u>	Formatted: Space After: 6 pt
<u>RCW 70.24.022</u>	<u>Public health agency information regarding sexually transmitted disease investigations - confidential</u>	Formatted: Space After: 6 pt
<u>RCW 70.24.024</u>	<u>Transcripts and records of hearings regarding sexually transmitted diseases</u>	Formatted: Space After: 6 pt
<u>RCW 70.28.020</u>	<u>Local health department TB records - confidential</u>	Formatted: Space After: 6 pt
<u>RCW 70.41.200</u>	<u>Hospital quality improvement committee records and accreditation reports</u>	Formatted: Space After: 6 pt
<u>RCW 70.48.100</u>	<u>Jail records and booking photos</u>	Formatted: Space After: 6 pt

<u>RCW 70.58.055</u>	<u>Birth certificates - certain information confidential</u>	Formatted: Space After: 6 pt
<u>RCW 70.58.104</u>	<u>Vital records, research confidentiality safeguards</u>	Formatted: Space After: 6 pt
<u>RCW 70.94.205</u>	<u>Washington Clean Air Act- confidentiality of data</u>	Formatted: Space After: 6 pt
<u>RCW 70.96A.150</u>	<u>Registration and other records of alcohol and drug abuse treatment programs</u>	Formatted: Space After: 6 pt
<u>RCW 70.123.075</u>	<u>Client records of domestic violence programs</u>	Formatted: Space After: 6 pt
<u>RCW 70.125.065</u>	<u>Records of community sexual assault program and underserved populations provider in discovery</u>	Formatted: Space After: 6 pt
<u>RCW 71.05.425</u>	<u>Notice of release or transfer of committed person after offense dismissal</u>	Formatted: Space After: 6 pt
<u>RCW 71.05.445</u>	<u>Release of mental health information to Dept. of Corrections</u>	Formatted: Space After: 6 pt
<u>RCW 71.05.620</u>	<u>Access to court records related to mental health cases under chapter 71.05 RCW</u>	Formatted: Space After: 6 pt
<u>RCW 71.24.035(5)(g)</u>	<u>Mental health information system - state, county and regional support networks - confidentiality of client records</u>	Formatted: Space After: 6 pt
<u>RCW 71.34.335</u>	<u>Mental health treatment of minors - records confidential</u>	Formatted: Space After: 6 pt
<u>RCW 71A.14.070</u>	<u>Records regarding developmental disability - confidentiality</u>	Formatted: Space After: 6 pt
<u>RCW 72.09.345</u>	<u>Notice to public about sex offenders - department of corrections access to information</u>	Formatted: Space After: 6 pt
<u>RCW 72.09.585</u>	<u>Disclosure of inmate records to local agencies - confidentiality</u>	Formatted: Space After: 6 pt
<u>RCW 73.04.030</u>	<u>Veterans discharge papers exemption (see related RCW 42.56.440)</u>	Formatted: Space After: 6 pt
<u>RCW 74.04.060</u>	<u>Applicants and recipients of public assistance</u>	Formatted: Space After: 6 pt
<u>RCW 74.04.520</u>	<u>Food stamp program confidentiality</u>	Formatted: Space After: 6 pt
<u>RCW 74.13.075(5)</u>	<u>Juvenile's status as a sexually aggressive youth and related info</u>	Formatted: Space After: 6 pt
<u>RCW 74.13.280</u>	<u>Children in out-of-home placements - confidentiality</u>	Formatted: Space After: 6 pt
<u>RCW 74.20.280</u>	<u>Child support enforcement - local agency cooperation, information</u>	Formatted: Space After: 6 pt
<u>RCW 74.34.095</u>	<u>Abuse of vulnerable adults - confidentiality of investigations and reports</u>	Formatted: Space After: 6 pt
<u>RCW 82.32.330</u>	<u>Disclosure of tax information</u>	Formatted: Space After: 6 pt
<u>RCW 84.36.389</u>	<u>Confidential income data in property tax records held by assessor</u>	Formatted: Space After: 6 pt
<u>RCW 84.40.020</u>	<u>Confidential income data supplied to assessor regarding real property</u>	Formatted: Space After: 6 pt

Selected Federal Confidentiality Statutes and Rules

<u>18 USC§ 2721 - 2725</u>	<u>Driver and License Plate Information</u>	Formatted: Font: Bold
<u>18 USC § 923(g): Public Law 112-55, div. B, title II, 125 STAT. 609</u>	<u>Firearms trace data provided to local law enforcement by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)</u>	Formatted: Space After: 6 pt
<u>20 USC§ 1232g</u>	<u>Family Education Rights and Privacy Act</u>	Formatted: Justified, Space After: 6 pt
<u>23 USC§ 409</u>	<u>Evidence of certain accident reports</u>	Formatted: Justified, Space After: 6 pt

<u>42 USC 290dd-2</u>	<u>Confidentiality of Substance Abuse Records</u>	← Formatted: Justified, Space After: 6 pt
<u>42 USC 405(c)(2)(C)(viii) (I)</u>	<u>Limits on Use and Disclosure of Social Security Numbers.</u>	← Formatted: Justified, Space After: 6 pt
<u>42 USC 654(26)</u>	<u>State Plans for Child Support</u>	← Formatted: Justified, Space After: 6 pt
<u>42 USC 671(a)(8)</u>	<u>State Plans for Foster Care and Adoption Assistance</u>	← Formatted: Justified, Space After: 6 pt
<u>42 USC 1396a(7)</u>	<u>State Plans for Medical Assistance</u>	← Formatted: Justified, Space After: 6 pt
<u>42 USC 5106a</u>	<u>Grants to States for Child Abuse and Neglect Prevention and Treatment Programs</u>	← Formatted: Space After: 6 pt
<u>7 CFR 272.1(c)</u>	<u>Food Stamp Applicants and Recipients</u>	← Formatted: Space After: 6 pt
<u>34 CFR 361.38</u>	<u>State Vocational Rehabilitation Services Programs</u>	← Formatted: Space After: 6 pt
<u>42 CFR Part 2 (2.1 - 2.67)</u>	<u>Confidentiality of Alcohol and Drug Abuse Patient Records</u>	← Formatted: Space After: 6 pt
<u>42 CFR 431.300 - 307</u>	<u>Safeguarding Information on Applicants and Recipients of Medical Assistance</u>	← Formatted: Space After: 6 pt
<u>42 CFR 483.420</u>	<u>Client Protections for Intermediate Care Facilities for the Mentally Retarded</u>	← Formatted: Space After: 6 pt
<u>42 CFR 5106a</u>	<u>Grants to States for Child Abuse and Neglect Prevention and Treatment Programs</u>	← Formatted: Space After: 6 pt
<u>45 CFR 160-164</u>	<u>HIPAA Privacy Rule</u>	← Formatted: Space After: 6 pt
<u>46 CFR 40.321</u>	<u>USCG regulations regarding confidentiality</u>	← Formatted: Space After: 6 pt
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CITY OF WINLOCK, WASHINGTON

ORDINANCE NO. 1133

AN ORDINANCE OF THE CITY OF WINLOCK, WASHINGTON, REAFFIRMING AND AMENDING SECTIONS OF WINLOCK MUNICIPAL CODE CHAPTER 2.75; PROVIDING FOR THE UPDATE TO PUBLIC RECORDS CHARGES; AMENDING ORDINANCE NO. 960 AS NECESSARY; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winlock, Washington (the "City") is a Code City under the laws of the State of Washington; and

WHEREAS, pursuant to RCW 35A.11.020, the City may adopt and enforce ordinances of all kinds relating to and regulating the City's local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, all references herein to "WMC" shall mean the "Winlock Municipal Code," and

WHEREAS, Chapter 2.75 WMC is entitled "PUBLIC RECORDS"; and

WHEREAS, Ordinance No. 960, as codified at Chapter 2.75 of the Winlock Municipal Code, was enacted on March 22, 2010; and

WHEREAS, while Chapter 42.56 RCW precludes the City from charging a fee for inspecting or locating public records, it does allow the City to charge a reasonable fee for the copying of records; and

WHEREAS, pursuant to RCW 42.56.120, the City may charge for costs of providing for public records; and

WHEREAS, body camera recordings are public records subject to Chapter 42.56 RCW, the Washington State Public Records Act; and

WHEREAS, pursuant to RCW 42.56.240(14)(f), law enforcement agencies are permitted to charge requestors not exempted under RCW 42.56.240(14)(e) the reasonable costs of redacting videos prior to disclosure; and

WHEREAS, the City has analyzed and determined the costs associated with redaction of videos; and

WHEREAS, since the Act's adoption in 1972, the use of technology has resulted in many public records stored in an electronic format for which a copying fee was not expressly authorized; and

WHEREAS, the Washington State Legislature authorized the imposition of a fee for the provision of records in an electronic format and a customized service charge when expertise is required to compile data or when customized access is necessary to provide requested records; and

WHEREAS, RCW 42.56.120, permits the City to impose the actual cost of providing records, to impose a statutorily authorized default cost, or to adopt a one-time flat fee of up to \$2.00; and

WHEREAS, the Council desires to amend Chapter 2.75 WMC as set forth herein.

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

The following sections of Ordinance No. 960 are hereby reaffirmed, amended, and repealed as follows:

Section 1. Section 2.75.010 Purpose and intent. WMC 2.75.010 is amended to state:

- A. The purpose of these rules is to establish the procedures the city of Winlock 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 Winlock and establish processes for both requester and the city of Winlock staff that are designed to best assist members of the public in obtaining such access. The city of Winlock shall provide full public access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The intent is to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the city.
- B. The City of Winlock is committed to transparency in government. We will provide our customers the fullest assistance possible when requesting access to public records.
- C. The City of Winlock is required by RCW 42.56 to adopt and enforce reasonable rules and regulations consistent with the intent of the Public Records Act: to provide access to public records, to protect public records from damage or disorganization, and to prevent interference with other essential City business.
- D. The City of Winlock makes all public records available except those that are exempt by state or federal statute.

Section 2. Section 2.75.020 Public records officer. WMC 2.75.020 is amended to state:

All persons desiring to inspect or receive a copy of any public record of the city must make their request to the city clerk, or his/her designee. The public records officer will oversee compliance with the act, but another city staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee of the city will provide assistance to the requester; 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 city.

For Police records, the Public Records Officer has designated the Police Records Specialist.

Section 3. Section 2.75.030 Request for records. WMC 2.75.030 is amended to state:

- A. All persons desiring to inspect or receive a copy of any public record of the city must make their request to the city clerk, or his/her designee. The city clerk shall make available public record request forms.
- B. Any person wishing to inspect or copy identifiable public records of the City should make the request in writing in one of the following ways:
 1. The primary and preferred request method is via the City's online Public Records Request Center. This method is more efficient to administer, maximizes taxpayer resources, and provides a cheaper and more prompt delivery of responsive records to the customer.
 2. By letter, fax, or email addressed to the Public Records Officer. Individual email accounts are not to be used for submitting public records requests. Requests submitted to individual e-mail accounts are not permitted as they are not a reliable method to ensure receipt of a request.
 3. The following information should be included in the request:
 - (i) Name and address of requestor (optional but encouraged). Please note that anonymous requestors may not have access to records which include sensitive information such as social security numbers, identification numbers, addresses of public safety employees, lists of individuals, etc.);
 - (ii) Contact information, including telephone number and email address (when applicable);
 - (iii) Identification of the requested records adequate for the Public Records Officer to locate the records; and
 - (iv) The date of the request.

