

Key Peninsula Metropolitan Park District
Db a Key Pen Parks



Resolution No R 2015-04

A RESOLUTION OF KEY PEN PARKS RELATING TO COMPLIANCE WITH THE PUBLIC RECORDS ACT, SPECIFICALLY, ADOPTING PUBLIC RECORDS ACT POLICY, ISSUING A FORMAL ORDER THAT MAINTAINING AN INDEX WOULD BE UNDULY BURDENSOME, ORDERING PUBLICATION OF THIS RESOLUTION AND THE PUBLIC RECORDS ACT POLICY AND APPOINTING THE EXECUTIVE DIRECTOR AS THE PUBLIC RECORDS OFFICER

WHEREAS, RCW Sections 42.56.040, 42.56.070 and 42.56.100 of the Public Records Act ("the Act") collectively require that state and local agencies provide, publish and prominently display certain information, exemptions and rules governing disclosure of public records; and

WHEREAS, Key Pen Parks is a local agency as defined in the Act and must therefore comply with its provisions; and

WHEREAS, the attached Public Records Act Policy ("the Policy") fulfills one of these requirements and was developed using the Attorney General's Office advisory Model Rules for disclosure of public records; and

WHEREAS, RCW 42.56.070(3) requires an agency to maintain an index of records therein described unless the local agency determines that it would be unduly burdensome to do so and in that event it must issue and publish a formal order specifying why it would be unduly burdensome; and

WHEREAS, RCW 42.56.580 requires that each agency appoint and publicly identify a Public Records Officer and provide contact information for that Officer,

NOW, THEREFORE, be it resolved by the Board of Commissioners for Key Pen Parks as follows:

Section 1. The attached Policy is adopted as the policy Key Pen Parks will follow in handling public records requests and the Executive Director; is hereby authorized to amend the Policy as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Policy as facts may require. All amendments to the Policy shall be reported to the Board of Commissioners.

Section 2. Key Pen Parks is comprised of three departments, serving over 17,500 citizens. The different departments maintain separate databases and/or record keeping

systems for the indexing of records and information. Because these records are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome to maintain a central index of these records. Therefore, the Board of Commissioners finds that maintaining the index required by RCW 42.56.070(3) would be unduly burdensome and formally orders that such an index does not have to be maintained as allowed under RCW 42.56.070(4) so long as all other Key Pen Park indexes are available for public inspection and copying in conformity with applicable law.


Section 3. The Executive Director is appointed as Key Pen Park's Public Records Officer, and the Executive Director's contact information is provided in the attached Policy.

Section 4. The Executive Director is directed to, post and maintain the Policy on the Key Pen Park's website and make the Policy available for inspection and copying at Key Pen Park's office.

Passed and adopted by the Board of Park Commissioners for Key Pen Parks at a regular meeting held at Volunteer Park Annex this 13th day of April, 2015.

Attest:

Key Pen Parks
Board of Commissioners
Pierce County, Washington



Mark Michel, President



Ed Robison, Vice President



Kip Clinton, Clerk



John Kelly, Member-at-Large

Bill Trandum, Member-at-Large

Public Records Policy

Resolution Number	Date Approved:	Supersedes the following Resolutions and Policies:
R2015-04	April 13, 2015	R2007-03 (April 9, 2007)

Key Peninsula Metropolitan Park District (dba Key Pen Parks) is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations, consistent with the intent of the Washington State Public Records Act (PRA), referenced in [Chapter 42.56 RCW](#) and the Model Rules of Chapter [44-14 WAC](#), and to provide access to public records, protect public records from damage and disorganization and to prevent excessive interference with other essential functions of Key Pen Parks. Key Pen Parks is also required to protect certain public records from disclosure subject to various legal exemptions.

This PRA Disclosure Policy establishes the procedures Key Pen Parks will follow to provide for the fullest assistance to requestors, including the most timely possible action on requests, while protecting public records from damage and preventing “excessive interference with other essential agency functions.” [RCW 42.56.100](#)

Key Pen Parks is required to respond to public records requests pursuant to Chapter 42.56 RCW. Key Pen Parks is not required to respond to questions, conduct research, or to provide or create new information that is not the subject of a request for an identifiable public record.

Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on Key Pen Parks. Key Pen Parks reserves the right to apply and interpret this policy consistent with state law and to revise or change the policy at any time. Failure to comply with any provision of these rules shall not result in any liability imposed upon Key Pen Parks other than that required in the Act.

DEFINITIONS

1. **“Key Pen Parks”** includes any office, department, division, or commission, or agent of Key Pen Parks. [RCW 42.56.010\(1\)](#).
2. **“Public Record”** includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by Key Pen Parks regardless of physical form or characteristics. [RCW 42.56.010\(2\)](#).
3. **“Writing”** means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion pictures, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. [RCW 42.56.010\(3\)](#).

Public Records Form, which is available at Key Pen Parks' office and on Key Pen Parks' website www.keypenparks.com. Requests may be submitted in person, orally, by mail, fax, or e-mail. Mail, e-mail and faxes will be considered received on the date the form is stamped "received," not on the date sent. Requests should include the following information:

- A. The requestor's name, mailing address, email address, and contact phone number;
- B. The date of the request;
- C. The nature of the request, including a detailed description of the public record(s) adequate for Key Pen Parks personnel to be able to locate the records;
- D. A statement regarding whether the records are being requested for a commercial purpose (RCW 42.56.070-(9));
- E. Whether the requestor desires copies, or to inspect the requested records; and,

Requests for public records made orally must be made during normal business hours. Requests for public records made orally must be confirmed by the Public Records Officer.

A variety of records are available on Key Pen Parks' website at www.keypenparks.com. Requestors are encouraged to view records available on the website prior to submitting a records request.

3. Response to Requests: Key Pen Parks will process requests in the most efficient manner as the Public Records Officer (defined above) deems appropriate. The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first.

Within five (5) business days of receiving a request, Key Pen Parks will either (A) provide the record; (B) acknowledge that the request has been received and provide a reasonable time estimate it will need to respond to the request; or (C) deny the request.

Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the records, to redact confidential or exempt information, to prepare a withholding index, to notify third parties or agencies affected by the request and provide such parties/agencies with the opportunity to seek a court order preventing disclosure where appropriate, and/or to consult with Key Pen Parks' Legal Counsel about whether the records are exempt from disclosure. 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 the changed circumstances that make it necessary.

Key Pen Parks frequently receives requests for public records identified in terms of "any and all documents related 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 Key Pen Parks' response and/or reduce the volume of potentially responsive documents, the Public Records Officer is allowed to err on the side of producing more rather than fewer documents in response to such a broad, general request. Key Pen Parks' 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 PRA does not allow a requestor to search through Key Pen Parks' files for records which cannot be identified or described to Key Pen Parks.

Key Pen Parks is not authorized to provide lists of individuals for commercial purposes. The Public Records Officer may also seek sufficient information to determine if another statute or court order may prohibit disclosure. If the requestor fails to clarify an unclear request within 15 working days, Key Pen Parks will treat the request as having been withdrawn. *RCW 42.56.520*

If the public record contains personal information that identifies an individual or organization other than the subject of the requested public record, Key Pen Parks may notify that individual or organization to allow the party to seek relief pursuant to *RCW 42.56.540*. Such relief may include a court injunction prohibiting release of the record because such examination would not be in the public interest and would substantially and irreparably damage any person or vital governmental function. Key Pen Parks may take the above into account when providing an estimate of when the records will be available. Nothing in this policy is intended to create, nor does it create, any right to such notice.

When a request uses a phrase such as "all records relating to," the Public Records Officer may interpret the request to be for records which directly and fairly address the topic. Key Pen Parks may respond to a request to provide access to a public record by providing the requestor with a link to the Key Pen Parks website containing an electronic copy of that record if it can be determined that the requestor has Internet access and the requestor agrees that the request has been satisfied.

When the requestor has found the records he or she is seeking, the requestor is strongly encouraged to advise the Public Records Officer that the requested records have been provided and that the remainder of the request may be cancelled.