Section 4. Section 2.75.040 Indexes not required. WMC 2.75.040 is hereby reaffirmed in its entirety.

- A. The city does hereby formally order that maintaining an index of public records pursuant to RCW 42.17.260 would be unduly burdensome for the following reasons:

1. The initial construction and subsequent maintenance of such an index would be a financial burden upon the city.
 2. The city does not have sufficient staffing available to initially prepare and subsequently maintain such a comprehensive index.
- B. The city shall make available for public inspection and copying any index maintained by the city for city use.

Section 5. Section 2.75.050 Response to requests. WMC 2.75.050 is amended to state:

- A. It is the intent of the city to provide records in as expedient a manner as possible. If the request is for a record maintained or indexed other than in the clerk's office the requester will be advised that their request has been forwarded to the appropriate department. All assistance necessary to help the requester shall be provided either by an employee of the city clerk's office or of the particular department. The giving of such assistance shall not unreasonably disrupt the operation of the city or the other duties of assisting employees. If the written request includes a request for copies, a payment in accordance with the city's fee schedule shall be paid. Responses to requests for records will be made within five working days from the time the request was received.
- B. Whenever a member of the public has requested to inspect an identifiable public record and that request has been denied, such a person may submit a written request and have such denial reviewed by the mayor. A written response from the Mayor pertaining to the denial shall be as prompt as possible.
- C. Prompt Responses Required.
1. Within five business days of receiving a valid/proper public records request, the Public Records Officer must respond to the requestor in (one or more of) the following ways:
 - (i) Providing the record;
 - (ii) Providing an internet address and 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 copies of the record;
 - (iii) Acknowledging that the City has received the request and providing a reasonable estimate of the time required to respond to the request;
 - (iv) Requesting clarification from the requestor; or
 - (v) Denying the public records request.
 2. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, collaborate with the requestor to ensure a successful search, 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 that a denial should be made as to all or part of the request and to prepare redaction logs as appropriate.

3. As a courtesy, rather than denying an invalid request outright, the Public Records Officer may provide the requestor an opportunity to rephrase a request that does not sufficiently describe an identifying document. Such opportunity will include a deadline for response. This courtesy is extended based upon availability of staff time and resources. The request will be considered "received" on the next business day after the "existing, identifiable" records have been described. If the requestor fails to properly identify existing records by the deadline the City need not respond to it.
4. Denials of requests must be accompanied by a written statement of the specific reasons therefor in accordance with RCW 42.56.
5. Should a requestor not receive a timely response to their request as described above, the requestor should contact the public records officer to determine the reason for the failure to respond.

D. The City is committed to assisting the public with accessing the records and encourages requestors to avoid delays in contacting the Public Records Officer/Specialist.

Section 6. Section 2.75.060 Information exempt from public inspection. WMC 2.75.060 is amended to state:

The following shall be exempt from public inspection and copying:

- A. The City is subject to the exemptions contained in RCW 42.56 and all other federal/state statutes including those that may be later amended and adopted. An exemption from disclosure will be narrowly construed in favor of disclosure (RCW 42.56.030). An exemption from disclosure must specifically exempt a record or portion of a record from disclosure.
- B. No provision of this policy shall be construed to require dissemination of any confidential communication from the City Attorney or any department head that is not subject to the disclosure requirements of RCW 42.56 or any communication that may lawfully be transmitted in an executive session pursuant to the State Open Public Meetings Act.
- C. The Code Reviser's Office annually provides the State Sunshine Committee with a list of public disclosure exemptions contained in the Revised Code of Washington. This list (as may be later amended) is incorporated into this Policy. However, the City's failure to list an exemption shall not affect the efficacy of any exemption.
- D. Nothing in this policy shall be construed as authorizing the copying of any other document exempt by federal or state law. Police records are subject to RCW 10.97, RCW 42.56, RCW 13.50, RCW 68.50, and RCW 70.48.
- E. The City is prohibited by statute from disclosing lists of individuals for commercial purposes. (RCW 42.56.070(9)). The Public Records Officer will investigate any requests

for individuals (according to industry standards and best practices) to determine whether or not they are being sought for commercial purposes. If it is determined the lists are for commercial purposes the request will be denied.

Section 7. Section 2.75.065 Procedures for Exemptions and Redactions. WMC 2.75.065 is created to state:

- A. The City reserves the right to redact identifying details when disclosing the public record if there is reason to believe that disclosure of such details would be an invasion of personal privacy or involves exempt material as noted above in Section 6. When exempt portions of Public Records can be redacted, the remainder thereof shall be open to public inspection and copying.
- B. Exemption Log. If the City determines that a record is subject to an exemption and is withholding the record in its entirety, the City shall prepare an exemption log that contains the following information:
 - (a) A description of the exemption including the statutory reference;
 - (b) The type of record being withheld;
 - (c) A short explanation of how the exemption applies to the record (or part) being withheld;
 - (d) The date the record was created;
 - (e) The number of pages;
 - (f) The author and recipient, or if otherwise protected, other means of sufficiently identifying particular records without disclosing protected contents; and
 - (g) Where the use of any identifying features would reveal protected contents, the City may designate the record with a numbered sequence.
- C. Notice of Redaction/Redaction Log. If the City determines that part of a record is subject to an exemption, the City shall redact the exempt portion(s), provide the non-exempt portions and note the redaction(s) in correspondence to the requestor or by creating a Redaction Log for numerous exemptions. The following information shall be included in writing:
 - (a) A color-coded text overlay on pdf documents where the exemption occurs;
 - (b) A description of the exemption including the statutory reference; and
 - (c) A short explanation of how the exemption applies to the record (or part) being withheld.
- D. Exemption and Redaction Logs for non-routine requests are to be reviewed by the City Attorney's Office prior to being provided to the requestor.

Section 8. Section 2.75.070 Record copy charge. WMC 2.75.070 is amended to state:

- A. No fee shall be charged for inspection of public records. There is no fee for locating records. There is no fee for inspecting public records.
- B. There is a cost to receive copies of records as described in the City's fee schedule which is adopted by Council Resolution.
- C. For security reasons and to avoid unreasonable disruption of operations, the City cannot offer copying facilities for public use or open files beyond business hours.
- D. Copies of any disclosable public record (or portions thereof) including, but not limited to, maps, reports, codes, plans, and tape recordings, shall be made and provided by the city upon request and payment of the actual cost incidental to reproducing the same. The requester may obtain copies for standard and legal black and white copies for \$0.15 per copy. Standard and legal color copies shall be \$0.50 per copy. In determining the cost of reproduction, all costs incidental to such reproduction shall be includable factors, including labor incurred in making copies, costs to outside sources, transcription costs, and mailing costs.
- E. Where the request is for a certified copy, there shall be an additional charge to cover the additional expense and time required for certification.
- F. The city may require a deposit not to exceed ten (10) percent of the estimated cost of providing copies. The city may also produce the requested records on a partial or installment basis, and may charge for each part of the request as it is provided.
- G. Cost of Mailing. The City may also charge the actual costs of mailing, including the cost of the shipping container and the actual staff time spent preparing the records for mailing.
- H. Fees are normally waived for government agencies or when supplying the copy would be in the City's interest.
- I. Customized Access is a matter of law as noted in RCW 42.56.120. The City may assess a customized service charge for exceptionally large records requests that require staff and resources beyond what is normally available to the agency. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records. The City will assess a customized service charge only after notifying the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. The notice also must provide the requestor with the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge. A customized service charge is warranted if:
 - 1. Fulfilling the request requires extensive use of information technology resources to identify, locate, format, or translate a record, or provide electronic access services; or

2. The request requires specialized analytical, research, or supervisory assistance to identify, locate, compile, or transfer the records.
- J. This policy does not apply to records sought under the rules of discovery in the course of litigation. If a requestor is seeking records under discovery, they need to make their request to the City Attorney's Office and not through this policy. All records requests made under this policy, regardless of intended use are subject to RCW 42.56 (including the exemptions allowed under the Act).
- K. Requests for Replacement Jobsite Plans:
1. The City maintains (for a period of 90 days following project completion) a set of submitted plans in their original format. The City does not retain a stamped set of plans. Therefore, customers are responsible for protecting their stamped originals from loss, damage and destruction and for maintaining a copy of the stamped plans at the jobsite at all times.
 2. To obtain a replacement set of stamped jobsite plans, please submit your request and payment to the customer service permit desk (subject to current fee schedule) and not through this policy.

Section 9. Section 2.75.080 Alteration of cost schedule. WMC 2.75.080 is amended to state:

When a change in the established cost schedule is required, the city council, in consultation with appropriate department(s), shall change the schedule by passing a resolution.

Section 10. Section 2.75.090 Disclosure prohibited. WMC 2.75.090 is hereby reaffirmed in its entirety.

The city shall not be required to permit public inspection and/or copying of any record to the extent public disclosure is prohibited, restricted, or limited by state or federal laws.

Section 11. Section 2.75.100 Retention and Destruction of Public Records. WMC 2.75.100 is created to state:

- A. The Washington State Archivist has developed retention schedules for local government records including e-mail and electronic records. Records of the City should be retained and destroyed consistent with the retention schedules. If a public records request is made at a time when a record exists, but is scheduled for destruction in the near future, the person with possession and control of the record shall retain the record until the request is resolved.
- B. Backup copies of public records performed by information services personnel are not a substitute for records retention. Retention is the responsibility of the sender of the record, not the backup process. Backups are for disaster recovery only and files are not individually indexed/identifiable. To avoid interference with essential government operations, and to preserve organization of government records, backup tapes will not be examined in response to a public records request.

Section 12. Section 2.75.110 Medical Records, Information Access, and Disclosure. WMC 2.75.110 is created to state:

Medical records shall be released or disclosed under a patient's written authorization, or in compliance with RCW 70.02.020. Therefore, requests for medical records shall be made to the Ambulance Billing Department by fax at 509-585-4254 and not through this public records policy.

Section 13. Section 2.75.120 Administrative Review of Actions by the Public Records Officer. WMC 2.75.120 is created to state:

- A. Any person who objects to the denial of a request for a public record or the closure of a public records request shall petition for prompt review of such action by tendering a written request for review to the City Attorney. The written request shall specifically refer to the written statement by the Public Records Officer or other staff member which constituted or accompanied the action taken.
- B. Immediately after receiving a written request for review of a decision of the Public Records Officer, the City Attorney (or designee) shall request a response from the Public Records Officer or other person who responded to the request. The City Attorney (or designee) will immediately consider the matter and either affirm or reverse such action within two business days following the receipt of the written request for review of the action.
- C. Administrative remedies shall not be considered exhausted until the City Attorney (or designee) has made a written decision, or until the close of the second business day following receipt of the written request for review of the action of the Public Records Officer, whichever occurs first.

Section 14. Section 2.75.130 Managing Multiple, Frequent Requests from an Individual. WMC 2.75.130 is created to state:

In order to provide the fullest assistance to all requesters; to prevent damage to or disorganization of City records or excessive interference with other essential City functions; or to assure that the appropriate amount of City time and resources will be fairly allocated among all requests and requesters, the Public Records Officer has the discretion to administer multiple, frequent open requests from an individual by either:

- A. Considering each request individually; or
- B. Administering requests sequentially. The Public Records Officer shall administer each request by the same requestor one at a time in consecutive order.
 - 1. The earliest request submitted will be the earliest request resolved. Work will begin on the next request once the earlier request has been resolved. Work will continue in this manner until all requests have been resolved.
 - 2. A requestor shall be permitted no more than two opportunities within a 12-month period to reorder their requests to the priority of their choosing; these requests for reprioritization shall be honored whenever practical to do so.

3. Requestors are cautioned that work will not continue on subsequent requests until they have provided a timely response to requests for inspection, retrieval or payment or until the request is abandoned, whichever occurs first.

Section 15. Section 2.75.140 Protecting Rights of Others. WMC 2.75.140 is created to state:

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. The Public Records Officer or designee shall give sufficient notice to other persons so that the affected person can review the request, and 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.

Section 16. Section 2.75.150 Copyrighted Material—Commercial Purposes. WMC 2.75.150 is created to state:

- A. Certain documents that are in the hands of the City may be protected by a statutory or common-law copyright. If the department believes that copying may violate fair use of the document, the owner will be promptly notified that he must seek prompt relief if he wishes to protect the document from copying.
- B. Copying of copyrighted material, other than fair use, will be refused if the department finds that copying will be for commercial purposes and fair value has not been paid to the copyright holder.

Section 17. Section 2.75.160 Providing Records in Installments. WMC 2.75.160 is created to state:

It is the City's goal to provide requestors with the records they seek as quickly as possible. Therefore, 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.

- A. If, within 30 days, the requestor fails to inspect (or provide payment for) the entire set of records or one of the installments, the Public Records Officer or designee may stop searching for the remaining records and close the request.
- B. The City may suspend work to satisfy the request while awaiting payment or inspection of the records.

Section 18. Section 2.75.170 Closing the Request. WMC 2.75.170 is created to state:

- A. The Public Records Officer shall provide requestors 30 days to respond to requests from the City to retrieve/review documents and/or provide payment (reproduction expenses or deposits). This notice shall be made in writing and shall include the deadline to respond. The notice shall also provide language alerting the requestor that their request will be automatically closed at the end of the deadline if they do not adequately respond. Should

the 30 days lapse without the appropriate action of the requestor, the request will be listed as abandoned and closed. No further work will take place on the request.

1. Postmarks for payments are not accepted. Requestors shall plan ahead for deadlines which fall on weekends or holiday closures.
 2. The City shall release records to the requestor no more than four (4) business days following receipt of payment.
- B. The City of Winlock is not required to retain records longer than the minimum length of time prescribed by law. In order to not artificially extend the retention period of records and/or cause disorganization of the City's records, copies of records compiled for abandoned requests will not be retained. Therefore, records compiled for abandoned requests may not be available for later submittals.
- C. Requestors are urged to take timely action to prevent their requests from lapsing into an abandoned status.

Section 19. Section 2.75.180 Police Department Records and Services. WMC 2.75.180 is hereby created to state:

- A. The police department is authorized to collect fees for certain reports and services of the department.
1. Body Camera Redaction: pursuant to RCW 42.56.240(14) the city established a charge for staff time spent redacting body camera video recordings for certain requestors, in addition to the regular costs allowed under RCW 42.56.070(7).
 2. Criminal History Records Information: pursuant to RCW 10.97.100 the city hereby establishes the collection of reasonable fees for the dissemination of criminal history record information to agencies and persons.
 3. Traffic Accident Reports: pursuant to RCW 46.52.085 the City on behalf of the police department hereby authorizes the adoption of a standard fee to cover the costs of furnishing copies of traffic accident reports, regardless of the number of pages in the report.
- B. All fees shall be adopted by resolution of the City Council in the Winlock City Fee Schedule.

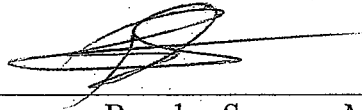
Section 20. Repealer. All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 21. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 22. Effective Date. This Ordinance shall take effect five (5) days after its publication, or publication of a summary therefore, in the City's official newspaper, or as otherwise provided by law.

Section 23. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

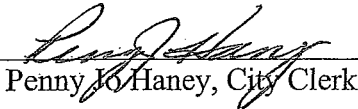
PASSED by the Council of the City of Winlock, Washington, and **APPROVED** by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof, this ___ day of April, 2022.



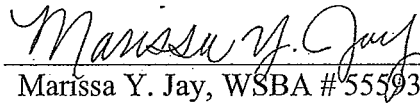
Brandon Svenson, Mayor

Attest:

Approved as to form:



Penny Jo Haney, City Clerk



Marissa Y. Jay, WSBA #55593

City Attorney

Approved Reading:

4/24 /2023

Publication Date:

4/27 /2023

Effective Date:

5/2 /2023

Chapter 2.75

PUBLIC RECORDS

Sections:

- 2.75.010 Purpose and intent.**
- 2.75.020 Public records officer.**
- 2.75.030 Request for records.**
- 2.75.040 Indexes not required.**
- 2.75.050 Response to requests.**
- 2.75.060 Information exempt from public inspection.**
- 2.75.065 Procedures for exemptions and redactions.**
- 2.75.070 Record copy charge.**
- 2.75.080 Alteration of cost schedule.**
- 2.75.090 Disclosure prohibited.**
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- 2.75.110 Medical records, information access, and disclosure.**
- 2.75.120 Administrative review of actions by the public records officer.**
- 2.75.130 Managing multiple, frequent requests from an individual.**
- 2.75.140 Protecting rights of others.**
- 2.75.150 Copyrighted material – Commercial purposes.**
- 2.75.160 Providing records in installments.**
- 2.75.170 Closing the request.**

2.75.180 Police department records and services.**2.75.010 Purpose and intent.**

A. The purpose of these rules is to establish the procedures the city of Winlock 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 Winlock and establish processes for both requester and the city of Winlock staff that are designed to best assist members of the public in obtaining such access. The city of Winlock shall provide full public access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The intent is to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the city.

B. The city of Winlock is committed to transparency in government. We will provide our customers the fullest assistance possible when requesting access to public records.

C. The city of Winlock is required by Chapter 42.56 RCW to adopt and enforce reasonable rules and regulations consistent with the intent of the Public Records Act: to provide access to public records, to protect public records from damage or disorganization, and to prevent interference with other essential city business.

D. The city of Winlock makes all public records available except those that are exempt by state or federal statute. (Ord. 1133 § 1, 2023; Ord. 960 § 1, 2010)

2.75.020 Public records officer.

All persons desiring to inspect or receive a copy of any public record of the city must make their request to the city clerk or his/her designee. The public records officer will oversee compliance with the Act, but another city staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee of the city will provide assistance to the requester; 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 city. (Ord. 1133 § 2, 2023; Ord. 960 § 2, 2010)

2.75.030 Request for records.

A. All persons desiring to inspect or receive a copy of any public record of the city must make their request to the city clerk, or his/her designee. The city clerk shall make available public record request forms.

B. Any person wishing to inspect or copy identifiable public records of the city should make the request in writing in one of the following ways:

1. The primary and preferred request method is via the city's online public records request center. This method is more efficient to administer, maximizes taxpayer resources, and provides a cheaper and more prompt delivery of responsive records to the customer.
2. By letter, fax, or email addressed to the public records officer. Individual email accounts are not to be used for submitting public records requests. Requests submitted to individual email accounts are not permitted as they are not a reliable method to ensure receipt of a request.
3. The following information should be included in the request:
 - a. Name and address of requester (optional but encouraged). Please note that anonymous requesters may not have access to records which include sensitive information such as social security numbers, identification numbers, addresses of public safety employees, lists of individuals, etc.;
 - b. Contact information, including telephone number and email address (when applicable);
 - c. Identification of the requested records adequate for the public records officer to locate the records; and
 - d. The date of the request. (Ord. 1133 § 3, 2023; Ord. 960 § 3, 2010)

2.75.040 Indexes not required.

A. The city does hereby formally order that maintaining an index of public records pursuant to RCW 42.17.260 would be unduly burdensome for the following reasons:

1. The initial construction and subsequent maintenance of such an index would be a financial burden upon the city.
2. The city does not have sufficient staffing available to initially prepare and subsequently maintain such a comprehensive index.

B. The city shall make available for public inspection and copying any index maintained by the city for city use. (Ord. 1133 § 4, 2023; Ord. 960 § 4, 2010)

2.75.050 Response to requests.

A. It is the intent of the city to provide records in as expedient a manner as possible. If the request is for a record maintained or indexed other than in the clerk's office the requester will be advised that their request has been forwarded to the appropriate department. All assistance necessary to help the requester shall be provided either by an employee of the city clerk's office or of the particular

department. The giving of such assistance shall not unreasonably disrupt the operation of the city or the other duties of assisting employees. If the written request includes a request for copies, a payment in accordance with the city's fee schedule shall be paid. Responses to requests for records will be made within five working days from the time the request was received.

B. Whenever a member of the public has requested to inspect an identifiable public record and that request has been denied, such a person may submit a written request and have such denial reviewed by the mayor. A written response from the mayor pertaining to the denial shall be as prompt as possible.

C. Prompt Responses Required.

1. Within five business days of receiving a valid/proper public records request, the public records officer must respond to the requester in (one or more of) the following ways:

- a. Providing the record;
- b. Providing an internet address and 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 copies of the record;
- c. Acknowledging that the city has received the request and providing a reasonable estimate of the time required to respond to the request;
- d. Requesting clarification from the requester; or
- e. Denying the public records request.

2. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, collaborate with the requester to ensure a successful search, 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 that a denial should be made as to all or part of the request and to prepare redaction logs as appropriate.

3. As a courtesy, rather than denying an invalid request outright, the public records officer may provide the requester an opportunity to rephrase a request that does not sufficiently describe an identifying document. Such opportunity will include a deadline for response. This courtesy is extended based upon availability of staff time and resources. The request will be considered "received" on the next business day after the "existing, identifiable" records have been described.

If the requester fails to properly identify existing records by the deadline, the city need not respond to it.

4. Denials of requests must be accompanied by a written statement of the specific reasons therefor in accordance with Chapter 42.56 RCW.