4. Providing Records in Installments: When the request is for a large number of records, Key Pen Parks may provide access for inspection and copying in partial installments if reasonably determined that it would be practical to provide the records in that way. If the requestor does not contact the Public Records Officer within thirty (30) working days to arrange for the review of the first installment, Key Pen Parks may deem the request abandoned and may stop fulfilling the remainder of the request. Key Pen Parks may prioritize record requests received after commencing to fulfill the large request. *RCW 42.56.120*.

5. Electronic Records: The process for requesting electronic public records is the same as the process for requesting paper public records.

When a requestor requests records in an electronic format, if technically feasible, the Public Records Officer will provide the nonexempt records or portions of such records, that are reasonably locatable in an electronic format that is used by Key Pen Parks and is generally commercially available, or will provide the records in a format that is reasonably translatable from the format in which the agency keeps the record.

With the consent of the requestor, Key Pen Parks may provide customized access under *RCW 43.105.280* if the record is not reasonably locatable or not reasonably translatable into the format requested. Key Pen Parks may charge a fee consistent with *RCW 43.105.280* for such customized access.

6. No Duty to Create Records: This policy does not require Key Pen Parks to answer written questions, summarize data or information, create new public records, or provide information in a format that is different from original public records; however, Key Pen Parks may,

in its discretion, create such a new record to fulfill the request where it may be easier for Key Pen Parks 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. WAC 44-14-04003(5).

7. No Duty to Provide Information: This policy does not require Key Pen Parks to respond to requests for information, research, opinions or advice. Requests for information, research, opinions, advice, or similar requests will not be responded to pursuant to this policy.

8. No Duty to Supplement Responses: Key Pen Parks is not obligated to hold current records requests open to respond to requests for records that may be created in the future. A new request must be made to obtain later-created public records.

9. Fees: No fee is charged for inspection of a public record or for locating a record. Fees may be waived due to a few number of copies made or other circumstances. Payment of fees is required prior to release of records unless other arrangements have been made. RCW 42.56.120

**Paper copies (charged per request or installment)
(Includes copies scanned from paper to electronic format)**

9 pages or fewer black & white photocopies	No charge
10 pages or greater black & White photocopies	15¢ per page (all pages)
Double-sided black & white photocopies	15¢ per side
Color copies 8.5 x 11	50¢ per sides
Color copies 8.5 x 14	Actual cost
Color copies 11 x 17	Actual cost
Large format "C" (17 x 22)	Actual cost
Large format "E" (34 x 44)	Actual cost
Copies produced by outside source	Actual cost
Documents sent by fax	\$1.00 per page
Reports/plans	Actual cost
Other Media	
CD Rom	Actual cost
Audio tape	Actual cost

Video tape

Actual cost

Additional Costs

Mailing and packaging/envelope

Actual cost

10. Deposit: Key Pen Parks may require a deposit of up to ten percent (10%) of the estimated cost of copying records prior to copying any records for a requestor. Key Pen Parks may also require payment of the remainder of the cost before providing all of the records, or the payment of the costs of copying an installment before providing that installment. *RCW 42.56.120.*

11. Availability of Public Records: Public records are available for inspection and copying at Key Pen Parks' office during normal business hours: Monday through Friday, 8 am to 4:30 pm, excluding the lunch hour (noon to 1 pm) and excluding legal holidays. Key Pen Parks personnel and the requestor may make mutually agreeable arrangements for time(s) of inspection and copying.

To the furthest extent possible, given other demands for space and staff time, the Public Records Officer shall promptly provide space to inspect public records at Key Pen Parks' office. Key Pen Parks deems it necessary, in order to comply with the PRA's mandate to protect public records, to require that inspections of public records be conducted in the presence of the Public Records Officer or designated staff. Key Pen Parks will make every effort to provide staff to oversee the expeditious inspection of public records without unduly compromising or unreasonably interfering with the essential functions of Key Pen Parks. All assistance necessary to help requestors locate and inspect particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of Key Pen Parks staff or other duties of any assisting employee(s). In accommodating a request for public records inspection, Key Pen Parks may consider the size of the request, the ease with which the requested records can be made available for inspection, and special accommodations requested by the requestor necessary in order to inspect the records, the availability (schedule) of the requestor to conduct the inspection, the availability of Key Pen Parks staff to observe the inspection, the time constraints on staff availability imposed by other current Key Pen Parks business, and any other relevant circumstance.