5. Should a requester not receive a timely response to their request as described above, the requester should contact the public records officer to determine the reason for the failure to respond.

D. The city is committed to assisting the public with accessing the records and encourages requesters to avoid delays in contacting the public records officer/specialist. (Ord. 1133 § 5, 2023; Ord. 960 § 5, 2010)

2.75.060 Information exempt from public inspection.

The following shall be exempt from public inspection and copying:

A. The city is subject to the exemptions contained in Chapter 42.56 RCW and all other federal/state statutes including those that may be later amended and adopted. An exemption from disclosure will be narrowly construed in favor of disclosure (RCW 42.56.030). An exemption from disclosure must specifically exempt a record or portion of a record from disclosure.

B. No provision of this policy shall be construed to require dissemination of any confidential communication from the city attorney or any department head that is not subject to the disclosure requirements of Chapter 42.56 RCW or any communication that may lawfully be transmitted in an executive session pursuant to the State Open Public Meetings Act.

C. The Code Reviser's office annually provides the State Sunshine Committee with a list of public disclosure exemptions contained in the Revised Code of Washington. This list (as may be later amended) is incorporated into this policy. However, the city's failure to list an exemption shall not affect the efficacy of any exemption.

D. Nothing in this policy shall be construed as authorizing the copying of any other document exempt by federal or state law. Police records are subject to Chapters 10.97, 13.50, 42.56, 68.50 and 70.48 RCW.

E. The city is prohibited by statute from disclosing lists of individuals for commercial purposes (RCW 42.56.070(9)). The public records officer will investigate any requests for individuals (according to industry standards and best practices) to determine whether or not they are being sought for

commercial purposes. If it is determined the lists are for commercial purposes the request will be denied. (Ord. 1133 § 6, 2023; Ord. 960 § 6, 2010)

2.75.065 Procedures for exemptions and redactions.

A. The city reserves the right to redact identifying details when disclosing the public record if there is reason to believe that disclosure of such details would be an invasion of personal privacy or involves exempt material as noted above in WMC 2.75.060. When exempt portions of public records can be redacted, the remainder thereof shall be open to public inspection and copying.

B. Exemption Log. If the city determines that a record is subject to an exemption and is withholding the record in its entirety, the city shall prepare an exemption log that contains the following information:

1. A description of the exemption including the statutory reference;
2. The type of record being withheld;
3. A short explanation of how the exemption applies to the record (or part) being withheld;
4. The date the record was created;
5. The number of pages;
6. The author and recipient, or if otherwise protected, other means of sufficiently identifying particular records without disclosing protected contents; and
7. Where the use of any identifying features would reveal protected contents, the city may designate the record with a numbered sequence.

C. Notice of Redaction/Redaction Log. If the city determines that part of a record is subject to an exemption, the city shall redact the exempt portion(s), provide the nonexempt portions and note the redaction(s) in correspondence to the requester or by creating a redaction log for numerous exemptions. The following information shall be included in writing:

1. A color-coded text overlay on PDF documents where the exemption occurs;
2. A description of the exemption including the statutory reference; and
3. A short explanation of how the exemption applies to the record (or part) being withheld.

D. Exemption and redaction logs for nonroutine requests are to be reviewed by the city attorney's office prior to being provided to the requester. (Ord. 1133 § 7, 2023)

2.75.070 Record copy charge.

A. No fee shall be charged for inspection of public records. There is no fee for locating records. There is no fee for inspecting public records.

B. There is a cost to receive copies of records as described in the city's fee schedule which is adopted by council resolution.

C. For security reasons and to avoid unreasonable disruption of operations, the city cannot offer copying facilities for public use or open files beyond business hours.

D. Copies of any disclosable public record (or portions thereof) including, but not limited to, maps, reports, codes, plans, and tape recordings, shall be made and provided by the city upon request and payment of the actual cost incidental to reproducing the same. The requester may obtain copies for standard and legal black and white copies for \$0.15 per copy. Standard and legal color copies shall be \$0.50 per copy. In determining the cost of reproduction, all costs incidental to such reproduction shall be includable factors, including labor incurred in making copies, costs to outside sources, transcription costs, and mailing costs.

E. Where the request is for a certified copy, there shall be an additional charge to cover the additional expense and time required for certification.

F. The city may require a deposit not to exceed 10 percent of the estimated cost of providing copies. The city may also produce the requested records on a partial or installment basis, and may charge for each part of the request as it is provided.

G. Cost of Mailing. The city may also charge the actual costs of mailing, including the cost of the shipping container and the actual staff time spent preparing the records for mailing.

H. Fees are normally waived for government agencies or when supplying the copy would be in the city's interest.

I. Customized access is a matter of law as noted in RCW 42.56.120. The city may assess a customized service charge for exceptionally large records requests that require staff and resources beyond what is normally available to the agency. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records. The city will assess a customized service charge only after notifying the requester of the customized service charge to be

applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. The notice also must provide the requester with the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge. A customized service charge is warranted if:

1. Fulfilling the request requires extensive use of information technology resources to identify, locate, format, or translate a record, or provide electronic access services; or
2. The request requires specialized analytical, research, or supervisory assistance to identify, locate, compile, or transfer the records.

J. This policy does not apply to records sought under the rules of discovery in the course of litigation. If a requester is seeking records under discovery, they need to make their request to the city attorney's office and not through this policy. All records requests made under this policy, regardless of intended use, are subject to Chapter 42.56 RCW (including the exemptions allowed under the Act).

K. Requests for Replacement Job Site Plans.

1. The city maintains (for a period of 90 days following project completion) a set of submitted plans in their original format. The city does not retain a stamped set of plans. Therefore, customers are responsible for protecting their stamped originals from loss, damage and destruction and for maintaining a copy of the stamped plans at the job site at all times.
2. To obtain a replacement set of stamped job site plans, please submit your request and payment to the customer service permit desk (subject to current fee schedule) and not through this policy. (Ord. 1133 § 8, 2023; Ord. 960 § 7, 2010)

2.75.080 Alteration of cost schedule.

When a change in the established cost schedule is required, the city council, in consultation with appropriate department(s), shall change the schedule by passing a resolution. (Ord. 1133 § 9, 2023; Ord. 960 § 8, 2010)

2.75.090 Disclosure prohibited.

The city shall not be required to permit public inspection and/or copying of any record to the extent public disclosure is prohibited, restricted, or limited by state or federal laws. (Ord. 1133 § 10, 2023; Ord. 960 § 9, 2010)

2.75.100 Retention and destruction of public records.

A. The Washington State Archivist has developed retention schedules for local government records including email and electronic records. Records of the city should be retained and destroyed consistent with the retention schedules. If a public records request is made at a time when a record exists, but is scheduled for destruction in the near future, the person with possession and control of the record shall retain the record until the request is resolved.

B. Backup copies of public records performed by information services personnel are not a substitute for records retention. Retention is the responsibility of the sender of the record, not the backup process. Backups are for disaster recovery only and files are not individually indexed/identifiable. To avoid interference with essential government operations, and to preserve organization of government records, backup tapes will not be examined in response to a public records request. (Ord. 1133 § 11, 2023)

2.75.110 Medical records, information access, and disclosure.

Medical records shall be released or disclosed under a patient's written authorization, or in compliance with RCW 70.02.020. Therefore, requests for medical records shall be made to the ambulance billing department by fax at 509-585-4254 and not through this public records policy. (Ord. 1133 § 12, 2023)

2.75.120 Administrative review of actions by the public records officer.

A. Any person who objects to the denial of a request for a public record or the closure of a public records request shall petition for prompt review of such action by tendering a written request for review to the city attorney. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the action taken.

B. Immediately after receiving a written request for review of a decision of the public records officer, the city attorney (or designee) shall request a response from the public records officer or other person who responded to the request. The city attorney (or designee) will immediately consider the matter and either affirm or reverse such action within two business days following the receipt of the written request for review of the action.

C. Administrative remedies shall not be considered exhausted until the city attorney (or designee) has made a written decision, or until the close of the second business day following receipt of the written request for review of the action of the public records officer, whichever occurs first. (Ord. 1133 § 13, 2023)

2.75.130 Managing multiple, frequent requests from an individual.

In order to provide the fullest assistance to all requesters; to prevent damage to or disorganization of city records or excessive interference with other essential city functions; or to assure that the

appropriate amount of city time and resources will be fairly allocated among all requests and requesters, the public records officer has the discretion to administer multiple, frequent open requests from an individual by either:

A. Considering each request individually; or

B. Administering requests sequentially. The public records officer shall administer each request by the same requester one at a time in consecutive order.

1. The earliest request submitted will be the earliest request resolved. Work will begin on the next request once the earlier request has been resolved. Work will continue in this manner until all requests have been resolved.

2. A requester shall be permitted no more than two opportunities within a 12-month period to reorder their requests to the priority of their choosing; these requests for reprioritization shall be honored whenever practical to do so.

3. Requesters are cautioned that work will not continue on subsequent requests until they have provided a timely response to requests for inspection, retrieval or payment or until the request is abandoned, whichever occurs first. (Ord. 1133 § 14, 2023)

2.75.140 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. The public records officer or designee shall give sufficient notice to other persons so that the affected person can review the request, and 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. (Ord. 1133 § 15, 2023)

2.75.150 Copyrighted material – Commercial purposes.

A. Certain documents that are in the hands of the city may be protected by a statutory or common-law copyright. If the department believes that copying may violate fair use of the document, the owner will be promptly notified that he must seek prompt relief if he wishes to protect the document from copying.

B. Copying of copyrighted material, other than fair use, will be refused if the department finds that copying will be for commercial purposes and fair value has not been paid to the copyright holder. (Ord. 1133 § 16, 2023)

2.75.160 Providing records in installments.

It is the city's goal to provide requesters with the records they seek as quickly as possible. Therefore, 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.

A. If, within 30 days, the requester fails to inspect (or provide payment for) the entire set of records or one of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

B. The city may suspend work to satisfy the request while awaiting payment or inspection of the records. (Ord. 1133 § 17, 2023)

2.75.170 Closing the request.

A. The public records officer shall provide requesters 30 days to respond to requests from the city to retrieve/review documents and/or provide payment (reproduction expenses or deposits). This notice shall be made in writing and shall include the deadline to respond. The notice shall also provide language alerting the requester that their request will be automatically closed at the end of the deadline if they do not adequately respond. Should the 30 days lapse without the appropriate action of the requester, the request will be listed as abandoned and closed. No further work will take place on the request.

1. Postmarks for payments are not accepted. Requesters shall plan ahead for deadlines which fall on weekends or holiday closures.

2. The city shall release records to the requester no more than four business days following receipt of payment.

B. The city of Winlock is not required to retain records longer than the minimum length of time prescribed by law. In order to not artificially extend the retention period of records and/or cause disorganization of the city's records, copies of records compiled for abandoned requests will not be retained. Therefore, records compiled for abandoned requests may not be available for later submittals.

C. Requesters are urged to take timely action to prevent their requests from lapsing into an abandoned status. (Ord. 1133 § 18, 2023)

2.75.180 Police department records and services.

A. The police department is authorized to collect fees for certain reports and services of the department.

1. Body Camera Redaction. Pursuant to RCW 42.56.240(14), the city established a charge for staff time spent redacting body camera video recordings for certain requesters in addition to the regular costs allowed under RCW 42.56.070(7).

2. Criminal History Records Information. Pursuant to RCW 10.97.100, the city hereby establishes the collection of reasonable fees for the dissemination of criminal history record information to agencies and persons.

3. Traffic Accident Reports. Pursuant to RCW 46.52.085, the city on behalf of the police department hereby authorizes the adoption of a standard fee to cover the costs of furnishing copies of traffic accident reports, regardless of the number of pages in the report.

B. All fees shall be adopted by resolution of the city council in the Winlock city fee schedule. (Ord. 1133 § 19, 2023)

The Winlock Municipal Code is current through Ordinance 1149, passed December 27, 2023.

Disclaimer: The city clerk's office has the official version of the Winlock Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cityofwinlock.com>

City Telephone: (360) 785-3811

Code Publishing Company

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CITY OF WINLOCK, WASHINGTON

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RESOLUTION NO. 2024-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINLOCK, WASHINGTON, ADOPTING RULES PERTAINING TO REQUESTS FOR PUBLIC RECORDS SUBMITTED PURSUANT TO THE PUBLIC RECORDS ACT, CHAPTER 42.56 RCW AND CITY RESPONSES THERETO; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winlock, Washington (the "City") is a Code City under the laws of the State of Washington; and

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WHEREAS, Chapter 42.56 of the Revised Code of Washington is known as the "Public Records Act," or "PRA"; and

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WHEREAS, the stated intent of the PRA is to provide full public access to public records pertaining to the conduct of government, respect individuals' privacy rights, protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the government agency holding the records; and

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WHEREAS, other "essential City functions" are determined by state law and by the City Council and include, but are not limited to, providing public safety, financial stability, balanced transportation, dependable infrastructure, environmental protection, housing, human services, neighborhood services, economic development, parks, recreation, and open space and the administrative systems necessary to provide effective government services; and

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WHEREAS, the PRA generally requires that each state and local agency shall make available for public inspection and copying all public records, unless the record falls

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within the specific exemptions of the PRA or other statute which exempts or prohibits disclosure of specific information or records; and

WHEREAS, RCW 42.56.100, requires local agencies such as the City of Winlock to "adopt and enforce reasonable rules and regulations... consonant with the [PRA's] intent" as described above; and

WHEREAS, RCW 42.56.100 also requires that such rules and regulations "shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information;" and the timeliest possible action on requests for information

WHEREAS, the City of Winlock's existing, adopted rules, codified in Chapter 2.75 of the Winlock Municipal Code, were last amended in 2019; and

WHEREAS, since that time, the Legislature has re-codified Public Records Act into a different chapter of the RCW, amended, modified, and adopted new the statutory exemptions from disclosure contained in the Act, and adopted new provisions regarding the charges an agency may impose for production of paper as well as electronic records; and

WHEREAS, in 2018 the Washington Attorney General issued comprehensive new "Model Rules" concerning public records compliance, to advise state and local agencies about "best practices" for complying with the PRA; and

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WHEREAS, since 2020, the City of Winlock has experienced a significant increase in the volume and complexity of public records requests; and

WHEREAS, to prevent excessive interference with the other essential functions of the City, it is necessary to determine a reasonable level of effort and time to devote to responding to requests for public records commensurate with the available resources and staffing; and

WHEREAS, while the Act generally precludes the City from charging a fee for inspecting or locating public records, it does allow the City to charge a reasonable fee for copying and sending public records; and

WHEREAS, since the Act's adoption in 1972, the use of technology has resulted in many public records stored in an electronic format for which a copying fee was not previously expressly authorized; and

WHEREAS, with the passage of Engrossed House Bill 1595 during the 2017 regular session, the Washington State Legislature authorized the imposition of a fee for the provision of records in an electronic format and a customized service charge when expertise is required to compile data or when customized access is necessary to provide requested records; and

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WHEREAS, EHB 1595, Section 3, codified at RCW 42.56.120, permits the City to

~~impose the actual cost of providing records (including staff time to copy and send public records), to impose a range of statutorily authorized default costs, or to adopt a one-time flat fee of up to \$2.00; and~~

~~WHEREAS, the City has prepared a cost study so as to determine the actual costs of providing public records, and~~

~~WHEREAS, EHB 1595, Section 1, codified at RCW 42.56.070, states that a city seeking to impose actual costs must provide notice and a public hearing, and~~

~~WHEREAS, a duly noticed public hearing was held on _____ before the Snoqualmie City Council, and~~

~~(I don't believe we need to set fees and do this?)~~

WHEREAS, the City Council desires to adopt new rules governing the process for requesting public records, and responding to public records requests, and imposing such charges as allowed by law for the cost of providing requested public records;

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINLOCK, WASHINGTON, DO HEREBY RESOLVE AS FOLLOWS, BE IT HEREBY RESOLVED
by

the City Council of the City of Winlock, Washington, as follows:

~~Section 1. Section 1. Public Records Rules Adopted.~~ The Public Records Act Rules attached hereto as Exhibit A (the "Rules") are hereby adopted for the City of Winlock pursuant to RCW 42.56.100 and are supplemental to Chapter 2.75 WMC.

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~~Section 2. Section 2. Administrative Rules.~~ The Mayor and/or City Clerk is authorized to adopt reasonable administrative rules to further implement the Public Records Rules adopted pursuant to Section 1 of this Resolution. Any administrative rules or changes thereto shall be reported to the City Council and made available on the City's website.

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~~Section 3. Section 3. Effective Date.~~ This Resolution shall be effective immediately upon its passage.

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~~Section 4. Section 4. Severability.~~ — If any portion, section, sentence, clause, or phrase of this Resolution or the Rules adopted herein are found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other ~~portion, section, sentence, clause, or phrase~~ of this Resolution or the Rules adopted herein.

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~~Section 5. Section 5. Corrections by the City Clerk.~~ Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to the Public Records Act

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Rules adopted by this Resolution, including but not limited to the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or resolution numbering and section/subsection numbering.

PASSED by the City Council of the City of Winlock, Washington, and APPROVED by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof this 11th day of March/April, 2024.

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Brandon Svenson, Mayor

Attest:

Penny Jo Haney, City Clerk

Approved as to form:

Marissa Y. Jay, City Attorney WSBA #55593

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**ORDINANCE NO. 1158 – CHANGES BY TOLEDOTEL FROM CITY’S
VERSION**

Ordinance No. 1158 was tabled from the last council meeting on 3-25-24 to await input from ToledoTel. I received their revised version, and their input is noted below.

Page 1 – First Whereas, our version **ToledoTel "Franchisee", a Washington limited liability company**; their revision, **The Toledo Telephone Co., Inc. (DBA ToledoTel) "Franchisee"**.

Page 1 – 1.1 Franchisee, first line, our version **a Washington Limited Liability Company**; their revision, **a Washington Corporation**

Page 3 – 2.5(i), second line, our version **No-100/00**, their revision **00/100**

These are the only things they changed throughout the document.

**CITY OF WINLOCK, WASHINGTON
ORDINANCE NO 1158**

AN ORDINANCE OF CITY OF WINLOCK, WASHINGTON GRANTING TO TOLEDOTEL A WASHINGTON LIMITED LIABILITY COMPANY, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO LOCATE, CONSTRUCT, INSTALL, OWN, MAINTAIN, REPAIR, REPLACE, EXTEND, OPERATE, AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF THE TRANSMISSION, DISTRIBUTION AND SALE OF TELECOMMUNICATIONS AND COMMUNICATIONS SERVICES; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The Toledo Telephone Co., Inc (DBA ToledoTel) "Franchisee", a Washington limited liability company, has filed with the City of Winlock State of Washington (the "City") a written application for a Franchise to locate, construct, operate, maintain a fiber optic communication system, and use such works, underground cables, equipment and appurtenances over, under, along and across all of City's rights of way and public property in the City, for the purposes of the transmission, distribution and sale of telecommunications and communications services; and

WHEREAS, pursuant to RCW 35A.47.040 the City of Winlock first introduced and read this Franchise Agreement on March 25, 2024; and

WHEREAS, pursuant to RCW 35A.47.040 this Franchise Agreement was submitted to the City of Winlock's Attorney for review; and

WHEREAS, the City of Winlock City Council has found it desirable for the welfare of the City and its residents that such non-exclusive franchise be granted to the Franchisee.

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

SECTION 1.0 DEFINITIONS

For the purposes of this Franchise the following terms, phrases, words, and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

1.1 Franchisee. "Franchisee" means ToledoTel a Washington Corporation registered with the Secretary of State bearing UBI# 216-000-257, and its lawful successors, transferee, and assignee thereof.

1.2 City. "City" means City of Winlock, a municipal corporation of the State of Washington, and its respective successors and assigns.

1.3 Days. "Days" means business days.

1.4 Effective Date. "Effective Date" means the date of legal publication of this Ordinance, set forth in section 8.10, upon which the rights, duties and obligations of this Franchise shall come

into effect, and the date from which the time requirement for any notice, extension and/or renewal shall be measured.

1.5 Facilities. "Facilities" means, collectively, any and all transmission and distribution systems and appurtenances owned by the Franchisee, now and in the future in the Franchise Area, including but not limited to, poles, wires, pipes, conduits and other appliances and conductors for such Telecommunications system.

1.6 Franchise. "Franchise" means the grant by the City of rights, privileges and authority embodied in this Ordinance.

1.7 Franchise Area. "Franchise Area" means the surface and space above and below all rights-of-way for:

- (i) public roads, streets, avenues, alleys, bridges, tunnels, easements, and highways of the City, as now laid out, platted, dedicated, acquired, or improved within the present corporate limits of the City;
- (ii) public roads, streets, avenues, alleys, bridges, tunnels, easements, and highways that may hereafter be laid out, platted, dedicated, acquired, or improved within the present corporate limits of the City and as such limits may be extended by annexation or otherwise during the term of this Franchise;
- (iii) all City-owned utility easements dedicated for the placement and location of various utilities, provided such easements would permit the Franchisee to fully exercise the rights granted under this Franchise within the area covered by the easement; and
- (iv) any other specifically designated City-owned property.

1.8 Maintenance, maintaining, or maintain. The meaning of the terms "Maintenance, maintaining, or maintain" includes, without limit, repairing, replacing, upgrading, examining, testing, inspecting, and removing the Franchisee Facilities, vegetation management, digging and excavating and restoration of affected right-of-way surfaces.

1.9 Parties. "Parties" means City and the Franchisee collectively.

1.10 Party. "Party" means either City or the Franchisee individually.

1.11 Person. "Person" means a business entity or natural person.

1.12 Public Project. "Public Project" means any City or other government-funded capital improvement project on the Rights-of-way or City property within the Franchise Area.