After inspection is complete, the requestor shall indicate which documents he or she wishes to have copied using a non-permanent method of marking the desired records as approved by the Public Records Officer. The Public Records Officer will arrange for copying.

12. Preservation of Public Records: No member of the public may remove a public record from Key Pen Parks' office without the Public Records Officer's permission. No member of the public may remove a public record from a viewing area, disassemble, or alter, fold, mark, deface, tear, damage or destroy any public record. Public records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by Key Pen Parks staff. Copies of public records may be copied only on copying machines of Key Pen Parks unless other arrangements are made by the Public Records Officer. No food or drink will be permitted during the inspection of public records. Access to file cabinets, shelves, vaults and other Key Pen Parks storage areas is restricted to authorized Key Pen Parks staff.

13. Organization of Public Records: Key Pen Parks finds that maintaining an index as provided in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with agency operations given the high volume, various locations, and types of public records received, generated, and otherwise acquired by Key Pen Parks. [RCW 42.56.070\(4\) & Resolution R2015-04](#). Notwithstanding the foregoing, Key Pen Parks will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.

14. Closing Abandoned or Unpaid Requests: If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records within thirty (30) days of notice that the records are available for inspection, or fails to pay the deposit, installment payment or final payment for the requested copies, Key Pen Parks' personnel will close the request. Key Pen Parks' personnel will document closure of the request and the conditions that led to closure. [RCW 42.56.120](#)

15. Records Exempt from Public Disclosure: Key Pen Parks is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state law or federal statute or regulation. Key Pen Parks is prohibited by statute from disclosing lists of individuals for commercial purposes. [RCW 42.56.070\(9\)](#).

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. [RCW 42.56.230 through 42.56.480](#) contains a large number of exemptions from public inspection and copying.

Other statutes outside the Public Records Act and case precedents may prohibit and exempt disclosure of certain documents or information. [RCW 42.56.070\(1\)](#).

Key Pen Parks failure to list an exemption shall not affect the effectiveness of the exemption.

16. Denial of Request Due to Exemption: All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [RCW 42.56.210\(3\)](#).

17. Mechanism for Review of Denial: Any person who objects to the denial of a public records request may petition in writing to the Key Pen Parks Board President for a review by Key Pen Parks' Legal Counsel of that decision. The petition shall include a copy of, or reasonably identify, the public records request and the basis for denial by Key Pen Parks Public Records Officer or designee denying the request or claiming an exemption from disclosure. Key Pen Parks' Legal Counsel shall perform a review of the denial or applicable exemption as promptly as possible. Pursuant to state law and for the purposes of seeking further judicial review, the review shall be deemed concluded and a "final action" at the end of the second business day following the issuance of a written opinion on whether the record is exempt. [RCW 42.56.530](#).

18. Retention of Records: Key Pen Parks is not required to retain all records it creates or uses. However, Key Pen Parks will follow [Chapter 40.14 RCW](#), Preservation and Destruction of Public Records, in the retention and destruction of public records. The Secretary of State, State Archives Committee approves a general retention schedule for local agency records that is 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 schedule for local agencies is available at www.secstate.wa.gov/archives. Retention schedules for documents vary based on the content of the record. WAC 44-14-03005.

19. Loss of Right to Inspect: Inspection shall be denied and the records withdrawn by the Public Records Officer if the requestor, when reviewing the records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of Key Pen Parks.

20. Disclaimer of Liability: Neither Key Pen Parks, nor any officer, employee, official or custodian shall be liable nor shall a cause of action exist for any loss or damage based upon a release of public records if the person releasing the records acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on Key Pen Parks beyond those imposed by state and federal law.