1.13 Right of way. "Right-of-way" means the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, utility easement and/or right-of-way now or hereafter held or administered by the City.

1.14 State. "State" means the State of Washington.

SECTION 2.0 GRANT OF FRANCHISE

City hereby grants to the Franchisee the right, power, privilege, and authority to enter upon all roads, rights of way, streets, alleys, highways, public places, or structures, lying within the Franchise Area to locate, construct, operate and maintain its Facilities for the maintenance and operation of a telecommunications and communications system within the Franchise Area.

2.1 Effective Date

This Ordinance is effective as of the Effective Date set forth in Section 8.10 of this

Franchise.

2.2 Term

The rights, privileges and Franchise hereby granted to the Franchisee will extend for a term of 25 years from the Effective Date, and shall continue year-to-year thereafter, until it is otherwise renewed for another 25-year term, or terminated by either Party, with not less than 180 days prior written notice to the other Party.

2.3 Non-Exclusive Franchise

This Franchise is not an exclusive Franchise. This Franchise shall not prohibit the City from granting other franchises within the Franchise Area that do not interfere with the Franchisee's rights under this Franchise. City may not, however, award a Telecommunications Franchise to another party under more favorable or less onerous terms than those of this Franchise without this Franchise being amended to reflect such more favorable or less onerous terms.

2.4 Assignment of Franchise

The Franchisee shall have the right to assign its rights, benefits, and privileges under this Franchise if, prior to the assignment, the City provides written authorization and approval of the same, which shall not be unreasonably withheld. Any assignee shall, within thirty (30) days prior to the effective date of any assignment, file written notice of the assignment with the City together with its written acceptance of all terms and conditions of this Franchise. Nothing in this section shall require prior written consent of any assignment (1) from Franchisee to an affiliate which is controlled by Franchisee, or any assignment to a lender for security purposes only.

- (i) Notwithstanding the provisions of this section, Franchisee may lease Facilities or any portion thereof to another or provide capacity or bandwidth in its Facilities to another, provided that Franchisee at all times during such lease maintains ownership of the leased Facilities and remains ultimately responsible for locating, servicing, repairing, relocating, or removing its Facilities pursuant to the terms and conditions of this Franchise.

2.5 Franchise Taxes, Fees, and Costs

The Franchisee shall pay all lawful permitting, license fees, costs and/or utility privilege taxes which might be required to pay in connection with the issuance, maintenance, existence, continuation, or use of this Franchise, to the extent permitted by applicable law, whether federal, State, or municipal or the City ordinance now in effect or enacted during the term of this Franchise. The City reserves the right to designate the time and manner of payment of such fees, costs or taxes owed by the Franchisee in connection with this Franchise.

- (i) Franchisee shall be subject to a one-time administrative fee not to exceed Two Thousand Five Hundred dollars and 00/100 (\$2,500.00) for reimbursement of costs associated with the preparation, processing, and approval of this Franchise Agreement. The administrative fee is exclusive of any ordinary permitting fees required for construction of any Facilities within the public right-of-way. Payment of the administrative fee is due within 30 days after Franchise approval.
- (ii) If, during the Franchise term, the City incurs costs and expenses for the review, inspection, or supervision of Franchisee activities, including but not limited to reasonable fees associated with attorneys, consultants, City staff and City Attorney time, undertaken through the authority granted in this Franchise or any ordinances

relating to the subject for which a permit fee is not established, Franchisee shall pay such costs and expenses directly to the City within sixty (60) days of receipt of any itemized billing provided by the City.

- (iii) If Franchisee provides services to any customers within the City Limits, Franchisee shall become subject to the City's utility tax in an amount equal to six percent (6%) of Franchisee's gross revenues earned by providing services to customers within the City limits from its Facilities within the Franchise Area. For the purposes of this section, "gross revenues" shall mean any and all revenue, of any kind, nature, or form, whether from customers, affiliates, lessees, or any other source, without deduction for expenses, but excluding bad debt and subject to all applicable limitations imposed by federal or state law, including RCW 35.21.870.
- (iv) Franchisee warrants that its operations are those of a telephone business as defined under RCW 82.16.010 or Service Provider as defined in RCW 35.21.860. As a result, the City will not impose a franchise fee other than as described in this Section. If RCW 35.21.860 is amended to allow collection of a franchise fee, this Franchise Agreement shall be amended to require Franchise Fee payments except as limited by applicable law.
- (v) Franchisee shall be responsible for the cost of publication of this Franchise.
- (vi) If Franchisee submits a request for work beyond the scope of this Franchise or submits a complex project that requires significant comprehensive plan review, or inspection, Franchisee shall reimburse the City for any amendments and all reasonable expenses associated with the project. Franchisee shall make such reimbursement within thirty (30) days of receipt of a bill from the City.

SECTION 3.0 FRANCHISEE'S OPERATIONS AND MAINTENANCE

3.1. Compliance with Laws, Regulations, Codes, and Standards

In carrying out any authorized activities under the privileges granted by this Franchise, the Franchisee shall conduct all work in a safe and workmanlike manner that meets accepted industry standards and codes and shall comply with all applicable laws, regulations and ordinances of any governmental entity with jurisdiction over the Franchisee's Facilities in the Franchise Area, including, but not limited to, applicable provisions of the National Electric Code, National Electrical Safety Code, FCC regulations, and Occupational Safety and Health Administration (OSHA) standards. No construction, maintenance, or repairs (except for emergency repairs pursuant to Section 3.8 of this Franchise) shall be undertaken in the Franchise Area without first obtaining requisite use permits required by the City Code. In the case of emergency work performed, Franchisee shall seek a permit from the City within twenty-four (24) hours of the first business day following the performance of the emergency repairs. This includes all applicable laws, regulations and ordinances existing as of the Effective Date or may be subsequently enacted by any governmental entity with jurisdiction over the Franchisee's operations within the Franchise Area. Subject to applicable law, the City shall have the right to make and enforce reasonable rules and regulations pertaining to the conduct of the Franchisee's operations within the Franchise Area. Prior to the adoption of any new rule, procedure or policy, the Franchisee shall be provided a written draft document for comment with a response period of not less than thirty days. All facilities must be installed and maintained in a safe condition. Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious, or offensive nature or which would create a

hazard or undue vibration, heat, noise, or any interference with City services.

3.2 Facility Location and Non-Interference

The Franchisee shall have the discretion to determine the placement of its Facilities as may be necessary to provide safe and reliable telecommunications service within the Franchise Area, subject to the following non-interference requirements. Where no overhead poles exist, all Facilities and related components shall be installed underground, except such facilities that technically must remain above ground to operate, or facilities that are otherwise exempted from this requirement in writing by the City. In sections of the City where cables, wires, utilities, or other such facilities are placed underground, Franchisee shall place its wires and other like facilities underground. If at any time the City determines that existing wires, cables, utilities, or other like facilities in the City shall be changed from an overhead to an underground installation, Franchisee shall convert its Facilities to underground in areas impacted by such requirement. If Franchisee's Facilities are to be placed underground in a common trench or bore shared by others, Franchisee shall share equally the expense of the trenching and/or boring in proportion to the number of joint users. Franchisee shall pay for Facilities installed for Franchisee's own use. If Franchisee owns the aerial supporting structure, additional incremental cost of undergrounding compared to aerial allocation will be paid by the City. Where the City requires relocation for aesthetic purposes only, costs associated therewith shall be paid by the City. In areas of the City where electrical or telephone systems are installed on poles above ground, Franchisee shall have the option of installing its system in like manner, above ground, or underground. All construction, installation, repair, or relocation of the Franchisee's Facilities performed by the Franchisee in the Franchise Area will be done in such a manner as not to interfere with the construction and maintenance of other utilities, drains, drainage and irrigation ditches and structures, and City-owned property within the Franchise Area.

3.3 Facility Location Information

Following any Facility construction, relocation, or modification (if said modification materially alters the dimensions of the Facilities), but not more than once annually, Franchisee shall provide the City with accurate copies, electronically and hard-copy, of as-built plans and maps prepared by Franchisee. The plans and maps shall accurately show the location of all Facilities within the Franchise Area and shall be provided at no cost or expense to the City. Franchisee shall warrant the accuracy of all plans, maps, and as-builts provided under this subsection. With respect to any excavations within the Franchise Area undertaken by or on behalf of the Franchisee or the City, nothing stated in this Franchise is intended (nor shall be construed) to relieve either Party of their respective obligations arising under the State one-call law with respect to determining the location of existing underground utility facilities in the vicinity of such excavations prior to commencing work. Except to the extent due to its negligent or willful acts or omissions, the City shall not be liable for any damages to Franchisee's Facilities or for interruptions in service to Franchisee's customers resulting from (i) work performed for any City project for which Franchisee has failed to properly locate its facilities within the prescribed time limits and guidelines established by State one-call law; or (ii) work performed by third-parties under a permit issued by the City.

3.4 Vegetation Management

The right of the Franchisee to maintain its Facilities shall include the right to utilize an

integrated vegetation management program to minimize the likelihood that encroaching above ground vegetation can interfere with or limit access to the Franchisee's Facilities or pose a threat to public safety and welfare. Franchisee shall make every effort to ensure its tree trimming activities protect the appearance, integrity, and health of the trees to the extent possible. If, in exercising the rights under this subsection, any damage is done to any trees or natural growth owned by third parties, Franchisee shall indemnify and hold the City harmless from any and all third-party claims arising from Franchisee's vegetation management activities. Except when conducting emergency work pursuant to section 3.8, all tree trimming must be performed under the direction of an arborist certified by the International Society of Arboriculture, and in a manner consistent with the most recent issue of "Standards of Pruning for Certified Arborists" unless otherwise approved by the City.

3.5 Right of Excavation

For the purpose of implementing the privileges granted under this Franchise, and after any required notification is made to the City, and after obtaining any approvals or necessary permits from applicable federal, state, and City authorities, the Franchisee is authorized to make any necessary excavations in, under, and across the streets, alleys, roads, rights of way and public grounds within the Franchise Area. Such excavation shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the public as may be feasible. The Franchisee shall remove all debris stemming from excavation and construction. The Right-of-way surface shall be restored by the Franchisee after excavation, in accordance with applicable City and Franchisee specifications. Franchisee agrees to promptly complete all restoration work and to promptly repair any damage caused by work in the Franchise Area or other affected area at its sole cost and expense, and according to the time and terms specified in any permit issued by the City. All work by Franchisee conducted under this Franchise shall be warranted by Franchisee for a period of two (2) years. If conditions make complete restoration required under this subsection impracticable, Franchisee shall temporarily restore the affected right-of-way or other affected property. Franchisee shall promptly undertake and complete the required permanent restoration when conditions no longer make such permanent restoration impracticable.

3.6 Notice to City of Excavation

Franchisee shall, at any time, make excavations within the Franchise Area, Franchisee shall in addition to receiving requisite permitting, notify the City in writing at least ten (10) days prior to the commencing the excavation. Upon written request from the City, Franchisee shall afford the City an opportunity to share such excavation, provided that the joint use shall not unreasonably delay the work of Franchisee, and such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties. Franchisee shall be entitled to recover the incremental costs associated with such joint work from the City.

3.7 Notice to Third Party Landowners.

At the discretion of the City and depending on the impact of the usage of the rights-of-way, Franchisee shall give reasonable advance notice of intended construction to entities or persons adjacent to the affected area. Such notice shall contain the dates, contact number, nature, and location of the work being performed. In addition to Franchisee's obligation to restore the right-of-way after completion of any work performed under this Franchise, Franchisee shall also be required to ameliorate any disturbance to landscaping, fencing, or other improvements on

private property caused by Franchisee's work at its sole cost and expense.

3.8 Emergency Work

In the event of an emergency requiring immediate action by the Franchisee to protect its Facilities, or the property of the City or other persons in the Franchise Area, the Franchisee may immediately proceed with excavation or other Right-of-way work, with concurrent notice to the City to the extent possible.

3.9 Additional Ducts or Conduits.

At any time during construction or relocation of any Facilities in the public right-of way, the City may require additional ducts or conduits necessary to allow access to the Facilities, provided that (i) the requested additional duct or conduit space and related access structures will not be used by the City to provide telecommunications or cable television service for hire, sale, or resale to the general public, and (ii) any and all fees and costs associated with such request, and any work stemming therefrom, including incremental amounts including but not limited to permitting, engineering, design, and materials acquisition, delivery, installation, and testing, shall be the responsibility of the City, and shall be due and payable to Franchisee upon demand. Any demand for additional ducts or conduits contemplated under this subsection shall not be considered a public works construction project.

3.10 Work of Contractors and Subcontractors.

Franchisee's contractors and subcontractors shall be licensed and bonded in accordance with state law and the City's ordinances, regulations, and requirements. Work by contractors and subcontractors are subject to the same restrictions, limitations, and conditions as if the work were performed by Franchisee. Franchisee shall be responsible for all work performed by its contractors, subcontractors, and others performing work on its behalf as if the work were performed by Franchisee, and Franchisee shall ensure that all such work is performed in compliance with this Franchise and applicable law.

SECTION 4.0 RESERVATION OF CITY'S RIGHTS AND POWERS

The City, in granting this Franchise, does not waive any rights which it may now have or may subsequently acquire with respect to road rights-of-way or other property of City under this Franchise, and this Franchise shall not be construed to deprive the City of any such powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the City's roads, rights of way and other public property covered by this Franchise. Nothing in the terms of this Franchise shall be construed or deemed to prevent the City from exercising at any time any power of eminent domain granted to it under the laws of this State.

4.1 Necessary Construction/Maintenance by City

The construction, operation and maintenance of the Franchisee's Facilities authorized by this Franchise shall not preclude the City, its agents or its contractors, from grading, excavating, or doing other necessary road work contiguous to the Franchisee's Facilities, provided that the Franchisee shall be given not less than ten business days' notice of said work, and provided further that the City, its agents and contractors, shall be liable for any damages caused by said work to any installations belonging to the Franchisee subject to the limitation contained in section 3.3 of this

Franchise.

4.2 Removal of Abandoned Facilities

During the Term of this Franchise, or upon a revocation or non-renewal of this Franchise, the City may direct the Franchisee to remove designated abandoned Facilities from the Franchise Area at its own expense and as soon as practicable. Alternatively, the City may, at its sole option, allow Franchisee to abandon its facilities in place. If it becomes necessary for the City to remove the designated Facilities to ameliorate a threat to public health and safety, the City shall be paid the reasonable and actual costs of removal by the Franchisee.

4.3 Vacation of Properties by City

If, at any time, the City shall vacate any road, right of way or other public property which is subject to rights granted by this Franchise, the City shall endeavor to specifically reserve the continued use of the right of way by Franchisee. Unless the City specifically reserves to Franchisee the right to continue use of the vacated rights-of-way, Franchisee shall, without delay or expense to the City, remove its facilities from the vacated right-of-way and restore, repair, or reconstruct the right-of-way where such removal has occurred. In the event of failure, neglect, or refusal of Franchisee to restore, repair, or reconstruct such right-of-way as required by this subsection after thirty (30) days written notice from the City, the City may do such work or cause it to be done, and the reasonable cost thereof shall be paid by Franchisee within thirty (30) days of receipt of an invoice and documentation evidencing the City's costs incurred in connection with such work.

4.4 Eminent Domain.

The existence of this Franchise shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or a portion of the Franchisee's Facilities for the fair market value thereof.

SECTION 5.0 RELOCATION OF FRANCHISEE'S FACILITIES

5.1 Public Project Construction

Whenever the City causes the construction of any Public Project and/or the alteration or improvement of any road, highway or Right-of-way within the Franchise Area, and such construction necessitates the relocation of the Franchisee's Facilities from their existing location to another location within the Franchise Area, such relocation will be at no cost to the City. City shall notify the Franchisee of any intended or expected requirement or request to relocate the Franchisee's Facilities as early as practicable, but not less than 120 days prior to any such relocation. After receipt of such notice, the Franchisee shall complete relocation of its Facilities at least ten days prior to commencement of the project or an agreed upon date by both parties. If any relocation to accommodate the City forces the Franchisee off of a Right-of-way, then City will make a reasonable effort to accommodate said relocation on alternative public Right-of-way.

5.2 Public Project Related Relocation Costs

The City shall have no responsibility for the costs of the relocations described in Section 5.1 unless the City has failed to provide the required advanced notice, then any and all reasonable excess costs caused by the failure to provide such notice shall be paid by the City. If the City requires the subsequent relocation of any the Franchisee Facilities previously relocated at the sole

cost of Franchisee per Section 5.1, due to a Public Project within five years from the date of the initial relocation, the City shall bear the entire cost of such subsequent relocation if required by RCW 35.99.060(3).

5.3 Relocation of Facilities Requested by Third Parties

If the Franchisee's Facilities within the Franchise Area are to be relocated at the request of or for the benefit of a third party (including compliance by such party with any condition or requirement associated with approvals or permits to be obtained pursuant to any zoning, land use, construction or other development regulation), the City shall not require the Franchisee to relocate its Facilities until such time as the third party has entered into an agreement with the Franchisee for the up-front reimbursement of Facility relocation costs.

5.4 Availability of Other Funds

In the event federal, state, or other funds are available in whole or in part for utility relocating purposes related to a Public Project, the City shall apply for such funds and the Franchisee shall be reimbursed to the extent any such funds are actually obtained.

SECTION 6.0 INSURANCE, INDEMNIFICATION, AND BONDING REQUIREMENTS

6.1 Insurance

Within ninety (90) days following the grant of this Franchise, the Franchisee shall obtain, pay all premiums for, and make available to the City at its request Certificates of Insurance with endorsements listing the City as an additional insured:

- (i) A general comprehensive liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the Franchisee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of One Million Dollars (\$1,000,000) per personal injury or death of any one person, and Two Million Dollars (\$2,000,000) for personal injury or death of any two or more persons in any one occurrence;
- (ii) Property damage insurance for property damage occasioned by the operation of the Franchisee under the Franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of One Million Dollars (\$1,000,000) for property damage to any one person and Two Million Dollars (\$2,000,000) for property damage to the property of two or more persons in any one occurrence;
- (iii) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) for each accident/disease/policy limit or as required by law;
- (iv) All insurance policies called for herein shall require thirty (30) days written notice of any cancellation to both the City and the Franchisee. The Franchisee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement policies within thirty (30) days following receipt by the City or the Franchisee of any notice of cancellation.
- (v) Franchisee's insurance as required by this Agreement shall not be construed to limit

the liability of Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

6.2 Indemnification of the City

Each Party shall indemnify and hold the other harmless for any losses, claims, awards, penalties, or injuries incurred by any third party, including attorneys' fees, which arise from an actual or alleged breach of such indemnifying Party's representations and warranties set forth herein, provided that the indemnifying Party is promptly notified of any such claims. The indemnifying Party shall have the sole right to defend such claims at its own expense. The other Party shall provide, at the indemnifying Party's expense, such assistance in investigating and defending such claims as the indemnifying Party may reasonably request. This indemnity shall survive expiration or earlier termination of this Franchise.

6.3 Hazardous Substances

Franchisee shall not introduce or use any hazardous substances (chemical or waste) within the City in violation of any applicable law or regulation, nor shall Franchisee allow any of its agents, contractors, or any person under its control to do the same. Franchisee will be solely responsible for, and will defend, indemnify and hold the City, its officers, officials, employees, and agents harmless from and against any and all third party claims, costs, and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the property associated with the Franchisee's use, storage, or disposal of hazardous substances by Franchisee's agents, contractors, or other persons acting under Franchisee's control, whether inadvertent or intentional.

6.4 Performance Bond

If required by the City, Franchisee (or the general contractor enlisted by Franchisee to conduct the work) shall furnish a performance bond written by a corporate surety reasonably acceptable to the City equal to at least 100% of the estimated cost of constructing Franchisee's Facilities, excluding materials, within the Franchise Area prior to commencement of any such work, or such lesser amount as deemed appropriate by the City. If a bond is required under this subsection, the bond must remain in full force until the completion of construction or relocation, including final inspection, corrections, and final approval of the work, recording of all easements, provision of as-built drawings, and the posting of a maintenance bond required by subsection 6.5 of this Franchise. If a performance bond is required under this section, the performance bond shall guarantee:

- (i) the timely completion of construction
- (ii) construction in compliance with all applicable plans, permits, technical codes, and standards
- (iii) Proper location of the Facilities as specified by the City
- (iv) Restoration of the Franchise Area and other properties affected by construction
- (v) Submission of as-built drawings and maps after completion of construction or relocation
- (vi) Timely payment and satisfaction of all claims, demands, or liens for labor, materials, or services provided in connection with the work which could be asserted against the City or City property.

SECTION 7.0

FRANCHISE DISPUTE RESOLUTION

7.1 Non-waiver

Failure of a Party to declare any breach or default of this Franchise immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default, but the Party shall have the right to declare any such breach or default at any time. Failure of a Party to declare one breach or default does not act as a waiver of the Party's right to declare another breach or default. In addition, the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation and forfeiture for breach of the conditions of the Franchise.

7.2 Stop Work Order

On notice from the City that any work is being performed by Franchisee contrary to the requirements and provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable use permit, laws, regulations, ordinances, or standards, the work may be immediately stopped by the City. The stop work order shall:

- (i) Be in writing
- (ii) Be delivered to the person doing the work or posted on the work site
- (iii) Be sent to Franchisee via overnight delivery
- (iv) Indicate the nature of the alleged violation or unsafe condition
- (v) Establish conditions under which work may be resumed.

7.3 Revocation and Forfeiture of Franchise

If the Franchisee shall willfully violate or fail to comply with any of the provisions of this Franchise through willful and unreasonable neglect or willful and unreasonable failure to heed or comply with any notice given the Franchisee under the provisions of this grant, the City shall give 30-days' written notice of the non-conformance, during which period the Franchisee shall have the opportunity to remedy any breach, provided that if the breach is of such a nature that cure is not possible within such 30-day period, and Franchisee diligently pursues the cure to completion, the City shall abate any forfeiture action for the duration of such additional time necessary for Franchisee to cure the breach. If Franchisee does not work promptly and diligently to effect compliance during the 30-day notice period (and fails to diligently pursue cure thereafter if the breach is of such a nature that cure is not possible within such 30-day period), the City may elect to remedy the violation and charge reasonable costs and expenses of such remedial action to Franchisee. If the City does not elect to remedy the violation, and Franchisee remains in violation of the requirements of this Agreement at the expiration of the 30-day notice period (and fails to diligently pursue cure thereafter if the breach is of such a nature that cure is not possible within such 30-day period), City may declare an immediate forfeiture of this grant and all of Franchisee's rights under this grant shall be terminated.

7.4 Dispute Resolution by the Parties

Disputes regarding the interpretation or execution of the terms of this Franchise, that cannot be resolved by Department counterparts representing the Parties, shall be submitted to the City's Attorney and a representative of the Franchisee's Legal Department for resolution. If a mutually

satisfactory or timely resolution cannot then be reached by the above process, prior to resorting to a court of competent jurisdiction, the Parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the Parties.

7.5 Right of Enforcement

No provision of this Franchise shall be deemed to bar the right of the City or the Franchisee to seek judicial relief from a violation of any provision of the Franchise to recover monetary damages for such violations by the other Party or to seek enforcement of the other Party's obligations under this Franchise by means of specific performance, injunctive relief, or any other remedy at law or in equity. Any litigation between the City and the Franchisees arising under or regarding this Franchise shall occur, if in the state courts, in a court of competent jurisdiction, and if in the federal courts, in the United States District Court for the Western District of Washington.

7.6 Attorneys' Fees and Costs

Except as otherwise provided in this Agreement, each Party shall pay for its own attorneys' fees and costs incurred in any dispute resolution process or legal action arising out of the existence of this Franchise.

SECTION 8.0 GENERAL PROVISIONS

8.1 Franchise as Contract, No Third-Party Beneficiaries

This Franchise is a contract between the Parties and binds and benefits the Parties and their respective successors and assigns. This Franchise does not and is not intended to confer any Rights or remedies upon any persons, entities, or beneficiaries other than the Parties.

8.2 Force Majeure

In the event that the Franchisee is delayed in or prevented from the performance of any of its obligations under the Franchise by circumstances beyond the Franchisee's control (Force Majeure) including, without limitation, third party labor disputes, fire, explosion, flood, earthquake, power outage, acts of God, war, or other hostilities and civil commotion, then the Franchisee's performance shall be excused during the period of the Force majeure occurrence. The Franchisee will use all commercially reasonable efforts to minimize the period of the disability due to the occurrence. Upon removal or termination of the occurrence the Franchisee will promptly resume performance of the affected Franchise obligations in an orderly and expeditious manner.

8.3 Severability

The Franchise is granted pursuant to the laws of the State of Washington relating to the granting of such rights and privileges by City. If any article, section, sentence, clause, or phrase of this Franchise is for any reason held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the Franchise or any other section, sentence, clause, or phrase of this Franchise. The invalidity of any portion of this Franchise shall not abate, reduce, or otherwise affect any obligation required of the Franchisee.

8.4 Changes of Law and Amendments

This Franchise may be amended from time to time to conform to any changes in the

controlling federal or state law, or any Ordinances or Resolutions lawfully passed by the City, or any other regulations material to this Franchise. Each Party agrees to bargain in good faith concerning such proposed amendments. To the extent any rule, ordinance, or regulation is adopted or amended by the City that is generally imposed on similarly situated persons or entities, the rule, ordinance, or regulation shall apply without need for written amendment of this Franchise. Notwithstanding the foregoing, the City shall provide written notice to Franchisee of any such change to applicable rules, ordinances, and regulations affecting this Franchise prior to its adoption. Nothing in this section shall prevent the City and Franchisee from executing a mutually agreed written amendment to this Franchise at any time during the Franchise term, provided that said written amendment conforms with the same formalities of this Franchise.

8.5 Competitively Neutral Application.

The City shall impose, on a competitively neutral and non-discriminatory basis, similar terms, and conditions upon other similarly situated providers of telecommunications services operating within the City. Any requirements imposed on Franchisee that are determined not in compliance with this section shall be unenforceable against Franchisee.

8.6 Limitation of Liability.

The City and Franchisee agree that neither Party shall be liable to the other for any indirect, special, or consequential damages, or any lost profits, arising out of any provision or requirement contained herein, or in the event this Franchise or any part hereof is determined or declared to be invalid.

8.7 Supremacy and Governing Law

This Agreement shall be interpreted, construed, and enforced in all respects in accordance with the laws of the State of Washington except as required under federal law.

8.8 Headings

The headings or titles in this Franchise are for the purpose of reference only and shall not in any way affect the interpretation or construction of this Franchise.

8.9 Acceptance of Franchise

The Franchisee shall, within 30 days after passage of this Ordinance, file with the City Clerk, its acceptance of the terms and conditions of this Franchise.

8.10 Franchise Effective Date

The Effective Date of this Franchise shall be March 25, 2024, provided that it has been duly accepted by the Franchisee as specified above. This Ordinance shall be in full force and effective five (5) days following its passage, approval, and publication.

PASSED by the majority vote of the entire City Council of the City of Winlock, Washington, and **APPROVED** by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof, this 25th day of March 2024.

Brandon Svenson, Mayor

Attest:

Approved as to form:

Penny Jo Haney, City Clerk

Marissa Y. Jay, WSBA # 55593
City Attorney

First Approved Reading: 03/25/2024
Publication Date: 03/28/2024
Effective Date: 04/02/2024

Draft

Letter of Acceptance by ToledoTel

HONORABLE MAYOR AND CITY COUNCIL
CITY OF WINLOCK, STATE OF WASHINGTON

IN RE: City of Winlock, Ordinance No. 1158

"Granting a Franchise to ToledoTel, Franchisee, for the Construction, Operation, and Maintenance of Telecommunications Facilities Within the City."

ToledoTel, LLC, for itself, its successors and assigns, hereby accepts the terms and conditions of the Franchise Agreement contained in the subject Ordinance and files this written acceptance with the City of Winlock. This acceptance is executed on

_____ , 2024

ToledoTel, LLC

By: _____
Print Name: _____
Title: _____

Copy Received for the City of Winlock

On: _____
By: _____

Mayor

CITY OF WINLOCK, WASHINGTON

ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY OF WINLOCK, WASHINGTON, RENEWING AND EXTENDING FOR AN ADDITIONAL SIX MONTH PERIOD ORDINANCE No. 1145 CONCERNING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390; INTERIM ZONING REGULATIONS FOR RIGHT-OF-WAY WIDTHS, INDUSTRIAL BUILDING HEIGHTS, AND LED SIGNS; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winlock, Washington (the "City") is a Code City under the laws of the State of Washington; and

WHEREAS, pursuant to RCW 35A.11.020, the City may adopt and enforce ordinances of all kinds relating to and regulating the City's local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, Ordinance No. 1081, commonly referred to as the Winlock Development Code, was enacted on November 25, 2019; and

WHEREAS, the City updated its comprehensive plan on June 10, 2019; and

WHEREAS, the City has adopted design guidelines to apply to development within the City, originally adopted in 2007 and reaffirmed and amended in 2020; and

WHEREAS, the City is in the process of updating its zoning regulations; and

WHEREAS, interim zoning controls enacted under RCW 36.70A.390 and/or RCW 35A.63.220 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 both authorize the enactment of an interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing as long as a public hearing is held within at least sixty (60) days of its enactment; and

WHEREAS, an interim zoning ordinance adopted pursuant to RCW 35A.63.220 may be effective for not longer than six (6) months, but may be effective for up to one (1) year if a work plan is developed for related studies providing for such a longer period. An interim zoning ordinance may be renewed for one (1) or more six-month (6) periods if a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, the City Council passed Ordinance 1145 on October 9, 2023, and held a public hearing on the Ordinance on October 23, 2023, within 60 days of passage pursuant to RCW 36.70A.390; and

WHEREAS, the City's legislative process for enacting new, permanent regulations is ongoing and will extend beyond the current expiration date of Ordinance No. 1145; and

WHEREAS, on March 25, 2024, the City Council set a public hearing for the renewal of the interim zoning regulations set forth in Ordinance No. 1145; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of the interim zoning ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act (SEPA) and future permanent zoning regulations will be reviewed in accordance with SEPA Rules; and

WHEREAS, interim zoning will provide the City with additional time to review and amend its public health, safety, and welfare requirements and zoning and land use regulations; and

WHEREAS, the City Council desires to extend the effective duration of the interim development regulations set forth in Ordinance No. 1145; and

WHEREAS, the City Council finds that the interim zoning amendments to the Winlock Municipal Code, Development Code, Design Guidelines, and Sign Code, set forth herein are consistent with and will implement the City's Comprehensive Plan and that renewing said interim regulations for an additional six-month period will serve the public interest by, inter alia, ensuring that new development is consistent with the City's community vision, and by preventing applicants from vesting in permanent development regulations that the City intends to repeal and replace; and

WHEREAS, the City Council held a duly noticed public hearing regarding said renewal on April 8, 2024; and

WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this Ordinance.

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

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by 36.70A.390 and RCW 35A.63.220. The City Council further incorporates all findings and recitals set forth in or otherwise adopted by Ordinance No. 1145.

Section 2. Renewal of Ordinance No. 1145; Extension of Interim Zoning Amendments. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the interim zoning controls set forth in Ordinance No. 1145 are hereby renewed for an additional six-month period.

Section 3. Duration of Interim Zoning. This interim zoning shall be in effect for six (6) months, beginning on April 9th, 2024, and ending on October 9th, 2024, unless an ordinance is adopted amending the Winlock Municipal Code and rescinding the interim zoning before October 9, 2024.

Section 4. Work Plan. During the interim zoning period, City staff will study the issues concerning right-of-way widths, industrial building heights, stormwater management, LED signs, and include that work with the ongoing development code and design guidelines update. Staff will prepare a draft ordinance, and conduct the public review process, including public hearings before the City's Planning Commission and City Council, as required for amendments to the City's development regulations.

Section 5. Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 6. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 7. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law. Ordinance No. 1145 shall remain in effect until this Ordinance become effective.

Section 8. Corrections. Upon approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

PASSED by the Council of the City of Winlock, Washington, and **APPROVED** by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof, this 8th day of April, 2024.

Brandon Svenson, Mayor

Attest:

Approved as to form:

Penny Jo Haney, City Clerk

Marissa Y. Jay, WSBA # 55593
City Attorney

Approved Reading: _____/2024
Publication Date: _____/2024
Effective Date: _____/2024